

## MOP 35 Highlights: Wednesday, 25 October 2023

Delegates reconvened for the preparatory segment of the thirty-fifth Meeting of the Parties (MOP 35) to the Montreal Protocol on Substances that Deplete the Ozone Layer on Wednesday. They met in a brief morning plenary to hear reports from contact and informal groups and address outstanding issues and then spent most of the day in contact and informal group meetings, reconvening in an evening plenary to hear reports and introduce new proposals. The high-level segment (HLS) is scheduled to open on Thursday to adopt decisions.

### Administrative Matters

**Consideration of the membership of Montreal Protocol bodies for 2024:** In plenary, the Secretariat reported that they had received nominations from Eastern European States, the Group of Latin America and the Caribbean (GRULAC) States, and Western Europe and Others Group (WEOG) for the Implementation Committee. She noted that she had received the nominations from GRULAC and three non-Article 5 parties for the Executive Committee of the Multilateral Fund (MLF), calling on regions to submit their nominees. She noted that regions were yet to submit nominations for the OEWG Co-Chairs for 2024. For the MOP 35 bureau presidency, she reported receiving nominations from Eastern European States as well as nominations for bureau vice-presidents from WEOG and GRULAC, calling on other regions to submit their nominations. The AFRICAN GROUP said their nomination process was complete and they would submit their nominations.

KYRGYZSTAN lamented that Central Asia had not been considered for the bureau presidency, and requested clarification on regional country groupings. Co-Chair Vidémé Amèh Djossou (Togo) noted that this issue should be taken up by the HLS.

### Contact Group and Other Discussions

**Budget:** Reporting to plenary in the morning, budget committee Chair Sebastian Schnatz (Germany) noted that the committee had considered two scenarios of the 2024 budget and would require more time to complete its work.

**Replenishment of the MLF:** Reporting back to plenary in the morning, contact group Co-Chair Alain Wilmart (Belgium) noted that, after a first round of clarifications with responses from the Technology and Economic Assessment Panel (TEAP), the group had agreed to limit the discussions to 12 Article 5 parties and 12 non-Article 5 parties only. He noted that they would need more time to conclude their work.

**Potential areas of focus for the 2026 quadrennial reports of the Assessment Panels:** This contact group, co-chaired by Leslie Smith (Grenada) and Cindy Newberg (US), met to discuss submissions from the EU on the terms of reference (TOR) for the 2026 quadrennial reports.

On the potential areas of the TEAP assessment, delegates differed on whether to mention climate and environmentally friendly alternatives in the request for technical progress in the production and consumption sectors. Some countries expressed concern regarding the assessment of process agents and feedstock uses for which the use of controlled substances is no longer required. Those in favor of including this assessment pointed to new studies that have identified alternatives in support for transition to feedstock uses that do not use ozone depleting substances (ODS). This issue remained unresolved.

Delegates also discussed a list of additional areas for inclusion in the TOR, including: end-of-life refrigerant management; information on uses where hydrochlorofluorocarbons (HCFCs) were not previously used but hydrofluorocarbons (HFC) are, such as electronics manufacturing; impact of the phase-out of controlled ODS and phase-down of HFCs, energy efficiency, minimum energy performance standards (MEPS), cold chain management, and buildings; and use of raw materials as feedstocks and input materials.

In plenary, contact group Co-Chair Smith reported that the group concluded a first read of the text and examined additional items submitted by parties and requested more time to complete their review.

**Destruction Technologies:** In the morning, the EU reported that after consultations with GUINEA on the issue of destruction of pharmaceuticals in the draft decision XXXV/[C] (contained in [UNEP/OzL.Pro.35/3](#)) was ready for submission. Delegates agreed to forward it to the HLS.

**HFC-23:** The contact group, co-chaired by Shontelle Wellington (Barbados) and Heidi Stockhaus (Germany), discussed general issues about the availability, format, confidentiality, and interpretation of data without addressing the draft conference room paper (CRP). A member of the Medical and Chemical Technical Options Committee (MCTOC) explained the approach behind the findings revealing increases in emissions of HFC-23 in recent years, including that confidential data from major producers is only accessible to two MCTOC members and is then aggregated. Delegates agreed to enter into text-based negotiations at the next contact group meeting.

In plenary, contact group Co-Chair Stockhaus reported that the group had remaining concerns and requested more time to complete their work.

**Proposed adjustments to the Protocol:** The contact group, co-chaired by Patrick McInerney (Australia) and Juan Jose Galaeno (Argentina), met to discuss a proposal submitted by the US. The proposal addresses the impacts of the COVID-19 pandemic by deferring any consideration of the compliance status for listed eligible parties with regard to control measures for their HFC consumption. This would mean that an adjustment of the Montreal Protocol would not be necessary. Delegates discussed several key elements of this proposal, including: how flexible the eligibility for parties to be listed would be, given the uncertainty

of HFC consumption data pre-pandemic; and for how many years this compliance deferral would be in place. They also discussed whether the compliance deferral would be subject to a mid-term review, and if so, how the deferral would relate to the submission of Kigali HFC Implementation Plans. In plenary, contact group Co-Chair McInerney asked for more time.

**Energy-efficient and low- or zero- GWP technologies:** In the evening plenary, EGYPT and KUWAIT requested establishing a contact group to discuss potential recommendations to the MOP on issues related to energy efficiency. Delegates agreed to informal consultations on Wednesday night.

**Shared responsibility to stop dumping of inefficient equipment containing obsolete refrigerants:** This group, co-chaired by Karen Bianco (US) and Tumau Neru (Samoa), considered a draft decision presented by Ghana, for the African Group (contained in [UNEP/OzL.Pro.35/3](#)).

