Workshop Report

Regional Workshop on Implementation and Enforcement of ODS Import/Export Licensing Systems in Newly Independent states (NIS)

Organized by

The United Nations Environment Programme (UNEP), Division of Technology, Industry & Economics (DTIE)

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EXECUTIVE SUMMARY

The Regional Workshop on Implementation and Enforcement of ODS Import/Export Licensing Systems in Newly Independent states (NIS) held in Baku (Azerbaijan on 7-9 June 2000 is an important element of the UNEP Project “Promoting Compliance with the Trade and Licensing Provisions of the Montreal Protocol in Countries with Economies in Transition (CEITs)” financed by GEF. A similar workshop was organized in Budapest (Hungary) for Central and Eastern European and Baltic States (CEEBS). These two workshops can be considered as a follow-up from two Regional Workshops on Monitoring and Consumption of Ozone Depleting Substances (ODS) that were held in 1998 for CEEBS and NIS in Bratislava (Slovakia) and Kiev (Ukraine), respectively.

Complying with the provisions of the MP is a difficult task for many CEITs because their economies are still in transition, and the resources needed for introducing new non-ODS technologies and for effective monitoring and control of ODS traffic are insufficient. This creates a driving force for illegal activities in ODS trade, which can be eliminated only when the existing institutional and legal framework is strong enough and the regulations can be successfully implemented and fully enforced. This especially concerns NIS since many of them are not able to follow current MP phase out schedules. GEF financial assistance provided to these countries allows them to prepare their own realistic phase out programmes that are then approved by the Parties to the MP. Even this is, however, difficult for NIS since CFCs are still easily available in some countries in the Region at a very low price. The availability of relatively cheap CFCs may continue even after the closure of the manufacturing facilities in the Russian Federation (that is expected to happen from 1 July 2000), if no systematic actions are taken in all countries of the Region on the enforcement of the control of ODS traffic. The cooperation between Ozone Officers and Customs Authorities, Customs Police and Environmental Police both inside the country and on the regional level is of vital importance here.

The workshop organized in Baku for NIS was designed to assist the participating countries to further improve and enforce the measures introduced earlier (according to recommendations of the first meeting in Bratislava) and was devoted mostly to strengthening the customs control of ODS trade in the Region. The results of a detailed survey made before the workshop had shown that out of ten NIS that participated in the workshop, five had already established systems for licensing import and export of ODS, three would introduce such systems very soon, and the other two (Kazakhstan and Tajikistan) which ratified the MP only in 1998 were also determined to do it promptly. Ensuring the full implementation and effective enforcement of the ODS licensing systems in NIS is a key measure to assure reliable control of ODS traffic in the Region and thus avoid illegal trade that is expected to grow after the CFCs become less available and more expensive due the cutoff in supply by the producers in Russian Federation.
The objective of this workshop was to enable the participating countries to enforce the established policies and regulations designed to monitor and control of ODS traffic effectively. It was expected that after discussions held during the workshop, conclusions and recommendations related to the enforcement of control of ODS traffic on a national, and possibly also Regional level, would be developed. Each country's team would propose additional measures to prevent illegal trade and secure reliable reporting of data on ODS consumption. Thirty-eight participants from ten countries of the Region (Azerbaijan, Belarus, Georgia, Kazakhstan, Moldova, Russian Federation, Tajikistan, Turkmenistan, Ukraine and Uzbekistan) registered for the Workshop. The participant’s profile was as follows:

- Officers from Ozone Units and Senior Ministerial Officers responsible for ozone issues: 50%
- Customs Officers and Customs Inspectors: 39%
- Environmental Inspectors: 11%

The Workshop was structured in such a way that the participants could absorb the information presented to them and share their own experiences step by step:

(a) through plenary presentations on relations between the Montreal Protocol requirements and control of ODS traffic, the present situation in the Region with regard to implementation of regulations on ODS traffic, measures for enforcement of trade control in the EU and the USA, and illegal trade in ODS and ways to prevent it, and,

(b) through working sessions where participants could express and exchange opinions on the issues covered by the workshop as well as work out the suggestions for action plans for their countries. The participants were given a “Participants Information Package” containing all workshop documents.

The Workshop Agenda included, inter alia, the Welcome Address by the host country (Azerbaijan) representative, Opening Address by UNEP DTIE, brief reviews of workshop objectives and UNEP activities in the CEEBS by UNEP DTIE, and six presentations by invited experts from Germany, Poland, UK, USA and Ukraine. The representative of Ozone Secretariat was unable to attend, so his presentation was given on his behalf by the expert from Poland who was also acting as the UNEP’s International Consultant for the workshop. The agenda also included the following working sessions:

1. Legal and Institutional Aspects of the Enforcement of Control of ODS Traffic in Countries and throughout the Region
2. Practical Aspects of the Enforcement of Control of ODS Traffic in Countries and throughout the Region

At the workshop the participants learned about the most important issues related to the monitoring and control of trade in ODS, and had the opportunity to discuss them and present their own views on how to improve the enforcement of relevant regulations in their countries and in the Region. It is crucial that real examples and sometimes controversial problems were emphasized in the presentations and then discussed in the plenary and in the working sessions, so the participants could take active problem solving role. This approach made the workshop more interesting to the participants and enabled them to understand better the difficult area of prevention of illegal ODS traffic.

The workshop participants drafted conclusions and recommendations in which they noted the considerable progress in introducing or improving the ODS licensing systems and related legislation in the countries in the Region, urged those countries which have not yet done so to continue work on ratification of the amendments to the MP and expressed their concern about the increased demand for CFC-12 in the Region due to introducing stringent phase-out schedules required by the decisions of the Parties to the MP. In view of problems that are presently faced in enforcement of control of ODS traffic, the participants suggested several actions to be undertaken at a global, regional and national level. These actions may include, inter alia, establishing routine contacts between NOUs, customs and environmental authorities, establishing a regional network of NOUs coordinated by UNEP, exchange of information on transit shipments and export licenses, making regular reviews of customs statistics vs. other data on ODS trade, organizing national workshops for customs officers, preparing guidelines and instructions for customs, strengthening cooperation between all authorities (customs, environmental, etc.) and also industrial organizations interested in preventing the illegal ODS traffic.

