2004 WORKSHOP ON PREVENTING ILLEGAL TRADE:
PUBLIC-PRIVATE PARTNERSHIP

26-27 February 2004

Hua Hin, Thailand

Report

OzonAction Programme
United Nations Environment Programme
Organised with support from the Multilateral Fund of the Montreal Protocol
BACKGROUND

The current decade is an important decade for Montreal Protocol, wherein the Article 5 countries will gradually phase out their consumption of major Ozone Depleting Substances (ODSs) to achieve compliance with the phase out limits prescribed under the Montreal Protocol.

Currently, production of various ODSs is restricted to 7 developing countries. Out of these four (India, China, DPR Korea and Republic of Korea) are in the Asia and Pacific Region. These four countries account for approximately 70% of the total production and consumption among Article 5 countries). A few developed countries also produce ODS to meet the basic domestic needs of the developing countries and for MDI production in developed countries. As of the 40th meeting of the Executive Committee (July 2003 in Montreal) all seven Article 5 countries producing CFCs, CTC and Halons (except Venezuela) have reached an agreement with the Multilateral Fund of the Montreal Protocol for gradual reduction and eventual elimination of production of these substances.

In pursuance of the Montreal Amendment and trade provisions of the Montreal Protocol, trade of ODSs is subject to restrictions (e.g., licensing of export / import of ODSs). Many countries, in addition, have put in place quota systems for production and sale of substances, and compulsory registration of entities dealing in these substances to regulate the use of ODS. Increasing restrictions in transnational movement of these substances has contributed to instances of illegal trade of ODSs, primarily CFCs.

In the developed world, due to complete phase out of consumption of ODSs, illegal trading has been observed to be a lucrative business. The size of the global black market for ozone-depleting substances in mid-90’s was estimated to be of a fairly large quantity annually. Illegal imports of these substances are far cheaper than CFCs that are legally recycled or obtained from limited existing stocks. In developed countries, regulatory policies and enforcement mechanisms have been largely able to control illegal movement of ODSs but not completely.

Reports and recent seizures indicate that illegal trade in the Asia and Pacific region is on the rise. A combination of factors like easy availability of ODS like CFCs and halons in the region, high domestic prices of CFCs and other ODS against low international prices for the same products and lack of enforcement of trade restrictions has probably led to this trend. A noticeable fact has been that a lot of seized consignments in the region originated in the European Region. Illegal trade in the Asia and Pacific region can be controlled by effective implementation of a suitable regulatory mechanisms and appropriate awareness programs targeting at suppliers, trading intermediaries and users. In this endeavour the customs department will play a critical role by controlling inflow of material through borders. These efforts can be supplemented and reinforced by active cooperation from the industry and trade. Producers of the ODS can play a crucial role in helping Government agencies in controlling and regulating illegal movement of ODSs.
within the country and the region. This group becomes even more critical for the region as primary share of global production of these substances is located in the region.

**Role of Producers in controlling Illegal Trade:**

Producer industry and their distribution chain can play a leading role in controlling illegal ODS trade. The producer industry also has linkages with the distribution chain outside the parent country i.e., in the destination country, where the material is sold. They can, thus, assist in mechanisms of international and regional cooperation to prevent illegal movement of materials.

In some countries like India, producers work closely with the NOU, customs and local enforcement authorities that helps in detection of instances of illegal trade quickly and taking appropriate actions. Similarly, US enforcement authorities working closely with manufacturers of ODS came out with startling facts. In Mexico, the only manufacturing plant distributing CFC-12 gave U.S. law enforcement a list of all their distributors. Through that list the authorities were able to analyse the consumption patterns. Some interesting things emerged, namely that one country was getting enough CFC-12 to encapsulate the island and air-condition it for a year. Also a company in another country (right on the border with USA) was getting much more CFC-12 than their normal requirements.

For many of the Article 5 countries, especially the Low Volume Consuming (LVCs) countries and Very Low Volume Consuming countries (VLVCs), ODSs do not directly move from producing countries to consuming countries. There are intermediate storage points where these substances are consolidated and distributed based on demand requirement of users. The distribution chain has a deep understanding of the users and supply situation and serve as important input providers for understanding and defining mechanisms for controlling trade. The producers have good linkages with the distribution chain and this linkage can be an effective tool in combating illegal trade. Therefore, good public-private partnership needs to be established to combat the illegal trade.

