Handbook on Essential Use Nominations

Prepared by the Technology and Economic Assessment Panel

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CHAPTER 1

INTRODUCTION

1.1 Genesis and Purpose of Handbook

The adjustments adopted at Copenhagen by the Fourth Meeting of the Parties to the Montreal Protocol mandated a phase out of production and consumption of CFCs, carbon tetrachloride, 1,1,1-trichloroethane and other fully halogenated controlled substances by 1 January 1996, while allowing Parties to authorise production for uses decided to be essential. Decision IV/25 of the Fourth Meeting set the criteria and the procedure for assessing an essential use nomination and requested each Party to nominate uses to the Secretariat, at least nine months prior to the Sixth Meeting of the Parties to the Protocol to be held in 1994. This decision also requested the Technical Options Committees to consider and make recommendations on the nominations.

Decision V/18 of the Parties to the Montreal Protocol calls upon the Technology and Economic Assessment Panel to

> "assemble and distribute a handbook on essential use[s] nominations including copies of relevant decisions, nomination instructions, summaries of past recommendations, and copies of nominations to illustrate possible formats and levels of technical detail."

The "Handbook on Essential Use Nominations" responds to this request and is intended to assist the Parties in the preparation of essential use nominations. This handbook augments and updates the August 1997 Handbook.

1.2 Content and Structure

The Handbook describes the nomination process for essential use exemptions as it has evolved through Articles of the Protocol and Decisions of the Parties; the procedures followed under the Protocol; and the experience of the Panel and its Technical Options Committees in managing the process to date. The Handbook contains three sections: review of the essential use process; instructions for the completion of essential use nominations; and appendices. The appendices contain provisions of the Montreal Protocol, decisions of the Parties to the Protocol and an essential use nomination form.

1.3 Handbook Updates

The Panel may revise and update the Handbook as circumstances require. Please consult the Ozone Secretariat for updated handbooks to ensure use of the latest version.

CHAPTER 2

ESSENTIAL USE PROCESS

2.1 Introduction

After production phaseout, Parties may nominate uses for an exemption. Parties have nominated essential halon uses for 1994 and 1995 (1 January 1994 phaseout) and CFCs, 1,1,1-trichloroethane and CTC exemptions for after their 1 January 1996 phaseout. Parties operating under Article 5(1) do not need to nominate for years prior to their production phaseouts (scheduled for 2010).

The phaseout of production does not control the use of substances manufactured prior to the phaseout (stockpiled or recycled). Thus, Parties do not need to submit nominations to allow the continuing use of such substances.

Only Parties to the Protocol can submit nominations. Thus, companies and other organisations must first secure approval and endorsement of their national governments.

Parties may submit nominations for any future year and nominations may be for more than one year.

Nominations received by 31 January will be decided by the Parties at their annual meeting of that year. Nominations received after 31 January will be decided the next year. Parties allow the Secretariat, in consultation with the Technology and Economic Assessment Panel, to authorise, in an emergency situation, if possible by transfer of essential use exemptions, consumption of quantities not exceeding 20 tonnes of ODS for essential uses on application by a Party prior to the next scheduled Meeting of the Parties. The Secretariat will present this information to the next Meeting of the Parties for review and appropriate action by the Parties (see Decision VIII/10).

2.2 Framework

The nomination and review process for essential use exemptions has evolved through Articles of the Protocol, Decisions of the Parties, and recommendations of the Technology and Economic Assessment Panel and its Technical Options Committees. The steps in this process are summarised below.

Article 2 of the Montreal Protocol mandates the phaseout of production and "consumption" of substances that deplete the ozone layer. "Consumption" is defined as production plus imports minus exports. Please note that the Parties are allowed to use stockpiled or recycled substances for as long as they are available after the production phaseout. Article 2 also authorises the Parties by decision to permit such production and

"consumption" as may be necessary for those uses decided by the Parties to satisfy the essential use criteria.