UNEP will monitor the follow-up of the actions that the participants recommended to be undertaken at the regional level and also the country-specific actions that the delegations participating at the workshop proposed as appropriate measures to improve the enforcement of ODS control in their countries (e.g. organization of national workshops for customs officers that will be necessary to secure dissemination of information acquired from the workshop).

In their evaluation of the workshop, the participants gave generally very high marks to all questions asked in the questionnaire. The highest ratings were given to the overall evaluation of the workshop and to the working sessions.
1. BACKGROUND

The Regional Workshop on Implementation and Enforcement of ODS Import/Export Licensing Systems in Newly Independent States (NIS) held in Baku (Azerbaijan on 7-9 June 2000 is an important element of the UNEP Project “Promoting Compliance with the Trade and Licensing Provisions of the Montreal Protocol in Countries with Economies in Transition (CEITs)” financed by GEF. A similar workshop was organized in Budapest (Hungary) for Central and Eastern European and Baltic States (CEEBs). These two workshops can be considered as follow-up from two Regional Workshops on Monitoring and Consumption of Ozone Depleting Substances (ODS) that were held in 1998 for CEEBS and NIS in Bratislava (Slovakia) and Kiev (Ukraine), respectively.

The experience the participating CEITs got from Bratislava and Kiev workshops not only assisted them in improving operation of their existing ODS import/export licensing systems or in establishing such systems, but also allowed them forge closer links between the Ozone Officers in the countries of the Regions. The conclusions and recommendations from Bratislava and Kiev made a considerable contribution to the process of phasing out ODS in CEITs. However, only comprehensive training of both ozone officers and customs officers in the enforcement of measures dealing with monitoring and control of ODS traffic could lead to a successful implementation of the Montreal Protocol phase-out schedules and reporting requirements, and help to prevent illegal trade activities.

Complying with the provisions of the MP is a difficult task for many CEITs because their economies are still in transition, and the resources needed for introducing new non-ODS technologies and for effective monitoring and control of ODS traffic are insufficient. This creates a driving force for illegal activities in ODS trade, which can be eliminated only when the existing institutional and legal framework is strong enough and the regulations can be successfully implemented and fully enforced. This especially concerns NIS since many of them are simply not able to follow current MP phase out schedules. GEF financial assistance provided to those countries allows them to prepare their own realistic phase out programmes that are then approved by the Parties to the MP. Even this is, however, difficult for NIS since CFCs are still easily available in some countries in the Region at a very low price. The availability of relatively cheap CFCs may continue even after closing down the manufacturing facilities in Russian Federation (that is expected to happen from 1 July 2000), if no systematic actions are taken in all countries of the Region on the enforcement of the control of ODS traffic. Cooperation between Ozone Officers and Customs Authorities, Customs Police and Environmental Police both inside the country and on the regional level is of vital importance here.

The Parties to the MP attach great attention to the problem of illegal ODS traffic as this may undermine the global efforts to phase out ODS. Having an ODS import/export licensing system has become mandatory under the Amendment to the Protocol approved in Montreal in
September 1997 and several important decisions which help the countries to introduce and implement the relevant regulatory measures that have been undertaken by the Parties. The global problem of illegal trade in ODS has already been acknowledged by the World Customs Organization (WCO) and Interpol and is closely monitored by certain international institutions and NGOs such as Friends of the Earth or the Environmental Investigation Agency (EIA). It has been extensively discussed at the international meetings and workshops, e.g., The International Conference on Ozone Layer Protection (Taipei, 1997), the Workshop on Enforcement of and Compliance with Multilateral Environmental Agreements (Geneva, 1999) or The Earth Technologies Forum held each year in Washington DC.

The workshop organized in Baku for NIS had been designed to assist the participating countries to further improve and enforce the measures introduced earlier and was devoted mostly to strengthening of the customs control of trade in ODS in the Region. The results of a detailed survey made before the workshop had shown that out of ten NIS that participated in the workshop five had already established systems for licensing import and export of ODS, three would introduce such systems very soon, and the other two (Kazakhstan and Tajikistan) which ratified the MP only in 1998 are also determined to do it promptly. Ensuring the full implementation and effective enforcement of the ODS licensing systems in NIS is a key measure to assure reliable control of ODS traffic in the Region and thus avoid illegal trade that is expected to grow after the CFCs become less available and more expensive due to the cutoff in their supply by the producers in the Russian Federation.

2. OBJECTIVES

The objective of this workshop was to enable the participating countries to enforce effectively the established policies and regulations designed to monitor and control of ODS traffic.

3. EXPECTED RESULTS

It was expected that conclusions and recommendations on enforcement of control of ODS traffic in particular countries, and possibly also in the Region, would be developed. Moreover, it was planned that each country’s team would develop suggestions for additional measures such as new regulations, agreements on co-operation between customs and environmental authorities both on national and regional levels, national training workshops, etc. that could be enforced to improve the control of the ODS traffic in their own country in order to prevent and fight illegal activities and secure reliable reporting of data on ODS consumption. After the workshop, participants were expected to further develop proposals for discussions with and decisions by appropriate bodies.
4. PARTICIPANTS

Thirty eight participants from ten countries of the Region (Azerbaijan, Belarus, Georgia, Kazakhstan, Moldova, Russian Federation, Tajikistan, Turkmenistan, Ukraine and Uzbekistan) registered for the Workshop. Armenia was unable to attend (though representative of this country participated at previous regional workshop). Kyrgyzstan ratified the MP very recently (31 May 2000) and therefore could not be included to the list of participating countries. The complete list of participants is presented in ANNEX 10.2.