Further, as time progresses, due to smaller quantities of consumption of ODSs in different countries, issues relating to availability are likely to be faced by LVCs and VLVCs, as it might become cost uneconomical to supply ODSs to these countries. Maldives is a case in point where the exporter agreed to supply a full container only which brought the country into non-compliance. This factor might result in either premature retirement or increase in usage or, as an easier option, illegal ODS trade in these countries. It is possible that the producers could address effectively the issues and concerns of importing countries with oversupply or undersupply issues.

**Objectives of the 2004 Workshop:**

Given the criticality of this issue in the current compliance era, on China’s and India’s request, an interface of national stakeholders with the producers of the ODS in the region
was organized on **26-27 February 2004 in Hua Hin in Thailand.** The list of participants can be seen at Annex. 1.

The objectives of the workshop were:

1. to gain an understanding on the contemporary issues of illegal trade including its sources, material flow path and destinations with the assistance of producers;
2. to harmonize regulatory scenario in different countries in the region;
3. to building private-public partnership to combat the illegal trade;
4. to define a road map for cooperation to control illegal trade with the assistance of the producers.

In 2003, with assistance from the CAP team in Bangkok, Mongolia and Nepal convened discussions on the problem of illegal trade with its neighbours China/Russia and China/India respectively. This initiative shows the commitment of both the small-sized and large countries in the Region to communicate, co-operate and co-ordinate the fight against illegal ODS trade. Both the Nepalese and Mongolian initiatives and the Swedish project that aims at putting in place an information exchange and cooperation network in the Asia and Pacific Region to improve enforcement of policy and prevent illegal trade of ODS fed into the deliberations at the workshop. The final agenda for the workshop can be seen at Annex. 2.

### 26 February 2004: Thursday

**Opening Statement:**

**Mr. Rajendra Shende,** Chief of the Energy and OzonAction Unit of UNEP’s Division of Technology, Industry and Economics based in Paris opened the workshop. In his opening statement he welcomed the participants to the very unique workshop where 7 producing countries and 85% of global trade in ODS was represented. It was unfortunate that DPR Korea and Republic of Korea could not join the workshop. EU and Russia, the two producers outside the Asia and Pacific region were also present.

Outlining the objectives of the Workshop, he informed the participants that the workshop was intended as a facilitative meeting to provide a platform to Governments and producers to address illegal trade issues jointly. He said that the Protocol had not visualized the problem of illegal trade but very soon recognized it as a major threat. Having recognized it as a threat, the Protocol took immediate action by assisting A5 countries on policy setting and capacity building of customs officers and other enforcement agencies.

Highlighting the context of the workshop at the global level, Mr. Shende informed the participants of the initiative taken by UNEP’s Executive Director, Mr. Klaus Toepfer in 2002 when he wrote to the Environment Ministers of the producing countries from EU
urging them to voluntarily cease their ODS production even when the Protocol allowed them to produce to meet the basic domestic needs (BDN) of the A5 countries. The ED received very enthusiastic response from the EU wherein most of the producing countries agreed to phase out their production at a much faster pace.

He informed the participants of the context at the national level emerging from the joint WB and UNEP efforts to provide technical and policy assistance to the two largest producers in the region, China and India. At the regional level, UNEP in consultation with the World Bank is facilitating a private public dialogue through the workshop that intends to understand contemporary issues of illegal trade from producers’ lenses and define a roadmap for cooperation with producers. This could lead to policy harmonization at the regional level and lead to a better synchronization of demand and supply situation at the regional level.

The long-term objectives of the workshop could be to extend cooperation at global level based on the results of regional level partnership, sustain the success of the Protocol beyond the phase out by leveraging private public cooperation for longer term issues like HCFCs. This partnership on an informal regional network of governments and producers could provide a good model for other Multilateral Environmental Agreements like POPs and Basel Convention on Hazardous Wastes.

**Situation Analysis: Illegal Trade**

The substantive agenda was initiated by doing a situation analysis of illegal trade at a global level. The representative of EU, *Ms. Francoise Comte*, made the first presentation. She provided valuable information on the EU perspective and concluded that because of stringent bans and strict enforcement within EU do not provide incentive for illegal trade. This was followed by a presentation on the regional scenario of illegal trade by *Mr. Thanavat Junchaya*, Regional Network Coordinator for South East Asia network of UNEP.

