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INTERGOVERNMENTAL NEGOTIATING COMMITTEE FOR AN  
INTERNATIONAL LEGALLY BINDING INSTRUMENT  
FOR IMPLEMENTING INTERNATIONAL ACTION ON  
CERTAIN PERSISTENT ORGANIC POLLUTANTS

Sixth session

Geneva, 17-21 June 2002

Item 5 of the provisional agenda\*

PREPARATION FOR THE CONFERENCE OF THE PARTIES

Review process for entries in the Register of specific exemptions \*\*

Note by the Secretariat

1. Article 4 of the Stockholm Convention on Persistent Organic Pollutants establishes a register for the purpose of identifying Parties that have specific exemptions listed in Annex A or Annex B of the Convention. A draft format of the Register of specific exemptions to be established pursuant to Article 4 developed by the secretariat is provided in document UNEP/POPS/INC.6/INF/6.
2. Parties that are States may register for specific exemptions on or after the day on which it becomes a Party (Article 4, paragraph 3).
3. All registrations of specific exemptions will expire five years after the date of entry into force of the Convention with respect to a particular chemical (Article 4, paragraph 4), unless an earlier date is indicated by a Party or an extension is granted by the Conference of the Parties pursuant to paragraph 7 of Article 4.
4. The Conference of the Parties may, upon request from the Party concerned, decide to extend the expiry date of a specific exemption of a period of up to five years (Article 4, paragraph 7). The process for reviewing the request is to be decided by the Conference of the Parties at its first meeting (Article 4, paragraph 5).
5. Elements of the process as specified in the Convention are:

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\* UNEP/POPS/INC.6/1.

\*\* Stockholm Convention, Article 4.

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- (a) Prior to a review of an entry in the Register, the Party concerned shall submit a report to the secretariat justifying its continuing need for registration of that exemption;
- (b) The report shall be circulated by the secretariat to all Parties;
- (c) The review of a registration shall be carried out on the basis of all available information;
- (d) The Conference of the Parties may make such recommendations to the Party concerned as it deems appropriate;
- (e) The Conference of the Parties may, upon request from the Party concerned, extend the expiry date of a specific exemption for up to five years; and
- (f) In making its decision, the Conference of the Parties shall take due account of the special circumstances of the developing country Parties and Parties with economies in transition.

6. Other possible elements of the process that are not specified in the Convention include, for example:

- (a) The types of information needed in country reports to justify the continuing need for registration of specific exemptions, pursuant to paragraph 6 of Article 4;
- (b) The timing of certain actions, including
  - (i) When, in advance of the expiry date, must a Party submit its request for an extension of its registration of a specific exemption prior to the expiry date of the registration;
  - (ii) When must the secretariat circulate the report to all Parties;
  - (iii) Any period for review by Parties;
- (c) The process for the collection and circulation of all the information to be taken into account in the review pursuant to paragraph 6 of Article 4;
- (d) The criteria that need to be fulfilled to justify extension of a registration; and
- (e) The process by which the Conference of the Parties will review a request by a Party to extend its registration of a specific exemption pursuant to paragraph 7 of Article 4.

#### Possible action by the Committee

7. The Committee may wish to consider developing guidance to assist the Conference of the Parties at its first meeting in its deciding on the review process for entries in the Register in Article 4. In doing so, the Committee may wish to request the secretariat, or establish another process, to develop proposals for the review process regarding entries in the Register for consideration by the Committee at its next meeting.

8. The Committee may also wish to take note of the criteria and procedure for the assessment of an essential use agreed to under the Montreal Protocol on Substances that Deplete the Ozone Layer by decision IV/25 of its Meeting of the Parties, which is included in the appendix to the present note.

Appendix

Decision IV/25 (Essential uses) of the fourth Meeting of the Parties to the Montreal Protocol <sup>1</sup>

The Fourth Meeting of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer decided ...

1. To apply the following criteria and procedure in assessing an essential use for the purposes of control measures in Article 2 of the Protocol:

(a) That a use of a controlled substance should qualify as "essential" only if:

(i) It is necessary for the 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;

(b) 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 minimize 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;

(c) That production, if any, for essential use, will be in addition to production to supply the basic domestic needs of the Parties operating under paragraph 1 of Article 5 of the Protocol prior to the phase-out of the controlled substances in those countries;

2. To request each of the Parties to nominate, in accordance with the criteria approved in paragraph 1 (a) of the present decision, any use it considers "essential", to the Secretariat at least six months for halons and nine months for other substances prior to each Meeting of the Parties that is to decide on this issue;

3. To request the Technology and Economic Assessment Panel and its Technical and Economic Options Committee to develop, in accordance with the criteria in paragraphs 1 (a) and 1 (b) of the present decision, recommendations on the nominations, after consultations with experts as necessary, regarding:

(a) The essential use (substance, quantity, quality, expected duration of essential use, duration of production or import necessary to meet such essential use);

(b) Economically feasible use and emission controls for the proposed essential use;

(c) Sources of already produced controlled substances for the proposed essential use (quantity, quality, timing); and

(d) Steps necessary to ensure that alternatives and substitutes are available as soon as possible for the proposed essential use;

4. To request the Technology and Economic Assessment Panel, while making its recommendations to take into account the environmental acceptability, health effects, economic feasibility, availability, and regulatory status of alternatives and substitutes;

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<sup>1</sup> UNEP/OzL.Pro.4/15, section IV.

5. To request the Technology and Economic Assessment Panel to submit its report, through the Secretariat, at least three months before the Meeting of the Parties in which a decision is to be taken. The subsequent reports will also consider which previously qualified essential uses should no longer qualify as essential;
6. To request the Open-ended Working Group of the Parties to consider the report of the Technology and Economic Assessment Panel and make its recommendations to the Fifth Meeting of the Parties for halons and at the Sixth Meeting for all other substances for which an essential use is proposed;
7. That essential use controls will not be applicable to Parties operating under paragraph 1 of Article 5 of the Protocol until the phase-out dates applicable to those Parties;

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