All countries except Georgia and Moldova were classified as non-Article 5 Parties under the MP. Two countries represented at the workshop (Azerbaijan and Uzbekistan) were parties to the MP and its London and Copenhagen Amendments, 5 (Belarus, Russian Federation, Tajikistan, Turkmenistan and Ukraine) were parties to the MP and its London Amendment, and 3 (Georgia, Kazakhstan and Moldova) were parties to the MP only. None had ratified the Montreal Amendment, but some declared they would do so in the near future, which is important from the point of view of control and monitoring of ODS.

The participants of the Workshop were senior officers from Customs Authorities in the country including those responsible for implementing and enforcing the control of traffic of goods at the border, specifically ODS and ODS-containing products, and for formulating relevant national customs codes and tariffs, as well as senior representatives of the Customs Inspectorates and Environmental Inspectorates or equivalent authorized institutions. Officers in charge of ODS problems (Ozone Officers) and key officers regarded as National Focal Point for ODS Import Licensing System, were also invited to ensure the better understanding between governmental bodies in the process of enforcement of regulations related to the ODS traffic.

The participants profile was as follows:

- Officers from Ozone Units and Senior Ministerial Officers responsible for ozone issues: 50%
- Customs Officers and Customs Inspectors: 39%
- Environmental Inspectors: 11%

5. METHODOLOGY

The Workshop was structured so that the participants could absorb the information presented to them and share their own experience through:
(a) Plenary presentations where the workshop participants were informed about:
- the relations between the Montreal Protocol requirements and control of ODS traffic
- the situation in the Region with regard to implementation of regulations on ODS traffic
- enforcement of the control of trade in ODS applied in the European Union (EU) and in the USA
- illegal trade in ODS and possible means to prevent the illegal ODS traffic on an international, regional and national level.

(b) Working sessions where the participants could express and exchange their own opinions on the issues covered by the workshop as well as work out the suggestions for action plans to be undertaken in their countries. There were brief introductions given to each of the working sessions by the discussion facilitator. At the working sessions the participants were divided into working groups, consisting of country teams. Working groups were structured differently for each working session.

Countries with some experience and those without experience were put together. Each working group selected its own discussion moderator and rapporteur who represented this group at the plenary discussion of the results of particular working session.

Resource persons visited each of the working groups during the working sessions.

Presentations of ODS containers and ODS identifiers were included to the working sessions.

The participants also learned how to check the contents of ODS cylinder using ODS identifier.

At the end of the workshop each country team presented the actions already taken and planned to prevent illegal trade in ODS as a result of the workshop.

The participants were given a “Participants Information Package” that contained all workshop documents, including agenda, concept note, presentations and guidelines for the working sessions, workshop evaluation form, and supporting workshop documents (background information on the issues related to the workshop and UNEP’s general information brochures and leaflets). The reference books were also available (one copy for each country team). List of presentations and working sessions and list of other training and background materials are attached to this report as Annexes 4 and 5, respectively. The chairman and the rapporteur were elected for each day of the workshop.
6. CONTENTS

The Workshop Agenda included, *inter alia*, the Welcome Address by the host country (Azerbaijan) representative, the Opening Address by UNEP DTIE, brief reviews of workshop objectives and UNEP activities in the CEEBS by UNEP DTIE, and six presentations by invited experts from Germany, Poland, UK, USA and Ukraine. The representative of Ozone Secretariat was unable to attend, so his presentation was given on his behalf by the expert from Poland who was also acting as the UNEP’s International Consultant for the workshop. Presentations and statements given at the Workshop are briefly summarized below:

In his address to the participants Mr. Heikki Willstedt, Training Expert of the Energy and OzonAction Unit, UNEP IE (Paris), speaking on behalf of Mr. Rajendra Shende, Chief of the Energy and OzonAction Unit, briefly characterized the status of implementation of the provisions of the MP on a global scale emphasizing the international assistance provided to developing countries and CEITs. He noticed that although the Parties to the MP, when establishing the major provisions of the MP, had not anticipated the fall of the USSR and emergence of new independent countries, which resulted in lack of separate category of CEITs under the MP, a mechanism is available that allows to assist CEITs in their efforts to phase out ODS. In that context, he pointed out the active involvement of UNEP in this process and encouraged the countries in the Region to strengthen the control of ODS traffic in order to avoid illegal trade activities.

A statement by Mr. Alejandro Ramirez from UNEP DTIE (Paris) was devoted to the role of UNEP in assisting CEITs, and specifically the countries in the Region, in fulfilling the MP requirements. He listed the categories of UNEP projects (Country Programmes, Institutional Strengthening, and National Training) that have been completed or are currently ongoing in NIS and explained also what projects are to be implemented in the near future. He also presented some statistical data on ODS consumption in CEITs and pointed out the challenges standing before the countries in the Region in respect of compliance with the MP.

Dr. Janusz Kozakiewicz (ICRI, Poland), speaking on behalf of Mr. Gilbert Bankobeza from Ozone Secretariat (UNEP, Nairobi) who was not able to participate in the Workshop, presented the structure of the MP emphasizing the MP provisions related to the trade in ODS and ODS-containing products (Articles 4, 4A and 4B). He highlighted the differences between trade with Parties and non-Parties under the MP and discussed the MP requirements in that respect with regard to the particular substances. He pointed out the benefits from ratification of London Amendment (with regard to trade in Annex B substances) and Montreal Amendment (with regard to trade in methyl bromide) and the problems that might be faced in practice by the countries that did not ratify these treaties. He also presented the decisions of the Parties (IX/9 and X/9) which concern the control of trade in products and equipment whose continuing functioning relies on Annex A and B substances.
Mr. Gavin Hayes (Royal Institute of International Affairs, UK), speaking on the growth of international environmental crime, presented examples of this type of criminal activity: biodiversity-related, natural resource-related, waste-related and banned substance-related. Then, he underlined the common features that could be identified behind most instances of international environmental crime and common solutions that might be suggested to avoid this kind of crime.