The presentations were followed by a lively discussion on issues like restrictions within EU on transfer of the production rights to any other country in EU or outside, implications of such transfer on the baseline of the developing country to whom the transfer could take place, the issue of 10% quota for producing countries in A5 for meeting the BDNs, deterrent of penalties and enforcement in EU. The discussion led to the conclusions listed in Para 1 of **Conclusions and Recommendations. (Annex.3)**

Two presentations were made to highlight the national compliance concerns after a global and a regional focus presented above. *Mr. Naresh Dayal*, representing India raised the issue that CTC imported for feedstock uses could be diverted to other non-feedstock consumption. On the issue of possible transfer of quotas within the 4 Indian producers, he explained that this may not be a possibility in near future but may happen after 2006 in one case.
The presentation by China led to discussions on the two illegal production facilities in China. The representative of China, **Ms. Ma Qi** explained that the facilities were termed illegal as they were not registered and that they have been shut down. On a question of economic viability of setting up such plants, the representative of Refrigerant Gas Manufacturers Association (REGMA) from India, **Mr. S.C. Wadhwa** informed that a CFC plant with an annual capacity of 5000 tonnes (minimum capacity for a good breakeven point) would cost approximately US$ 15 million. It was also discussed that since most of the good plants in the region are swing plants and CFCs can be produced after 2010, there will be a need for a good monitoring system after 2010.

The representative of **India** highlighted the importance of banning the manufacture of ODS based equipment and stop import of equipments based on ODS. This will help in minimizing ODS need after 2010 and controlling illegal supplies. Retrofitting could be a viable option for large volume consuming countries to be able to address the ODS equipment that is already in market and would be in service after 2010. It was suggested that the time has come when NOUs should monitor very closely the continued manufacture of ODS equipment in their countries.

**EIA** did a telephone survey in EU where they found out that there are still operational equipments based on ODS. There are instances in Indonesia where HFC 134a vehicles were switching over to R-12 when cars come for servicing. This continued reliance on ODS will be difficult to control and would provide a ready market for illegal supplies when the phase out would have taken place. Therefore, it was suggested that NOUs should start analysis of the level of residual demand of CFCs after 2010 by looking at the stock of ODS equipment in the country. Countries may be requested to examine their regulations in regard to phasing out of new ODS based manufacture/imports. The discussion led to the conclusions listed in Para 3 and 17 of Conclusions and Recommendations.

The representative of **China** informed that most of the ODS production in China will end by 2009. There is also discussion going on for an accelerated phase out of ODS production (CFC and CTC) by 2010. China does not have any swing capacity so these plants will need to be dismantled. For controlling the production in China, a licensing system will start in 2004 but at present, there is a 4-certificate framework:

- production quota
- consumption quota/voucher system
- Import/export management and
- sale

The presentation was followed by discussions on issues like penalties under the China Air Pollution Act and how deterrent they are compared to the EU regulations. There is an issue of weak enforcement and need to build capacity to enforce the 4 certificates in cooperation with the Line Ministries. Training of Environmental Police, investigation teams and local authorities will be critical.
The issue of illegal production again came up and it was informed that the amount that was produced was used domestically. On the issue of whether consumption and production was matching in China, the representative informed if the implementation of all the sector plans was on track, there will be a match though in 2004 China is proposing to import 900 tonnes of CFC 11. China agreed to check if they exported CFCs in 2003 and inform the Agra customs ozone coordination workshop. The discussion led to the conclusions listed in Para 2 of Conclusions and Recommendations.

**Drivers of Illegal trade:**

**The World Bank** in their presentation on global Supply and demand analysed the scenario in the coming years and how it will impact on availability and price. The presentation suggested that controlling consumption is an equally contributing factor to combating illegal trade. Effective control on the consumption side would become increasingly important in the next few years once the 50% reduction target enters into force. A ban on ODS based equipment may prevent illegal trade. Citing the case of Vietnam, the presentation noted that big MAC service stations want to use 134a if they have an option and a smaller service station wants to use R-12 since it is cheaper and does not require technical skills and tools.

The group discussed the issue of CFC prices and why were they not increasing with declining production. The representative of the Bank noted that it was likely that the global supply of CFCs was still more than the global demand and so prices were still low. The representative of UNEP analysed that since most of the plants were old and therefore depreciation of plants and compensation of MLF have kept the prices low.

Analysing the drivers for illegal trade at the regional level, the representative of REGMA, in his presentation highlighted that CFC 12, CTC and HCFC 22 are the most likely candidates for illegal trade in the present scenario. Explaining the reasons of illegal trade, he said that the fact that alternatives were not included in the licensing systems was encouraging illegal trade of CFC 12 which is being traded as alternatives. At the national level, there are no designated agencies for prosecution so the cases cannot be monitored and followed up properly.

