

Parties are to discourage the export to a non-Party of technology for producing and for utilizing most of the controlled substances.

Member countries have softened somewhat the application of these prohibitions. Pursuant to Article 4.8, Parties in the 1992 Meeting agreed to waive the above restrictions for Colombia, as that country had submitted data indicating that it was in full compliance with the appropriate limits on production and consumption of controlled substances. Furthermore, in another 1992 decision the Parties demonstrated further flexibility by determining that non-Parties which had, by March 1993, provided notification, with supporting data, of compliance with the Protocol's obligations were deemed to be in compliance with the Protocol until the next full Meeting of Parties.¹¹ Regardless of this flexibility, the provisions against non-Parties are, as written, stern. The importance of preventing free-riders from undermining disciplines that are central to protecting the global commons justifies such a discriminatory use of trade measures in the view of many observers.

Yet, what have Parties agreed to do and how is compliance ensured? As suggested above, the key undertakings are to phase-out the consumption and production of ozone-depleting substances: halon gases by 1994; CFCs, carbon tetrachloride, methyl chloroform and hydrobromofluorocarbons by 1996; and hydrochlorofluorocarbons by 2030. The commitments, however, are subject to a number of potentially important caveats. Among the more interesting, we find that:

- Parties can continue to consume recycled or used controlled substances, as these amounts are excluded from consumption and production targets, as are amounts used entirely as feedstock in the manufacture of other chemicals.¹²
- The phase-out is not absolute for Parties which are developing countries meeting certain criteria - for example, LDCs may continue to produce halon gases up to 15 percent of 1986 levels indefinitely in order to "satisfy ... basic domestic needs".¹³

¹¹ See Decisions IV/17B and IV/17C, Handbook, pp. 37-8. In the November 1993 Bangkok Meeting, the Parties decided to extend this grace period for one more year for just four non-Parties: Turkey, Poland, Malta, and Jordan.

¹² See Articles 1.5 and 1.6 plus Decision IV/24, Handbook, pp. 5, 32. Note that recycled material is excluded from the control structure because it can be re-introduced without the release of harmful material to the environment, while chemicals used as feedstock are, it is felt, completely used or contained in the production process and therefore do not affect the environment. Nonetheless, the point is that trade in these contexts is not permitted with non-Parties, except as agreed pursuant to Article 4.8.

¹³ Article 2B.2.