On the operative paragraph recognizing that the problem of dumping requires a solution involving both exporting and importing countries, one party suggested that manufacturers and exporters consider instituting measures to prohibit the export of such equipment to recipient countries that have prohibitions. A delegate objected to restrictions on this equipment noting the lack of regard for high-ambient-temperature (HAT) countries which do not have alternatives. He emphasized that recipient countries should have a right to ban anything they want without making universal restrictions regarding the issue. Sympathizing with HAT countries, others said importer countries should apply measures to restrict such imports by banning their entry. Others suggested regionally agreed standards to strengthen border controls in the Global South. The element of shared responsibility was emphasized by many. They noted that the negotiations were reverting to earlier discussions which placed the responsibility on importing countries.

Delegates considered a new paragraph encouraging parties to facilitate information exchange between customs authorities of importing and exporting countries. In plenary, contact group Co-Chair Bianco reported on the group's progress and called for more time.

**Lifecycle refrigerant management (LRM):** The contact group, co-chaired by Martijn Hildebrand (Netherlands) and Idris Abdullahi Ishaka (Nigeria), discussed a draft decision submitted by the Federated States of Micronesia (FSM) and Samoa (UNEP/OzL.Pro.35/CRP.4). A number of parties suggested defining the scope of LRM and focusing the CRP on the avoidance of refrigerant leakage and on end-of-life management. FSM committed to revert to the group with a proposed definition of LRM.

Delegates introduced alternative options for the proposed TEAP report, referring to the availability and accessibility of technologies for leak detection, recycling and reclamation, and destruction of refrigerants. Some questioned whether the TEAP should deliver a specific report on the issue or whether to include the topic within the next quadrennial assessment.

In plenary, contact group Co-Chair Ishaka requested more time for the group to conclude its work.

**Strengthening Montreal Protocol institutions, including for combating illegal trade:** Delegates discussed the draft decision submitted by the US on preventing illegal trade of controlled substances (UNEP/OzL.Pro.35/CRP.5). The US clarified that the CRP highlights actions to be taken by parties to facilitate information exchange. The EU noted their intention to submit another CRP setting out a roadmap to address illegal trade. After CANADA suggested merging both ideas into a single CRP, the EU emphasized that their draft decision was of a procedural nature.

Delegates agreed to establishing a contact group co-chaired by Martin Alex Bjørnholst (Denmark) and Miruza Mohamed (Maldives), which met in the afternoon. The group carried out

a first review of the CRP in the contact group. Some noted that requests for information sharing should be carried out through a notice to parties to contribute to annual reports rather than periodic sharing of information.

Some questioned the term illegal trade, saying it is not defined in the Protocol and recommended the use of "unauthorized." One party urged for synergies with reporting in the informal Prior Informed Consent (iPIC) mechanism.

The US explained that the CRP is intended to reflect on the experiences of countries when illegal substances are detained or rejected, in order to enable curbing illegal trade by informing on malpractice, including mislabelled or misrepresented consignments. Several delegates noted that rejection or detainment can be for other reasons beside illegal trade. Others noted also that dealing with misinformation and malpractices of such consignments is carried out by border control and/or customs departments and has implications on licencing agreements. Some added that the concerns on illegal trade can be addressed by strengthening national institutions.

In plenary, contact group Co-Chair Bjørnholst requested more time. The EU presented a draft decision (CRP.7), which proposes a roadmap to be discussed at MOP 36, and calls on the Secretariat to compile a synthesis report to be addressed at the 46th meeting of the Open-ended Working Group in 2024. AUSTRALIA, CANADA, INDIA, and the US noted they would need more time to review this proposal. Delegates agreed to meet in the margins of the meeting to discuss it.

**Gaps in the global coverage of atmospheric monitoring of controlled substances:** In the evening plenary, the EU presented their proposal for a draft resolution (CRP.6). CANADA, AUSTRALIA, INDIA, US, and NORWAY noted they would need more time to review the text. Parties agreed to meet in the margins of the meeting to consider the text.

**Assessment Panel nominations:** In plenary, Mariska Wouters (New Zealand) reported that the group agreed on the SAP and EEAP Co-Chairs for a four-year term. She said that the group agreed on two nominations for the MCTOC and that the nominations for RTOC are pending. She requested more time to agree on nominations for senior experts. Co-Chair Ralph Brieskorn added that the US had submitted a nomination for the RTOC.

### *In the Breezeways*

With the clock ticking towards the opening of the high-level segment, delegates worked at a frenetic pace in contact and informal group settings from early in the morning to late in the night to hammer out draft decisions to guide the work of the Protocol. In some groups, meaningful discussions were blocked by circular questions and miscommunications.

Replenishment discussions, where a significant number of delegations spent the day, seemed to continue at pace, perhaps because the group was only open to a few rather than all parties.

Delegates worked through the day in a collegial atmosphere, managing to have frank discussions on core issues. For instance, in their candid exchanges on how to stop the dumping of inefficient equipment containing obsolete refrigerants, delegates dissected the intricacies of who should take responsibility for obsolete cooling equipment dumped in the Global South. The question of whether the importer or exporter should shoulder the responsibility was dizzying, as countries passed the buck around, prompting the decision's authors to emphasize that the term "shared" is explicit. Some delegates expressed helplessness, in the fact that they have no option but to accept this "unwanted equipment" due to the lack of alternatives for those living in high-ambient-temperatures. This drew some to wonder incredulously whether in cases such as these, "one man's trash may indeed be another man's treasure."