Issues like how the NOUs report the seized ODS that is exported and how do low prices in India abet illegal trade were discussed. It was concluded that the Asia and Pacific region and large producing countries like India and China need a demand analysis of ODS and ODS based equipment even beyond 2010 to know how much demand is going to be there. The discussion led to the conclusions listed in Para 3 of Conclusions and Recommendations.

**China** made a presentation on behalf of the producers. They presented a case study of presumed illegal trade with Sri Lanka where a non-ODS 415b exported from China was impounded by Sri Lanka authorities for being a ODS coming in without adequate authorization. The presentation concluded with lessons learnt that in such cases quick reaction by enforcement authorities, information exchange, cooperation between
importing and exporting countries, capacity building to control illegal trade are critical for controlling trade in ODS. The presentation also said that UNEP’s sub regional dialogue in Mongolia and Nepal were good initiatives and helpful in opening communications between neighbouring countries on issues of illegal trade.

The participants welcomed this initiative of China of bringing these cases very transparently. It was agreed that this kind of information exchange between Parties within the region is very important in tackling illegal trade. Sri Lanka and China would be encouraged to hold bilateral discussions on issues relating to exports of R 415b used as refrigerant to replace CFC 12 in MAC sector. UNEP will provide the ozone customs officers coordination workshop in Agra as the forum for such discussions. The discussion led to the conclusions listed in Para 4 of **Conclusions and Recommendations**.

**EIA** in their presentation on the genesis of illegal trade highlighted issues like methods of illegal trade development, current routes of illegal material flow – examples from developed and developing countries and transit routes and their contribution to illegal trade. EIA also showed their latest video focusing on how transit trade was encouraging illegal trade. The key challenge that emerged was enforcement and how transit trade can be monitored.

It was discussed that China and India NOUs should analyse how much CFCs was being exported to Singapore from the two countries. This may give a good handle on the situation to begin with. Suggestions like letter from original manufacturer with the consignment, exports to user destinations and elimination of intermediaries and information exchange between producers were discussed as ways to check incidences of illegal trade. The discussion led to the conclusions listed in Para 2, 9 and 16 of **Conclusions and Recommendations**.

In their presentation on overview of implementation of regulations under the Montreal Protocol, **UNEP** highlighted the provisions relating to regulations in the Protocol, implementation of regulations in developed and developing countries, regulatory framework in A-5 countries with key aspects and status of implementation and the key issues faced in different countries in the region. The discussion led to the conclusions listed in Para 6 of **Conclusions and Recommendations**.

**Implementation of regulations and customs networking in the region:**

The session on implementation of regulations and customs networking in the region was started by a presentation by **India** that also facilitated the session. The discussions centered around the importance of licensing and quota system to monitor the ODS trade and for smooth implementation of Montreal Protocol, need for close coordination among various enforcement agencies like border police and customs etc. for control of illegal trade, criticality of ban on trade of ODS based equipment with immediate effect, need for regional capacity building through exchange programs and using audio visual media and the need to involve regional bodies such as SAARC and ASEAN to develop regional information exchanges and training facilities.
The presentation by India led to discussions on the benefits of efforts to match import and export licenses. It was discussed with the producers representatives if destinations could be mentioned and match be made within the region. Harmonisation of regulations in the region could be a good issue to develop. UNEP raised the issue that the Protocol’s trade issues were never discussed in trade bodies like MERCUSOR, NAFTA. Within the region, regional bodies like SAARC can address this issue. In ASEAN, both China and India are observers and they can also address these issues. The discussion led to the conclusions listed in Para 5 and 6 of Conclusions and Recommendations.

Russia in their presentation described the trade situation and CFC residual consumption and HCFC production and consumption in the country. HCFC 22 and 141b consumption has increased in the internal Russian market. Consumption of CFC 11, 12, 13 and 113 was going down with production facilities closing in December 2000. The Original Equipment Manufacturers were using 141b, or 22 or mixtures. CFC was only used in servicing and consumption quotas were being used for domestic use. The presentation informed that Russia would exhaust its stockpiles (with the producers) of 1500 tonnes (400 t. of R-113, 1000 t. of R-12 and 100 t. of virgin R-11) by 2006. Only CFC 12 being used through quotas for essential uses like defense and big systems. There have been no CFC exports in the last four years.

Russia has a 40 tonnes stockpile of halon 2402 at 2 facilities. Russia has Recycling and recovery facilities for halons and recycled halon is used for non-essential uses. Halon stored in old equipment is almost 10-12000 tonnes and this is a big cause of worry. Russia clarified that the 6 tonnes of 2402 they are exporting to Vietnam is recycled halon and not virgin halons.