Article 6 of the Montreal Protocol mandates the creation of expert panels to assist the Parties in assessing the control measures provided for in Article 2, including essential use exemptions. This provision led to the formation of the Technology and Economic Assessment Panel (TEAP) and its Technical Options Committees (TOCs).

There are three Protocol Assessment Panels: the Scientific Assessment, the Environmental Effects Assessment, and the Technology and Economics Assessment Panels. The TEAP has six Technical Options Committees. The Technology and Economic Assessment Panel is chaired by Dr. Stephen O. Andersen (United States), Dr. Suely Carvalho (Brazil) and Dr. Lambert Kuijpers (Netherlands).

The six Technology and Economic Options Committees are: Aerosol Products, Sterilants, Miscellaneous Uses and Carbon Tetrachloride chaired by Mr. Jose Pons Pons (Venezuela), Dr. Helen Tope (Australia), and Prof. Ashley Woodcock (United Kingdom); Flexible and Rigid Foams chaired by Mr Paul Ashford (United Kingdom) and Mrs. Lalitha Singh (India); Halons chaired by Dr. Walter Brunner (Switzerland), Dr. Barbara Kucnerowicz-Polak (Poland), and Mr. Gary Taylor (Canada); Methyl Bromide chaired by Dr. Jonathan Banks (Australia) and Dr. David Okioga (Kenya); Refrigeration, Air Conditioning and Heat Pumps chaired by Dr. Radhey Agarwal (India) and Dr. Lambert Kuijpers (Netherlands); and Solvents, Coatings and Adhesives chaired by Dr. Mohinder Malik (Germany) and Dr. Ahmad Gaber (Egypt).

TEAP membership also includes Senior Experts: Mr. Jorge Corona, (Mexico), Mr. László Dobó (Hungary), Mr. Yuichi Fujimoto (Japan), Mr. Tom Morehouse (United States), Mr. K. Madhava Sarma (India), Mr. Sateeaved Seebaluck (Mauritius), Dr. Robert Van Slooten (United Kingdom), and Ms. Shiqiu Zhang (China).

Excerpts from Articles 2 and 6 of the Montreal Protocol are attached as Appendix A.

At their fourth meeting, the Parties established by Decision IV/25 a procedure to review requests for exemptions from consumption/production phaseouts to meet the needs of essential uses of halons, CFCs, CTC, 1,1,1-trichloroethane and other fully halogenated substances. These exemptions are nominated for calendar years after scheduled production is phased out.

The substantive criteria for essential use exemptions are detailed in Decision IV/25 of the Parties. Paragraph 1(a) of Decision IV/25 states that:

> "Use of a controlled substance should qualify as essential only if:

(i) it is necessary for health, safety or is critical for the functioning of society (encompassing cultural and intellectual aspects); and
(ii) there are no available technically and economically feasible alternatives or substitutes that are acceptable from the standpoint of environment and health."

Paragraph 1(b) of Decision IV/25 states that:

> "Production and consumption, if any, of a controlled substance for essential uses should be permitted only if:
>
> (i) all economically feasible steps have been taken to minimise the essential use and any associated emission of the controlled substance; and
> (ii) the controlled substance is not available in sufficient quantity and quality from existing stocks of banked or recycled controlled substances, also bearing in mind the developing countries' need for controlled substances."

Decision IV/25 called on each Party to nominate uses to the Parties at least nine months prior to the Meeting of the Parties that is to decide on the exemption. Decision XII/2 (par.2) supplements Decision IV/25 by stating:

> "That any chlorofluorocarbon metered-dose inhaler product approved after 31 December 2000 for treatment of asthma and/or chronic obstructive pulmonary disease in a non-Article 5(1) Party is not an essential use unless the product meets the criteria set out in paragraph 1(a) of Decision IV/25."

Par. 1 of Decision XII/2 defines "chlorofluorocarbon metered-dose inhaler product" as a