

MOP 28 HIGHLIGHTS: WEDNESDAY, 12 OCTOBER 2016

The twenty-eighth Meeting of the Parties (MOP 28) to the Montreal Protocol on Substances that Deplete the Ozone Layer met for its third day in Kigali, Rwanda on Wednesday, 12 October 2016.

In the morning, plenary reconvened for a stocktaking session. Issues discussed include, *inter alia*: consideration of the membership of the Montreal Protocol bodies for 2017; CUEs for 2017-2018; TOR for the 2018-2020 MLF replenishment; and issues related to the phase-out of HCFCs. Parties also heard a progress report from the HFC Management Contact Group.

Following plenary's adjournment, Article 5 and non-Article 5 parties met separately to coordinate positions on an amendment on HFCs. The HFC Management Contact Group convened in the evening. The Budget Committee, informal consultations on safety standards and the 2018-2020 MLF replenishment study TOR contact group also met during the day.

ADMINISTRATIVE MATTERS

CONSIDERATION OF MEMBERSHIP OF MONTREAL PROTOCOL BODIES FOR 2017: Co-Chair Leslie Smith reminded delegations to submit their nominations by the end of Wednesday so that these could be forwarded to the HLS.

FINANCIAL REPORT OF THE TRUST FUND AND BUDGETS FOR THE MONTREAL PROTOCOL: Co-Chair Smith said the plenary would return to this item once the Budget Committee has concluded its work.

TEAP REPORT ON ODS ALTERNATIVES

Co-Chair Smith invited additional comments. EGYPT stressed the need for the TEAP to research leakages in the refrigeration appliance manufacturing and maintenance industries and to investigate how to calculate and quantify these amounts. He also requested the TEAP to conduct additional research on the most appropriate refrigeration and air conditioning (RAC) alternatives, especially in situations where developing countries could expect to shoulder the economic burden. Noting no further interventions, Co-Chair Smith closed this agenda item.

TEAP REPORT ON ASSESSMENT OF THE CLIMATE BENEFITS AND FINANCIAL IMPLICATIONS OF THE HFC PHASE-DOWN SCHEDULES IN THE AMENDMENT PROPOSALS

As there were no further comments from parties, Co-Chair Paul Krajncik closed this agenda item.

DUBAI PATHWAY ON HFCs

Co-Chair Smith noted that Rwanda and Morocco have submitted UNEP/OzL.Pro.28/CRP.5 on energy efficiency, which will be discussed in the HFC Management Contact Group. He invited the Contact Group Co-Chairs to report on progress.

Contact Group Co-Chair Xia said the previous day's discussions had been constructive but noted the current atmosphere was "quite tense." He recommended allowing more time for Article 5 and non-Article 5 parties to hold more focused, efficient exchanges on the amendment's core elements and encouraged delegates to be proactive in tabling proposals.

Reminding delegates of the need to work more efficiently to complete the necessary work by the end of the week, Co-Chair Smith said more time would be allocated.

HFC MANAGEMENT CONTACT GROUP: Co-Chair McInerney opened the evening session, apologizing for the "extended delay." He highlighted a list of items not yet discussed, including: a list of substances; reporting and licensing; exemptions; entry into force; final provisions; and relevant CRPs. He then invited the Legal Drafting Group facilitator, Brian Ruddle (UK), to provide an update.

Facilitator Ruddle said the Group had met several times with lawyers from both Article 5 and non-Article 5 parties. He described the Group's work as productive and efficient, informing the Group has gone through the amendment proposals and drafted proposed text, which is being translated. He said the Group had made two technical drafting changes in consultation with the EU and India, respectively, as the proponents of the text; and requested confirmation from delegates that the Group should convert agreed solutions into legal text. Ruddle concluded by highlighting a "large number of issues" to still be resolved in drafting an amendment text:

- link with the UNFCCC (Article 1, Article III);
- extension of control measures (Article 2(8)(a));
- decision-making on GWP adjustments (Article 2(9)(c));

- baseline and freeze dates (Article 2J);
- HFC-23 (Article 2K/Annex G);
- calculation of control levels and emissions calculations (Article 3);
- licensing start date (Article 4B);
- timing of control measures for Article 5 Parties (Article 5(8^{qua}));
- timing for data reporting (Article 7(2));
- reporting on emissions (Article 7(3^{ter}));
- research and public awareness (Article 9(2));
- financial mechanism (Article 10);
- technology transfer (Article 10A);
- GWP methodology and grouping of substances (Annexes C/F/G); and
- provisional application (Article V).

Co-Chair McInerney then reminded delegates of the need to ensure sufficient time for translation of text and confirmed the Legal Drafting Group could proceed with developing text on agreed solutions.

In response to a concern raised by Pakistan on converting solutions into agreed text on a “piecemeal” basis, Co-Chair McInerney noted Pakistan’s intervention and emphasized that nothing is agreed until everything is agreed.