Production of HCFCs in Russia is concentrated in 4 enterprises which are former ODS producers. Three plants have an annual production capacity of 12000 tonnes and the fourth plant can produce 20000 tonnes of HCFC 22 and 2000 tonnes of HCFC 141b annually. Russia produced approximately 36000 tonnes of HCFCs in 2001-2002 and 33000 ODP tonnes in 2002-2003.

In addition, stocks of recycled CFCs will also be used. Russia does not have a good experience with R&R from domestic refrigerators and their conclusion is that it is good only from big systems. CFC 12-based equipment inventory in Russia is about 60 m domestic refrigerators (200gm per unit), 800,000 commercial units (1-1.5 kg/unit), and commercial units (few hundreds with a ton of CFC charge). With CFC prices at $7 per kg, there is a good incentive to recover and sell CFCs. It was agreed that Russia has good experience on R&R and this experience should be shared with other developing countries by inviting them to network meetings. The discussion led to the conclusions listed in Para 7 of Conclusions and Recommendations.

Regarding the status of regulations in Russia, the representative informed the participants of their government’s draft special decision to join the Copenhagen, Montreal and the Beijing Amendments. Explaining their licensing system, the representative said that it is a
three-tier system where a permit/quota is issued by Ministry of Natural Resources, license is issued by Ministry of Economics and Trade and then the conditions under the License are implemented by the Customs Department. Russia said that they have detected some cases of illegal trade of small containers. Russia is planning to have a new regulation that will make their licensing system more stringent.

**China** informed that an annual meeting of the three Ministries involved in the licensing system is organized to review the progress and set targets for the next year. Their enforcement system has benefited from two strong UNEP initiatives to address illegal trade issues: the Dalian meeting in 2001 and the Mongolia dialogue in 2003. China informed that HCFC are not controlled by any licensing but from 1.1.2003, HCFC has been under control only for data gathering.

The representative of EU agreed to get information regarding grace period to developing countries for exports of HCFCs to EU. It was concluded that China’s licensing system was coming up well and should be able to address illegal trade issues and illegal production issues. The Sweden project for South Asia and SEAP on customs ozone coordination and the CFC Technical Assistance project in China should explore some of these issues.

**Combating Illegal trade:**

The next session was devoted to methods of combating illegal trade and **EIA and UNEP** made a joint presentation. The presentations and discussions focused on issues like overview of efforts to combat the illegal trade by Parties and international communities, methods adopted by Parties to control illegal trade and cooperation among Parties, impact of regional cooperation and experiences in the region (Nepal and Mongolia dialogue), training and other support required for controlling trade and the role of customs and other agencies in combating illegal trade. The joint presentation was appreciated as a unique example of UNEP and EIA working together.

Following discussions on regional issues, it was agreed that based on the facts emerging from the EIA case study, China and Indonesia should hold bilateral discussions at Agra. It was suggested that the name of the producing country should be mentioned on all cylinders and there should be an agreement on this issue among the producers. Raising the issue of illegal trade on the Indo – Bangladesh border, it was felt that bilateral discussion between the two countries should be held at Agra.

It was suggested that the issue of initiating a study on ODS tracking should be taken up in the Meeting of the Parties in Prague in November 2004. It was also agreed to issue a joint press release of the workshop to give a signal that producers are meeting to address illegal trade issues. The discussion led to the conclusions listed in Para 8, 9 and 10 of **Conclusions and Recommendations.**
Roundtable: Role of producers to prevent illegal trade: Public Private Partnership

The forenoon session of the second day was devoted to a roundtable discussion that was facilitated by EU and the World Bank. Some of the issues that the Roundtable addressed were:

- Using Distributor network and supplier chain
- Examples of public-private partnership
- Transit points
- Issues of very low volume consuming industries: Maldives case study
- Alternatives production in the region and the price difference with CFCs
- Conversion of CFC facilities to HCFC production facilities.
- Illegal production in China and other countries in this region
- Producer’s perspective: shortage or oversupply in the future.
- Producers support and their involvement in controlling illegal trade
- The package of the products (counterfeit ODS products, mislabeled cylinder) and the their contribution to the illegal trade

REGMA suggested that the interaction with distributors will be effective in addressing illegal trade issues and that the distributors can provide information to the producers in most of the cases. Manufacturers have links with importers in other countries also. Distributors are accountable to producers for the decline in business so they would help in identifying illegal trade. Information exchange between countries should be established through the Sweden project. Database on legal trade should be set up. The discussion led to the conclusions listed in Para 11 of Conclusions and Recommendations.

