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## **MONTREAL PROTOCOL: ENFORCEMENT OF CHLOROFLUOROCARBONS (CFC) AND RELATED REQUIREMENTS**

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### **GOALS**

The session addressed the following issues:

- The goals of chlorofluorocarbon (CFC) reduction and the challenges controls and reduction of these in the marketplace pose the domestic programs given the nature of the market and the regulated community.
- Types of programs countries have adopted to control chlorofluorocarbons in the marketplace.
- The effectiveness of these programs in achieving compliance - successes and problems.
- Lessons learned for design of requirements to ensure enforceability, promotion of compliance, compliance monitoring, and inspection activities, enforcement response, and levels of government involvement.

### **1 INTRODUCTION**

Conference participants from ten countries as well as the United Nations Environment Program (UNEP) discussed major issues related to chlorofluorocarbon production, trade, and enforcement of the Montreal Protocol. While all countries are taking action to phase out their use, encourage compliance, and establish and implement enforcement programs, country programs are at differing levels of development and implementation and many challenges still remain. In many cases, developing countries that are subject to exemptions under Article 5 of the protocol are ahead of scheduled targets for production and use phase-out. Due to financial constraints, imports of old chlorofluorocarbon-using products from developed nations, and compliance promotion among small-scale users remain substantial problems for developing countries, successes such as those in Thailand for phase-out among large manufactures are encouraging and can serve as models to other nations. Participants from Canada, the U.S., and the Netherlands also shared experiences with successful efforts for encouraging compliance through public involvement and in establishing multi-agency and multilateral enforcement efforts for the detection of illegal shipments.

### **2 PAPERS**

In the paper of Tjink and Cornet, the results are reported on enforcement of the CFC Regulations in The Netherlands over a 3 year period. All target groups show an improved degree of compliance. The objectives have not been reached in the areas of refrigerating installations and trade of CFS's; these target groups will be the focus of attention next. This paper provides an example of how the Montreal Protocol to protect the ozone layer can be enforced. In the paper of Del Valle and Figueroa, a description is given of how legal norms are applied in

Guatemala related to the implementation of the Montreal Protocol on ozone depleting substances. The system is still weak, but enforcement of these regulations can be an opportunity for a country with a poor legal tradition.

### 3 DISCUSSION ISSUES

#### 3.1 Major issues related to Montreal Protocol compliance programs and enforcement efforts

While participants began the session by discussing the considerable progress that has been made in both developed and developing countries in implementing production and use requirements of the Montreal Protocol, other noted that many challenges remain. Major Issues raised by special topic participants include:

- While many countries have made progress in phasing-out chlorofluorocarbon use for large volume users (often ahead of Montreal Protocol and Article 5 targets), less progress has been made with small volume users. In particular, reduction in the use of ozone-depleting car air conditioners and refrigerators is difficult in many countries where these capital goods are used for many years and represent a sizable investment for many consumers.
- Illegal shipments of chlorofluorocarbons to countries where their use is banned or regulated through high tariffs and taxes is viewed as a serious and growing problem. A U.S. participant noted that smuggling of chlorofluorocarbons was viewed as the second most lucrative criminal smuggling operation after illegal drugs.
- Some developing country participants noted that, while the chlorofluorocarbon issue is usually framed as one where illegal transboundary trade typically flows from developing to developed nations. Used cars, refrigerators, and other equipment that uses ozone depleting substances are entering developing countries, adding to challenges for eliminating the use of such equipment.
- Financing for programs remains a problem. Participants noted that many found the procedure for applying to the Montreal Protocol fund to be tedious and fund amounts to be inadequate, especially for programs aimed at small volume users.
- Phase-out of some use categories combined with continued production in developing countries (Article 5 Nations) has led to price declines due to over supply. This decline in prices has complicated efforts to phase-out use in remaining sectors.

#### 3.2 Program successes

Participants highlighted successful efforts at encouraging voluntary compliance as well as detecting violations. These included:

- Thailand has been extremely successful using a sector by sector approach to encouraging chlorofluorocarbon use phase-out. They have completed efforts in the solvent sector and a largely complete phase out in the air conditioning sector. Their program, aimed principally at multinational corporations, has relied on close cooperation with U.S. EPA and the Japanese governments, as well as corporate parents to encourage Thai subsidiaries of multinationals to adopt “mother country” phase-out schedules.

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- China has a national plan in place, primarily focused on the industrial sector, and has established a group of industrial users and government representatives that will be responsible for phase-out. Plans are in place for a permitting and labeling system.
  - Canada has developed a strong education program for customs officials aimed at improving their ability to detect illegal shipments. In addition, Environment Canada has been successful in educating the public about ozone depleting substances and in publicizing violations, resulting in strong public support for enforcement actions.
  - The United States EPA has developed and delivered chlorofluorocarbon interdiction training to hundreds of Customs inspectors, agents and other law enforcement personnel at border locations across the country and at regional, bilateral and multilateral conferences on environmental enforcement.
  - The United States has successfully launched *Operation Cool Breeze*, an enforcement program aimed at detecting illegal shipments of ozone depleting substances. A number of high profile arrests have resulted from this effort and information-sharing between government agencies has improved greatly.
  - The Netherlands has had a successful voluntary program followed by more stringent enforcement through legal instruments. They have also implemented a certified installer program for the refrigerator sector.

#### 4 CONCLUSIONS

- While a number of programs have been a success, and the Montreal Protocol agenda is on target or ahead of schedule in some areas, participants noted that a number of challenges remain.
- Financial and technological assistance were cited as the major need in most countries.
- Development of legal instruments also was viewed as critical for many nations. Information-sharing among importing, exporting, and transshipping nations is still inadequate for efficient identification of illegal shipments. These information gaps also make it difficult for countries to track imports of used equipment that employ ozone depleting substances.
- Participants noted that funding for information systems and training programs is required, although many stated that there was a substantial amount that could be accomplished through informal information-sharing networks.