ARGENTINA questioned the drafting change that took place in consultation with the EU and requested clarification on the Group’s role. Facilitator Ruddle responded that the changes in question had been made for legal clarity.

Co-Chair McInerney then proposed opening discussion on the list of substances, noting some informal discussion had taken place.

SWITZERLAND introduced UNEP/OzL.Pro.28/CRP.2 on the topic, which had been prepared with Norway. He said the CRP, *inter alia*: urges individual parties to discourage, at the national level, the development and promotion of HFCs with significant GWP that are not listed as controlled substances in Annex F; encourages parties to report on the existence of these HFCs, including on the likelihood of these substances’ production and consumption; and requests the Secretariat to forward this information to the SAP and the TEAP and request these panels to report to the MOP on such HFCs.

INDIA said consideration of what substances to list in the amendment and in the CRP are distinct issues, and suggested it was premature to discuss the CRP before an amendment is agreed. US noted the type of reporting proposed in the CRP mirrors existing practice for unlisted ODS. EU added that the draft decision would send an important signal to industry that non-listed HFCs will be monitored. He also suggested, supported by FEDERATED STATES OF MICRONESIA (FSM), informal discussions on the amendment’s substances list to decide whether it should contain 19 or 22 substances. CHINA requested Switzerland to consider postponing work on the CRP until after the amendment was agreed. BELARUS asked whether HFC-23 would be included in the list of controlled substances and in the calculation of baselines.

SWITZERLAND agreed that consideration of the CRP could be deferred to OEWG 39, requesting the evening’s brief discussion be reflected in the MOP 28 report.

AUSTRALIA, with CANADA, expressed support for the North American and EU proposals to list HFCs in one annex with two groups, one of which would list HFC-23. She said her country does not consider listing HFOs as the right way forward as these function as alternatives to high- and very high-GWP HFCs. She noted openness to discussing the list with China.

FSM clarified his country’s proposal to have two groups of substances. He noted that the phase-down would apply to group one while group two would require reporting, but would not be part of the HFC baseline and control measures.

CANADA explained the rationale behind HFC-23 having its own group, as this substance would be subject to different control measures as part of an amendment.

Summarizing the discussions, Co-Chair McInerney noted there are a total of 22 HFCs across the four amendment proposals. He said there has been some suggestion that three HFOs should not be included and noted additional discussion on the inclusion of a number of other quite low-GWP substances.

In response to a request from the MARSHALL ISLANDS for clarity on next steps on an amendment proposal, McInerney said Article 5 and non-Article 5 Parties are working as quickly as they can to develop a proposal. He stressed that “things can only move as quickly as they can move” and said there is a need to take into account 197 countries with 197 different situations. McInerney indicated that the Contact Group would reconvene on Thursday.

ISSUES RELATED TO EXEMPTIONS UNDER ARTICLES 2A–2I OF THE MONTREAL PROTOCOL

NOMINATIONS FOR CUES FOR 2017 AND 2018:

Co-Chair Smith noted that Argentina, Australia, Canada, China, and South Africa had submitted UNEP/OzL.Pro.28/CRP.4 on this agenda item. AUSTRALIA said the CRP follows the format of past decisions on CUEs and reflects the TEAP’s recommendations. EU stated it would welcome some time to reflect on and discuss the CRP with its proponents. Co-Chair Smith encouraged interested parties to consult informally.

TOR FOR THE 2018–2020 MLF REPLENISHMENT STUDY

Co-Chair Krajnik invited the Contact Group Co-Chairs to report on Tuesday’s afternoon session. Contact Group Co-Chair Obed Baloyi noted that the group had met but had not made much progress due to time constraints. He requested additional time to allow the contact group to continue its work and further requested that the group’s meetings not be held in parallel with meetings of the Budget Committee. Co-Chair Krajnik indicated these requests would be accommodated.

TOR FOR THE 2018–2020 MLF REPLENISHMENT STUDY: Parties continued their reading of the draft TOR on Wednesday afternoon. They continued to disagree on whether to delete a subparagraph on allocating resources to enable Article 5 parties to meet their 2020 and 2025 compliance obligations in respect of Article 2F (HCFCs) of the Protocol, with one party supporting its retention given significant challenges faced by Article 5 countries.

Contact Group Co-Chair Philippe Chemouny encouraged delegates to ensure the TOR are not used “as an opportunity to make new policy recommendations.” He said the Co-Chairs would consult Article 5 countries not present to enable a decision on whether to delete references to the years 2020 and 2025.

Delegates were unable to agree on whether to retain a paragraph on the need to allocate sufficient resources for activities in the servicing sector in HCFC phase-out management plans (HPMPs). Some noted a decision by the ExCom renders this paragraph obsolete while others stressed the importance of this issue for certain Article 5 countries. Parties agreed to delete a subparagraph on division of funding related to the 2020 HCFC target, given that this issue was specific to the previous TOR.