Information exchange between importing and exporting countries became a major issue of discussions and issues of confidentiality were raised. With a view to harmonise regulations there will be a need for willingness to cooperate and UNEP could initiate on a pilot basis in the network meeting some exchange of information between the Parties. A solution was proposed by EIA that for a start the effectiveness of the licensing system over a six month period in the region could be done for a retrospective period between exporting and importing country and see if any discrepancies could be found out. A historical study could be done in a half day session during the Agra meeting and China and India will get exporter data from their countries and share in the Network meeting with the importing countries. EU will find out if they can share the information. The discussion led to the conclusions listed in Para 2 of Conclusions and Recommendations.
REGMA explained the institutional setup they have created at the national level to address illegal trade issues. REGMA has hired 11 retired Major level officers for ground level surveillance in 4 zones (Delhi, Mumbai, Calcutta, Chennai). They are maintaining a very close coordination with Border Security Force and other Enforcement agencies. They face a different problem at the ports which are more complex because of the amount of shipments that are coming in and because professional smugglers are involved. At the ports the Customs preventive wing is helping in the efforts of REGMA. In China, each of the production plant has a person from the industry monitoring the production as per quota. This is an example of good involvement of the industry. China agrees to send the details of this role of industry as information source.

It was discussed if the REGMA model could be replicated in the importing countries through the distributors. It was agreed that the REGMA model should be disseminated in the network meeting. Also the EU data tracking system should be analysed. It was also suggested that at the national level setting up a Core Committee/ Cell of producer/distributor, NOU and customs in each country would be good initiative to address illegal trade issues. The discussion led to the conclusions listed in Para 12 and 13 of Conclusions and Recommendations.

EIA highlighting private public partnership cited the case of Turkey where the four distributors of CFCs are helping the NOUs in information sharing to address illegal trade issues. It was suggested that the NOUs of importing countries should encourage the distributors to form an association based on trust. Sweden raised the issue of how EU producers could be brought on board because EU producers should have a responsibility on where the product is going. The workshop was informed that the EU producers sell their product to brokers in Europe but should get involved in where their products go thereafter. Therefore, it was agreed that in the next meeting their participation is critical. In Europe brokers are big refillers (HARP, GASCO and GALCO) or traditional brokers to whom ODS is sold by EU producers. EIA agreed to provide a list of brokers informally. EIA also agreed to provide information on the Coffee trade tracking as an example of tracking systems that could be use for ODS. The discussion led to the conclusions listed in Para 14 of Conclusions and Recommendations.

Russia was informed of the recommendations of the Mongolia dialogue could be invited to Agra meeting for the Mongolia dialogue to be taken further. Russia agrees with Mongolia dialogue recommendations and will be part of the Task force. Regarding the issue of transit trade in Singapore, it was agreed that the issues should be discussed during the meeting in Agra and then as a second step, a delegation of RD and RNC may be proposed to visit Singapore to discuss with the Ministry of Environment. The discussion led to the conclusions listed in Para 15 and 16 of Conclusions and Recommendations.

Regarding the issues relating to Maldives, it was suggested that the importers in LVCs should be in touch with the manufacturers directly to take advantage of part load solutions. India informed that the production of alternative (134a) in India would begin in
2 years. Economy of scale and technology are issues for setting up the production facility for 134a. Prices for 134a are still higher and tax reductions on alternatives could be explored to bring their prices down along with taxes on CFCs to increase their prices. Service shops should be given training and tools to handle 134a and this will help replace use of R-12 and impact on illegal trading in CFCs.

Discussing issues relating to HCFC 22, the producers felt that there was over capacity of HCFC 22 in the region. EU has shown interest in not promoting HCFCs and can cooperate with producers in the region to phase out HCFCs. It was suggested that a global assessment of HCFCs and HFCs through GEF should be conducted and that the countries should track and monitor HCFC and HFC trade also because CFCs are being illegally traded as alternatives since alternatives are not licensed. It was suggested that a HCFC small group network thematic meeting may be organized to discuss HCFC phase out issues.

The role of producers in raising awareness on closing down of production and knowledge about phase out schedules was discussed. UNEP’s “Remembering the Future” concept was noted as an innovative approach to raising the awareness on production phasing out. China agreed to review their current legislation if China has banned OEM based on ODS and if they have not then can China explore the possibility of bringing in the ban. EIA agreed to explore the CTC production issues and over supply from Europe of CTC.