He also made a general overview of illegal trade in ODS from global perspective and presented some examples of such illegal activity on a large scale. Though he concluded with the suggestion that the problem should solve itself in due course, as ODS-using machinery is gradually replaced, he added that there are several reasons why it is worth investing time and resources in tackling the problem.

Dr. Janusz Kozakiewicz (ICRI, Poland) presented the background paper dealing with problems in monitoring and control of trade in ODS and ODS-containing products that include: complexity and lack of clear definition of customs codes for most of the ODS, difficulties of practical identification of ODS by the customs, a number of exemptions under the MP that have to be treated in a special way, the lack of an internationally accepted system of labelling of ODS and ODS-containing products and equipment, and difficulties in differentiation between ODS-containing mixtures and ODS-containing products. In that respect he discussed the various ways of illegal trade in ODS and presented several practical examples (importing/exporting without licence/permit but using correct customs code, using wrong or misleading customs code, mislabelling - including also shipping of virgin ODS as the used one, and ordinary smuggling). Finally, he proposed what measures may be taken to prevent/curb illegal trade in ODS at global, regional and national level.

Ms. Andrea Steuer (Ministry of Finance, Germany) presented the methods of enforcement of customs control on trade in ODS in Germany. She explained the structure and tasks of German Customs Administration in view of control of ODS traffic and relations between EU regulation dealing with ODS and German national law on that subject. She described in detail the procedures used by the German customs in routine control of ODS and ODS-containing products and in proceeding with suspicious shipments. Finally, she specified the problems in the field of enforcement of customs control of ODS and suggested possible solutions.

Ms. Mary McCarthy (DOJ, USA) concentrated on the methods of fighting the illegal trade in ODS in the USA. In that context she presented the overview of current production sites of CFCs and halons worldwide that may be considered as potential sources of illegal ODS. She pointed out that close cooperation between state institutions must exist in order to ensure joint action against smugglers. She informed the participants that a special group was established in the US Department of Justice (DOJ) to investigate the cases of illegal ODS traffic and described a few successes of that group.
Dr. Vladimir Demkin (Ukraine) presented the results of the Survey on status of implementation of legislative systems dealing with ODS and ODS-containing products in NIS made as part of the UNEP Project “Promoting Compliance with the Trade and Licensing Provisions of the MP in CEITs”. He pointed out that the situation in the Region with regard to establishment and implementation of the regulations dealing with ODS monitoring and control has distinctly improved since the previous workshop in Kiev (i.e. since 1998). He stressed that though the participating countries have made considerable efforts to follow their National Action Plans proposed in Kiev, insufficient attention has been paid to strengthening the capabilities of customs services to detect and prevent illegal imports of ODS, and to cooperation between national Ozone Units on the regional level. He added that the following major problems should be solved in order to secure effective control of ODS traffic in the Region: lack of separate customs codes for several ODS and lack of trained customs officers on the border.

The Workshop Agenda also included the following two working sessions:

1. Legal and Institutional Aspects of the Enforcement of Control of ODS Traffic in Countries and throughout the Region

2. Practical Aspects of the Enforcement of Control of ODS Traffic in Countries and throughout the Region

At the working sessions the participants were asked to discuss the issues presented in the “Guidelines”. Background information was also included in the guidelines to facilitate discussion. The following issues were discussed:

Working Session 1: the definition of illegal ODS traffic, the status of non-compliance with MP ODS phase-out schedules vs. data reporting, the importance of customs codes, legal and institutional means to prevent/curb the illegal ODS traffic and penalties for illegal trade in ODS.

Working Session 2: A practical approach to the customs control of goods, proceeding with captured shipments of illegal ODS and transit shipments of ODS or ODS-containing products. Apart from discussion, this session also included presentation of colour pictures of standard containers/cylinders used to ship ODS legally and illegally and demonstration of the use of ODS refrigerant identifier.

The Workshop booklet containing, inter alia, the texts of presentations as well as introductions and training materials to working sessions, is available from:
7. RESULTS, CONCLUSIONS, RECOMMENDATIONS AND LESSONS LEARNED

The workshop described in this Report was the second in a series of regional UNEP workshops designed specifically for customs training. The general observations from the workshop did not differ much from the findings from the first workshop in that series held in Budapest for CEEBS (see the relevant chapter of UNEP Report from the Budapest Workshop). Both workshops provided definitely very important information for participants that would help them to enforce control of trade in ODS in their countries. At both workshops the participants were very active in discussion and raised similar problems. The only difference was that the participants of the workshop for NIS described in this Report had much less experience in dealing with the enforcement of ODS control measures in practice, since in many of them CFCs and halons (that had been banned in most of CEEBS countries already in 1996) are still allowed for imports according to special phase-out schedules agreed upon with the Implementation Committee of the MP, and therefore strict control of ODS traffic is for them yet not an urgent need, like in CEEBS, but a future challenge.

However, despite that, the participants representing NIS seemed to be very enthusiastic about strengthening the control of trade in ODS and ODS-containing products. Specifically, with ODS-containing products, they were afraid of their countries being the target for export of obsolete equipment from the EU and other European countries where the bans on use of such equipment has already been (or will soon be) introduced. This problem has been repeatedly raised at various fora, and discussion on how to avoid it should be included in each of the future workshops dealing with enforcement of regulations dealing with ODS.

The results of discussions carried out at Working Sessions 1 and 2 are presented below. The detailed results of a survey on implementation and enforcement of ODS import/export licensing systems in the participating countries will be published by UNEP as separate report. Brief summary is given in Chapter 6.