Co-Chair Baloyi noted that more time would be requested to finalize the decision and encouraged delegates to meet bilaterally to resolve outstanding issues.

MEMBERSHIP OF THE TEAP

Co-Chair Smith noted that a CRP has been submitted, and said the plenary would return to the issue once delegations had had time to review the CRP.

PROPOSAL TO ESTABLISH AN AD HOC STANDARDS COORDINATION GROUP

Co-Chair Krajnik invited a report-back on Tuesday’s informal discussions on this agenda item. CHINA said interested parties had met to consider its CRP (UNEP/OzL.Pro.28/3, draft decision XXVIII/[B]) but that, with many delegates proposing amendments, numerous issues remained to be resolved. She requested more time for additional deliberations. Co-Chair Krajnik said a room and time would be assigned.

ISSUES RELATED TO THE PHASE OUT OF HCFCs

Co-Chair Smith highlighted that Australia, Canada, Japan, and the US had submitted UNEP/OzL.Pro.28/CRP.3 on this topic. CANADA explained the CRP responds to Decision XIX/6 (Adjustments to the Montreal Protocol with Regard to Annex C, Group I, Substances (HCFCs)), which indicates a need for continued consideration of issues related to HCFCs. She said the CRP requests the TEAP to continue considering issues related to essential uses, servicing requirements and continuing production to satisfy domestic needs.

INDIA, SAUDI ARABIA and BAHRAIN questioned whether the TEAP can be assigned monitoring tasks. INDIA suggested that non-Article 5 countries’ domestic HCFC needs after 1 January 2020 could be met through production in Article 5 countries. SAUDI ARABIA said his country has many concerns with the CRP, including with regard to exemptions and Article 5 parties who are not HCFC producers. BAHRAIN called for more clarity on references to continued identification of sectors and continued assessment of requirements.

BANGLADESH raised concerns that it could be difficult to obtain HCFCs if developed countries phase out their production and production in developing countries decreases. EGYPT highlighted a need for clarification on the content and objective of the CRP, proposing bilateral discussions among interested parties.

AUSTRALIA clarified that the CRP is an extension of a decision taken at MOP 27 and is intended to enable a more informed decision in 2017. She noted that the recent TEAP

report on this topic provides some information, but continuing uncertainty remains on: which essential uses would be necessary to consider after 2020; whether there would be ongoing servicing requirements in non-RAC sectors; and whether continued production in non-Article 5 parties would be necessary to assist Article 5 countries after 2020. To address parties’ concerns, she proposed replacing the word “monitor” in the CRP with “review.”

BELARUS highlighted the need to consider use for laboratory purposes.

Co-Chair Smith said an informal group would be established to allow interested parties to discuss the CRP in greater detail.

IN THE CORRIDORS

Wednesday morning began with a speedy run-through of the preparatory segment’s outstanding agenda items. Although delegates dealt swiftly with all the “open” issues, some debate remained on the HCFC phase-out, the proposal for an *ad hoc* standards coordination group and TOR for the 2018–2020 MLF replenishment study. Other “closed” issues with large climate and ozone implications remain seemingly off delegates’ radar, such as CTC. Given that discussions on these and the HFC amendment are still ongoing, delegates were reminded that they also needed to swiftly complete their work, especially as the HLS looms and available work time becomes scarce.

Still, many recognized progress being made in Article 5 and non-Article 5 parties’ internal discussions throughout the day, with delegates often seen pouring over updates from negotiators distributed through special WhatsApp chat groups. This reportedly led to Article 5 parties reaching agreement on a two-track proposal for baselines and freeze and reduction step dates, despite, in the words of one insider, several near moments of “complete collapse” in both the informal consultations and the inter-group negotiations over a lack of response to proposals or splintering among previously aligned parties.

As delegates gathered for the HFC Management Contact Group, some maintained—or regained—their optimism. Others stayed grim-faced, with some expressing frustration at the process of “back-door deals” and others lamenting the lack of urgency in the way delegates were approaching their work, with one murmuring, “there’s just no hurry at all—in the way they’re working, strolling, talking and drinking coffee.” Yet another pointed out “delegates are sight-seeing when there’s work to be done!” Still others expressed a repeated concern of “game-playing” as a reality.

As the evening’s one-hour HFC Management Contact Group wrapped up for the evening, a few delegates questioned what they should report to their Ministers on the Group’s progress. Other participants recognized these concerns while stressing that, despite the absence of rapid progress, discussions have been “quite productive.” Still, with the Legal Drafting Group highlighting 15 issues requiring resolution before being drafted into legal text, combined with translation concerns voiced by some parties, there no longer appeared any doubt that any agreement will “come down to the wire.” Delegations were heard placing bets among themselves about what time MOP 28 would finish on Saturday morning, and some even wondered aloud if the recent trend in the Montreal Protocol of simply suspending work “to kick the can down the road” will play out yet again in Kigali.



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