Buy Back Schemes may be a good way to rid the ODS equipment. The Government of India will work with OEMs on buy back schemes and raising awareness. Also the PMU could work with REGMA on raising awareness. The Voluntary Pledge booklet of REGMA highlighting Indian industry’s proactive efforts at phase out will be released at the 15th MOP as another awareness effort. UNEP will provide information in this regard to China. The discussion led to the conclusions listed in Para 17 and 18 of Conclusions and Recommendations.

It was discussed that if some NOUs could take stock in 2004 of their phase out, what regulation has come in and what efforts have been made to address illegal trade issues. UNEP could assist countries in the region in 2004. The discussion led to the conclusions listed in Para 19 of Conclusions and Recommendations.

Based on an analysis of the recent illegal trade cases, UNEP and EIA agreed to compile all information on illegal trade like cylinders mislabeling etc. and add the information on to the customs training manual. The discussion led to the conclusions listed in Para 20 of Conclusions and Recommendations.

In conclusion, the group considered this to be a useful forum for regular discussions. It was agreed to constitute an informal Task Force of the members attending this meeting and include other producers from the region and EU to follow up on the above actions and continue to monitor the process of addressing illegal trade issues.
Annex. 1

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Annex. 2

WORKSHOP ON PREVENTING ILLEGAL TRADE:
PUBLIC-PRIVATE PARTNERSHIP
Hua Hin, Thailand,
26-27 February 2004
Final Agenda

26 February 2004: Thursday

8:30-9:00  Registration

9:00-9:30  Opening session

Objectives of the workshop by the Head, Energy & OzonAction Branch, DTIE/UNEP

9:30-10:00  Tea/Coffee Break

10:00-11:00  Situation Analysis: Illegal Trade

  i)  EU perspective in preventing illegal trade of CFCs and suggestions for interaction with producers: Françoise Comte, European Commission
  ii) Regional Scenario: UNEP
  iii) National Compliance concerns: NOUs of China and India
       ?  Demand and Supply situation in Article 5 countries
       ?  Expected trends in recycling and stock piles and their impact on availability of ODS
       ?  CFCs and HCFCs – impact of swing plants
       ?  Expected trends in ODS reduction and project implementation

11:00-12:30  Drivers of Illegal Trade

  i)  Supply and Demand: present and future
      a.  Global: World Bank
      b.  Regional: REGMA/China producers
  ii)  Differentiated Phase out schedules: Legislation and Pricing: World Bank
a. Among developed countries
b. Between developed and developing countries
c. Impact of illegal trade on supply side and distortion of pricing

iii) Illegal trade genesis: EIA
a. Methods of illegal trade development
b. Current routes of illegal material flow – examples from developed and developing countries
c. Transit routes and their contribution to illegal trade
d. Role of NGOs

12:30-13:30 Lunch break

13:30-15:00 Overview of implementation of regulations: presentation made by UNEP

? MP provisions relating to regulations
? Implementation of regulations in developed and developing countries
? Regulatory framework in A-5 countries – key aspects and status of implementation
? Key issues faced in different countries

15:00-15:30 Tea/coffee break

15:30-17:00 Implementation of regulations and customs networking in the region: Facilitator Mr. Naresh Dayal

Presentations by China, India, and Russia on status of implementation of regulations, implementation of customs training projects and expected impact, networking of customs officers in the region

17:00-18:00 Combating the illegal trade: EIA and UNEP

? Overview of efforts to combat the illegal trade by Parties and international communities
? Methods adopted by Parties to control illegal trade: cooperation among Parties
? Impact of regional cooperation – experiences in the region: Nepal and Mongolia dialogue
? Training and other support required for controlling trade
? Beyond customs – who else should play a role in this?

27 February 2004: Friday
8:30-12:30  Role of producers to prevent illegal trade: Public Private Partnership Round Table (with coffee/tea break): Facilitators: EU and WB

? Using Distributor network and supplier chain
? US model of public-private partnership
? Transit points
? Issues of very low volume consuming industries: Maldives case study
? Alternatives production in the region and the price difference with CFCs
? Conversion of CFC facilities to HCFC production facilities.
? Illegal production in China and other countries in this region
? Producer’s perspective: shortage or oversupply in the future.
? Producers support and their involvement in controlling illegal trade
? The package of the products (counterfeit ODS products, mislabeled cylinder) and the their contribution to the illegal trade