Results of Working Session 1: Legal and institutional aspects

The purpose of this session was to discuss the enforcement of the control of trade in ODS from a legal and institutional point of view.
The discussion of the definition of illegal ODS traffic was quite intense and, since no agreement on that could be reached, the participants suggested that such a definition should be elaborated by the Parties to the MP and included to the MP provisions. This suggestion seems to be in line with the findings of the UNEP Workshop on compliance with MEAs held in Geneva in 1999 where the issue of “illegality” was broadly discussed, and clear explanation of meaning of it with regard to ODS in the MP would definitely help to deal with this problem in practice.

Answering the question on what should be reported to the Ozone Secretariat: only quantities of ODS traded legally, or also the captured illegal shipments, most of the participants considered that information on any illegal shipments should be reported along with the quantities traded on a legal basis (i.e. covered by permits) and that relevant statistics should be maintained by the Ozone Secretariat, containing also information on sources of illegal ODS. In the same time, the general view of the participants was that only shipments that physically passed through the border and had been registered should be counted to the country’s consumption reported to the Ozone Secretariat. Not all participants agreed that special sanctions should be introduced for the illegal activities related to trade in ODS.

As the most effective means to prevent illegal ODS traffic the participants pointed out the following: improving the customs codes for ODS and harmonizing them in the Region, training of customs officers and equipping them with ODS identification kits.

**Results of Working Session 2: Practical aspects of enforcement of the control of ODS traffic in the country and in the Region.**

The purpose of this session was to get participants' views on possible practical approaches that may be undertaken in their countries to improve the enforcement of ODS import/export licensing systems.

The participants agreed that the control of ODS should be performed on the border of the country, and not on the “customs border” (that may often be situated inside the country) since otherwise some illegal shipments might be missed. In the same time the participants representing customs authorities pointed out that any customs control would be ineffective if there was no special procedure established that would allow to approach all ODS-suspicious shipments in the same way. There was discussion on whether limiting the number of customs check-points where the ODS and ODS-containing products could be cleared would prevent the illegal trade in ODS or make it grow.

When discussing the problem of proceeding with captured shipments of illegal ODS, most of the participants suggested that such “illegal” ODS should not be destroyed, but rather used domestically (in case it would not be against the MP phase-out schedules), or exported to any country where it is still allowed or returned to the exporter on his cost. The participants complained that this important question has not been resolved in the MP provisions.
The issue of transit of ODS and ODS-containing products seemed not to be a major problem in the countries participating in the workshop since most of them already have the transit shipments monitoring system in place. However, the participants agreed that it would be useful if the information-sharing system on transit shipments of ODS and ODS-containing products was established in the Region.

The recommendations and conclusions agreed upon at the Workshop are presented below.

**RECOMMENDATIONS AND CONCLUSIONS FROM THE WORKSHOP**

The participants take note of the considerable progress in introducing or improving the ODS licensing systems and related legislation in the countries of the Region that allows to monitor and control ODS traffic in most of the countries. Some countries that have not completed implementation of their National Action Plans developed at the UNEP Workshop on ODS Monitoring and Control held in Kiev in December 1998, accordingly, are urged to do that as quickly as possible.

1. The participants urge those countries, which have not done so yet, to continue work on ratification of the amendments to the Montreal Protocol.

2. The participants are aware of the possibility of future increase of illegal activity in trade in Annex A and B ODS and ODS-containing products in the Region resulting from scarcity of Annex A and B substances after closing down manufacturing facilities in the Russian Federation expected in the year 2000.

3. The participants are also concerned by increased demand for CFC-12 due to introducing stringent phase-out schedules required by the decisions of the Parties to the Montreal Protocol.

4. Being aware of the threat of the illegal trade in ODS to the success of a global process of ozone layer protection, the participants strongly feel that the adequate measures should be established in their countries to secure enforcement of control of trade in ODS and ODS-containing products in the Region. Further information should be gathered and shared about the nature and extent of possible illegal activities in the region.

5) The participants wish to point out that presently the control of ODS on the border may not be reliable enough due to the problems in ODS identification, imperfections in codes of commodities positions under the Harmonised Commodity Description and Coding System, the CIS Commodity Nomenclature of Foreign Trade Activity (TN VED) and other national Commodity Nomenclatures related to ODS and ODS-containing products, lack of uniform labelling system as well as lack of specifically trained customs officers, and that these problems may be solved only by undertaking appropriate actions at global, regional and
national level. The guidance and assistance of the Parties to the Montreal Protocol and relevant international institutions in that respect would be needed.

6) Taking into account the need of preventing the illegal ODS traffic in the Region the participants recommend that the following actions both at regional and national level should be undertaken in order to curb illegal trade in ODS:

- **Actions at regional level**

1) Establishing routine contacts between NOUs, customs and environmental authorities on regional and sub-regional levels. Organizing meetings and workshops for the customs officers from the neighbouring countries to exchange information and strengthen co-operation.

2) Establishing a regional network of NOUs that will be co-ordinated by the UNEP or a relevant international organization that would create the possibility for NOUs to organize regional meetings.

3) Exchange information on transit shipments and export licences between NOUs and customs in the neighbouring countries.

- **Actions at national level**

1) Establishing and improving the design of ODS licensing systems in view of developing better legal and institutional mechanisms preventing illegal trade in ODS.

2) Making regular reviews of customs statistics vs. other data on ODS trade.

3) Preparing guidelines and instructions for local customs officers and environmental inspectors.

4) Organizing national training workshops for customs officers on a regular basis.