12:30-13:30  Lunch break

13:30-15:00  Second hand equipment trade: Discussion on Fiji Case study: UNEP

15:00-15:30  Tea/Coffee break

15:30-17:00  Closing session: Finalizing the recommendations
Annex. 3

CONCLUSIONS AND RECOMMENDATIONS

1. EU was requested to provide information on:
   ✈ legal provisions, if any, regarding transfer of production quotas within EU and outside;
   ✈ their efforts to increase the awareness of the judicial system of the need of imposing heavier penalties on illegal traders;
   ✈ Who paid for the destruction and re-export back to the country of origin: UK and Austria case
   ✈ Whether there is a grace period in 2004 for exports of HCFCs and MB to EU;

2. It was agreed it would be a useful process to compare CFC import and export data among countries relevant to regional trade. As a first step, China and India were requested to compile information regarding their country wise exports into the region in 2003. In order to have a complete picture of demand and supply in the region, the EU representative was requested to explore the possibility of EU producers agreeing to share this information. The importing countries in the region are also being requested to compile importer wise and source wise information for 2003. It was agreed to examine the information thus collected on a pilot basis during the Agra meeting.

3. A dialogue should be initiated with the NOUs to start analysis of the level of residual demand of CFCs after 2010 by looking at the stock of ODS equipment in the country. Countries may be requested to examine their regulations in regard to phasing out of new ODS based manufacture/imports;

4. Sri Lanka and China would be encouraged to hold bilateral discussions on issues relating to exports of R 415b used as refrigerant to replace CFC 12 in MAC sector. UNEP will provide the ozone customs officers coordination workshop in Agra as the forum for such discussions.

5. SAARC and ASEAN forum should be used for getting high-level political commitment on addressing illegal trade issues. China and India being observers on ASEAN can facilitate interlinkages between the two fora;

6. Harmonisation of regulations in the region could be a good issue to work on with the assistance of IAs and Policy and Enforcement Officer of CAP;

7. Russia should be invited to the network meetings to share their R & R experience with the countries in the region;
8. Following the EIA case study, China and Indonesia should be encouraged to initiate bilateral discussions on their ODS trade issues at the Agra meeting;

9. There should be an agreement between all the producers that the name of the producing country should be mentioned on all cylinders;

10. Bilateral discussion between Bangladesh and India on their border trade in CFCs could be held in Agra. India agreed to follow up on the proposed letter to the Government of Bangladesh listing the issues to be addressed;

11. It was agreed that it would be useful if a database on domestic sale should be set up. Information regarding sale of CFCs to distributors in India can be put on the website. Primary data on CFCs distribution in India can be shared;

12. REGMA model of detection and combating illegal trade could be replicated in the importing countries through the distributors. REGMA model should be disseminated in the network meeting. EU data tracking system can also be analysed to find out their salient features.

13. Countries in the region should be encouraged to set up a committee of NOU, customs and Producer/importer at the national level to address illegal trade issues in an effective manner;

14. EIA will provide the Turkey model of enforcement to UNEP for dissemination. EIA will also provide informally a list of brokers in EU which have been involved in trade of ODS. Similarly, EIA agreed to provide details of tracking of coffee bean trade and agreed to begin an analysis of CTC trade specifically from developed to developing countries;

15. Russia agrees with the recommendations of the Mongolia dialogue and is willing to participate in the next meeting of the Task Force to be held in Agra;

16. On transit trade, during the Agra meeting UNEP will discuss the issues with the delegate from Singapore and explore the possibility of a high level delegation consisting of the Regional Director of UNEP ROAP and the RNC to meet up with the high officials in Singapore. A similar approach would be suggested for UAE.

17. Government of India suggested working with OEMs on buy back schemes to replace ODS equipment with non-ODS equipment and utilizing their mechanisms for raising awareness. Also the PMU in India could work with REGMA on raising awareness.

18. It had been agreed that the progress made by REGMA on the voluntary pledge they had signed with UNEP in 2002 should be documented to be released during the 15th MOP for awareness raising purposes. UNEP will provide information in this regard to China who will explore the possibilities of similar agreements with China producers.
19. UNEP could encourage countries in 2004 to take stock of their progress in phase out, what regulations have come in and what efforts have been made to address illegal trade with a view to gear up for 2005 and 2007 control measures.

20. EIA and UNEP will compile all information gathered on methodologies of illegal trade like mislabeling of cylinders etc. and add on this information to the customs training manual.

21. The group considered this to be a useful forum for regular discussions. It was agreed to constitute an informal Task Force of the members attending this meeting and include other producers from the region and EU to follow up on the above actions and continue to monitor the process of addressing illegal trade issues.