5) Developing and strengthening co-operation between environmental and customs services. To that end:

   - to carry out regular meetings of environmental and customs authorities to monitor the current situation with regard to illegal trade in ODS in the country;
   - to establish routine ways of communication between customs on the border and NOU;
   - to conclude agreements on co-operation between environmental and customs authorities;
   - to establish regular data exchange between NOUs and customs authorities;
   - to provide customs authorities with ODS identifiers, computers and relevant software, etc., if needed;
   - to assign only few check points on the border where traffic of ODS and ODS-containing products would be allowed.
(6) Carrying out public awareness campaigns on ozone layer protection and ODS.
(7) Strengthening co-operation with industrial and business sector in regard to prevent illegal trade in ODS and ODS containing products and seek their assistance in gathering information on the nature and extent of possible illegal markets within their countries.
(8) Incorporating into the national legislation specific and severe sanctions for illegal import of ODS.
(9) Adopting clear, unsophisticated procedures in regard to exemption of the ODS free products from licensing requirements, and, in the same time, securing proper control of products containing ODS and “second hand” equipment

8. FOLLOW-UP ACTIONS

At a separate session that was held during the workshop the representatives of each country presented their suggestions for measures to be introduced and actions to be undertaken in their countries in order to secure effective enforcement of the ODS control and prevent illegal trade in ODS. These suggestions were the basis for the general recommendations related to actions to be undertaken at national level agreed upon afterwards by all participants (a typical example may bet the organization of national workshops for customs officers that will be necessary to secure dissemination of information acquired from the workshop). UNEP will monitor the follow-up of the implementation of these country-specific actions and will assist throughout the Project in implementation of region-specific measures to be introduced. Introduction of actions to be undertaken at global level suggested by the participants will be possible only under the guidance of the Parties to the MP. The proposal of relevant decisions was presented to the Parties at the OEWG in Geneva in July 2000 as the result from the UNEP Regional Workshop for CEEBS where similar actions of international dimension were proposed.

9. EVALUATION BY PARTICIPANTS

A graphical representation of the workshop evaluation by the participants is presented in Annex 10.6. The overall evaluation of the workshop (Q1) was excellent - only very few “4” marks were given, other marks were all rated “5”. Working sessions (Q2) received exactly the same excellent rating which means that the issues selected for discussion were very interesting for the participants and that they found the organization of working sessions very appropriate. Only very good marks (“4” and “5”) were given also to the assistance provided by the workshop with regard to improving the licensing systems (Q5), cooperation with customs (Q6), and monitoring ODS consumption (Q7). Such high rating means that the workshop was considered by the participants as a crucial step in the enforcement of measures dealing with control of ODS traffic and preventing the illegal trade in ODS in their countries. Plenary presentations (Q4) received slightly lower marks, though no participants rated them as “3”.

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The composition of the audience received mostly “5” mark, though one participant rated it as “3”. The UNEP’s Resource Module was also rated high (most of the marks were “4” ad “5”). Difference in rating of UNEP’s Resource Module by the participants of CEEBS and NIS workshops result presumably from the fact that for NIS the Module is more useful due to their less advanced stage of implementation of ODS-related measures.

10. List of Annexes

Annex 10.1 AGENDA
Annex 10.2 LIST OF PARTICIPANTS
Annex 10.3 LIST OF TRAINERS/SPEAKERS
Annex 10.4 LIST OF PRESENTATIONS AND WORKING SESSIONS
Annex 10.5 LIST OF TRAINING AND BACKGROUND MATERIAL
Annex 10.6 GRAPHICAL REPRESENTATION OF WORKSHOP EVALUATION RESULTS
ANNEX 10.1 AGENDA

Workshop objectives

To assist participating Countries with Economies in Transition (CEITs) from the NIS Region to successfully implement and enforce policies and regulations to monitor and control ODS trade.

Target audience

Senior officers from National Customs Authorities, including those responsible for enforcing the control of traffic of goods at the border (specifically including ODS and ODS-containing products), and for formulating relevant national customs codes and tariffs.

Senior representatives of the Customs Police (Customs State Inspectorate) and Environmental Police (Environmental State Inspectorate) if such institutions exist in the country.

The officer in charge of the National Ozone Unit (Ozone Officer) or a key officer from the Ministry responsible for coordinating MP policy.

Three to four representatives from each country will participate in the workshop.

Duration: 3 days.

The presentations include a time allowance for questions,

Wednesday, June 7th

1. Opening Session

08.00-08.45 Registration

09.00-09.20 Welcome address, by Mr Ali Hassanov, Vice Premier of the Republic of Azerbaijan.

09.20-09.35 UNEP Address: Workshop objectives, Mr Heikki Willstedt, Associate Programme Officer, UNEP TIE, Paris
2. Control of ODS Trade in view of International Environmental Agreements

Election of Chairperson and Rapporteur of the day

9.35-10.05 Montreuil Protocol requirements with regard to control of ODS trade,
9.35-10.06 Dr. Janusz Kozakiewicz on behalf of Mr. Gilbert Bankobeza, Legal Officer,
Ozone Secretariat

10.05-10.35 Illegal trade in ODS as international environmental crime, Mr Duncan Brack,
Royal Institute of International Affairs, London, UK (to be confirmed)

10.35-10.50 Coffee Break

3. Ways to Control Trade in ODS

10.50-11.15 Developments in classification of ODS under HS System, Mr Ercan Saka,
WCO (to be confirmed)

11.15-12.00 The problem of illegal trade in ODS and possible means to solve it, Dr
Janusz Kozakiewicz, Ozone Layer Protection Unit, ICRI, Poland

12.00- 12.15 The role of Interpol in responding to global illegal trade, Ms Jytte Ekhdal,
Interpol (to be confirmed)

12.15-13.30 Lunch Break

4. Experience in Existing Systems of Customs Control of ODS Traffic

13.30-14.50 Enforcement of customs control of ODS traffic in the EU and in the USA:
- selected EU member country - country and speaker to be announced
- USA (speaker to be announced)

14.50-15.05 Coffee break

15.05-15.40 Presentation of results of questionnaire on implementation and enforcement
of ODS import/export licensing systems in participating countries:
Dr Vladimir Demkin, Consultant to UNEP TIE

15.40-17.00 Exchange of information on suspected or identified local illegal activities in
trade in ODS in the region
THURSDAY, JUNE 8

Election of Chairperson and Rapporteur of the day

5. Legal, Institutional and Practical Aspects of the Enforcement of Control of ODS Traffic

09.00-09.15 Introduction to the First Working Session, Dr. Janusz Kozakiewcz
09.15-11.30 First Working Session: Legal and institutional aspects of the enforcement of control of ODS traffic in the country and in the Region. The participants will be divided into working groups of three to four countries and discuss the issues listed in the hand-outs prepared for this session.

Issues include: Definition of illegal ODS traffic, non-compliance with the MP phase-out schedules vs data reporting, importance of customs codes, legal and institutional means to prevent/curb illegal ODS traffic, penalties for illegal ODS trade.

10.00-10.15 Coffee Break (during the working session)

11.30-12.30 Each working group reports to the plenary on the results of discussion of the First Working Session

12.30-14.00 Lunch Break

14.00-14.15 Introduction to the Second Working Session, Dr. Janusz Kozakiewicz

14.15-17.30 Second Working Session: Practical aspects of the enforcement of control of ODS traffic in the country and in the Region

Part I: Demonstration of ODS containers and ODS identifiers. Participants will be acquainted with typical containers which can be used to transport various ODS through the border legally or to smuggle them. Presentation of typical ODS (refrigerant) identifiers will be also made.

Part II: Discussion. The participants will be divided into working groups composed of three to four countries and asked to discuss the issues in the hand-outs.

The discussion will focus on the following subjects: practical approach to customs control of ODS and ODS-containing products, proceeding with captured shipments and illegal ODS, transit shipments of ODS and ODS-containing products.

15.30-15.45 Coffee Break (during the Working Session - after Part I)
FRIDAY, JUNE 9TH

Election of Chairperson and Rapporteur of the day

09.00-10.00 Each working group reports to the plenary on the results of discussion of the Second Working Session

10.00-10.15 Coffee Break

6. Actions already taken and actions planned to prevent illegal trade in ODS as a result of the workshop

10.15-12.00 Short presentation by the representatives of each participating country (10 minutes per country)

12.00-13.30 Lunch break

13.30-14.40 Presentations by the countries (continued) and general discussion focusing on the regional aspects of preventing illegal ODS trade

14.40-14.55 Coffee break

14.55-15.55 Presentation and discussion of conclusions and recommendations of the workshop

15.55-16.30 Closure of the workshop
   - Concluding remarks by the representative of UNEP
   - Concluding remarks by the representative of the host country
ANNEX 10.2 LIST OF PARTICIPANTS

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Dr Vladimir Demkin.
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ANNEX 10.4 LIST OF PRESENTATIONS AND WORKING SESSIONS

WORKING SESSION I

Legal and Institutional Aspects of Enforcement of the Control of ODS Traffic in the Country and in the Region

ISSUES FOR DISCUSSION

1. Definition of illegal ODS traffic.

Hint:
It is not easy to define what should be considered as illegal ODS traffic. Several different approaches to this problem may be taken:

- from the global or regional perspective
- from the country (party to the MP) perspective
- from the company or individual perspective

Try to discuss the above approaches and present your views. The Report from the Ozone Working Group of the UNEP Workshop on Enforcement of and Compliance with Multilateral environmental Agreements (provided in your Workshop documents) may be helpful.

2. Situation of non-compliance with the Montreal Protocol ODS phase-out schedules vs. data reporting.

Hint:
If the country produces or consumes (consumption = production + imports - exports) more ODS than specified in the phase-out schedules of the MP it is in the state of non-compliance with the MP provisions. However, remember that this would depend on what data on production and consumption had been provided by the country to the Ozone Secretariat. Then, try to discuss the possible answers to the following questions: should the country be considered as being in the state of non-compliance if it did not report any data to Ozone Secretariat? what data should be reported to the Ozone Secretariat?

(i) only ODS quantities produced or imported legally, i.e. based on a valid permit or licence?
(ii) the above and also ODS quantities produced or imported/exported without permit or licence, but properly registered by the manufacturer or by the customs at the border and (thus appearing in customs statistics)?
(iii) the above two and also ODS quantities produced, but not registered by the manufacturer, or transported through the border illegally, but spotted by the customs at the border or by the customs police/environmental police inside the country?

Remember, that if the answer to (ii) and (iii) is YES, the country may be considered as being in state of non-compliance even if the ODS licensing system was operated properly, i.e. the allowed ODS quotas have not been overcome.

However, some of you may be at the position that the fault of customs officer at the border to let illegal transports of ODS pass through means the fault of the country to comply with the MP provisions, as the customs officer actually represents the country.

3. Importance of customs codes.

**Hint:**

Customs officers rely on customs codes when checking the goods that pass through the border. Also customs statistics are based on customs codes. However, with ODS it is sometimes difficult to identify the particular substance as the chemical names of ODS are quite complex and for certain ODS, especially mixtures containing ODS, there are presently no specific customs codes. The Parties to the MP took notice of this situation and asked WCO to improve the HS System with regard to ODS.

Can you confirm (based on your experience) that improving the classification of ODS customs codes would help to prevent illegal ODS traffic?

Don’t you think that some other kind of ODS classification should be introduced along with customs codes, e.g. a system of classification similar to the one used for dangerous chemicals?

Or, perhaps, there should be an obligation that both the trade name and chemical name should be provided by the importer/exporter together with customs code? Some importers/exporters refuse to give this information saying this is confidential.

Do you agree that preparation by the NOU of a list of the most popular ODS trade names (provided in your Workshop documents) supplemented with corresponding chemical names and customs codes used in the country would help?

4. Legal and institutional means to prevent/curb the illegal ODS traffic.

**Hint:**

There are many legal and institutional means that can be introduced to prevent or/and curb the illegal ODS traffic (see the presentation given at this Workshop by J. Kozakiewicz).
Some of them have already been introduced both on a global scale (e.g. the Montreal Amendment to the MP, increased activity of WCO and Interpol in this regard) and on a local scale (certain improvements of national legislations dealing with ODS, organisation of national workshops for customs officers in some countries, etc.).

Do you see any legal and institutional activities still to be undertaken to prevent or/and curb the illegal ODS traffic on:

(a) global scale?
(b) regional scale?
(c) national scale?

Please, try to identify also possible input of UNEP to this process.

How do you foresee the role of Customs in this process? Is there any specific legislation that, if introduced, would help Customs to control ODS traffic? (see also issues No. 3 and 5). Do you agree that one of the possible measures is to control not only production/imports/exports of ODS, but also trade in ODS inside the country?

5. Penalties for illegal trade in ODS.

**Hint:**

Several countries in the world introduced specific, sometimes quite severe, penalties for illegal trade in ODS. Do you think this would help to stop illegal ODS traffic, and if so, what kind of penalties you would suggest

(a) the special fine only?
(b) the jail sentence?
(a) or (b) depending on the quantity smuggled?
WORKING SESSION II

Practical Aspects of Enforcement of the Control of ODS Traffic in the Country and in the Region

DEMONSTRATION OF ODS CONTAINERS AND ODS IDENTIFIERS

The participants of the Workshop were informed about the containers that can be used to carry ODS through the border legally and illegally. The possibility of direct identification of certain ODS at the border using portable ODS identifiers will be also explained. The operation of such identifier will be demonstrated and, if possible, the participants will have the opportunity to practice the use of such identifier.

ISSUES FOR DISCUSSION

1. Practical approach to the customs control of goods

   (a) declared as ODS at the border
   (b) declared as other chemicals (e.g. HFCs, trichloroethylene, propane-butane, mixture not containing ODS), but are ODS-suspicious to the customs officer

   Hint:
   Based on the background given in the paper presented at this Workshop by J. Kozakiewicz discuss what should be the best routine practice of customs officer in:

   (a) and in
   (b) and what improvements can be made from technical point of view to make the work of customs easier and more effective in that respect.

2. Practical approach to the customs control of goods

   (a) declared as ODS-containing products at the border (e.g. pesticides, solvents, cleaners, pre-polymers, refrigerators, foams )
   (b) declared as products that do not contain ODS, but are ODS-suspicious to the customs officer
Hint:
Imports of ODS-containing products from non-Parties to the MP is banned by the MP provisions. Some countries introduced additional measures to stop imports of products that contain particular ODS (especially CFCs), may be used with these ODS or even were produced with ODS.

Discuss what should be the best routine practice of customs officer in (a) and in (b) and what improvements can be made from technical point of view to make the work of customs easier and more effective in that respect and how can he/she differentiate in practice between ODS and ODS-containing products.

3. Proceeding with captured shipments of illegal ODS

Hint:
Supposing that the shipment of illegal ODS or ODS-containing product was captured at the border, what should customs officer do with it?

Some countries prefer to store the captured illegal ODS or ODS-containing products and then re-export them to the countries where they are allowed for consumption.

Some other countries prefer to use them locally, e.g. for the military purposes. Here, take notice of the problem of compliance with the MP presented in the issue No. 2 discussed at Working Session I).

Finally, there are many countries that would rather destroy the illegally shipped ODS in a similar way as other smuggled goods (e.g. drugs, ivory).

Obviously, the easiest proceeding of choice for the customs officer would be to order the importer to take such illegal shipment back to the country it was brought from, but do you think it is a good practice?

4. Transit shipments of ODS or ODS-containing products

Hint:
It may be supposed that large quantities of ODS pass through the border as transit shipments and therefore are not controlled, while in fact they never reach the country of destination and either stay in the transit country or are re-exported to a country different from a declared destination.

From the other hand, some shipments of ODS and ODS-containing products that should stay in the country according to customs documents, in fact may never stay, but rather are immediately transported through, so the country becomes a transit country without being aware of it.
Try to discuss what routine practice of Customs can be recommended to prevent such situations to happen. Would relevant agreements between Customs Authorities in the Region or in the neighbouring countries be enough, or a specific legislation would have to be introduced in each country?

ANNEX 10.5 LIST OF TRAINING AND BACKGROUND MATERIAL

- UNEP IE list of Publications
- Then UNEP Web Site Flyer
- Stratospheric Ozone Protection Flyer: Questions and Answers. Query response service available from
- The OzonAction Programme Flyer
- The OzonAction Newsletter
- Halons Special Supplement no. 1
- Refrigeration Special Supplement no. 2
- Vienna plus ten Special Supplement no. 3
- The Impact of the Ozone Layer
- List of ODS Focal Points in Article-5 Countries
- Contact List of Training Institutes
- Contact List of Industry Associations
- Submission Form for the OzonAction Information Clearinghouse Contacts Database
- List of Ozone Layer Protection Videos
- OzonAction Posters, 1994
- OzonAction Strategic Information Systems (OASIS)
- Stratospheric Ozone Protection Flyer: Questions and Answers. Query response service available from
- Five Steps for Raising Awareness on Ozone Depletion: A Handbook for National Ozone Units,
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ANNEX 10.7. GRAPHICAL REPRESENTATION OF WORKSHOP EVALUATION RESULTS

1. OVERALL EVALUATION

2. WORKING SESSIONS

3. AUDIENCE

4. PRESENTATIONS

5. LICENSING SYSTEM

6. COOPERATION WITH CUSTOMS

7. MONITOR ODS CONSUMPTION

8. RESOURCE MODULE

* 1) Poor; 2) Adequate; 3) Good; 4) Very Good; 5) Excellent