

Non compliance & Liabilities under the Montreal Protocol

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Some important Articles

- 7: Data on
 - production,
 - imports & exports of
 - Controlled ODS
 - Recycled ODS
 - Traded ODS
 - Exempted ODS
 - Feedstock ODS destroyed
 - Licensing systems
 - Reclamation facilities

Procedure

- <http://hq.unep.org/ozone/issues.shtml#NonComplianceProcedure>
- **16 steps**
 - Party
 - Secretariat
 - Implementation Committee by Parties: Article 8
 - MoP
 - Interim calls, recommendations
 - Diplomatic contacts

Important Sources of DATA

- **Customs Department**
- **Estimates**
- **Surveys**
- **Traders**
- **Manufacturers**

The Compliance “Works”

1. **Country Programme**
2. **RMP**
3. **NCCoPP , TPMP**
4. **TAs**
5. **Investment & Non – investment activities**
6. **MLF & ExCom**
7. **Standard progress reports**
8. **IAs**
9. **TEAP – TOCs**
10. **CAP**

Essentials of reporting

- **Parties to adhere strictly to the reporting requirement - Article 7**
- **Data shall be provided not later than nine months after the end of the year to which the data relate**
- **Insert Harmonized System - for accurate monitoring & facilitate reporting of data under Article 7 of the Protocol.**
- **Article 8: Approve procedures to determine & treat non – compliance**

Unique guiding principles of Compliance Assistance

- **Non-confrontational**
- **Conciliatory &**
- **Co-operative mechanism to encourage and assist Parties to achieve compliance.**

Article 8

- **Parties should**
 - **approve procedures and institutions to determine non-compliance by Parties**
 - **treat non-compliance**

What is non-compliance?

- **Parties fail to fulfill commitments under the Montreal Protocol.**
 1. **Consumption and/or production of controlled substances exceeds allowed levels**
 2. **Data not reported to OS**
 3. **Trade of ODS with non-Parties**
 4. **No licensing system**

Who can raise the non – compliance issue

- **One or more Parties who have reservations regarding another Party's compliance status write to the OS**
- **OS places a report analyzing the data received from the Parties before the ImpCom.**
- **This report identifies the deviations by any Party from its commitments to the Protocol**
- **The Party itself could address in writing to the OS its inability to Comply**

Who will evaluate compliance

- **The ImpCom under the MOP is authorized to evaluate compliance**
 - Party may be invited to attend the meeting
 - Not be allowed to take part in the adoption of recommendations to the MOP.
- **Meets at least twice a year.**
- **Recommendations of the Committee are submitted to the MOP for final decision.**
- **Only the MOP can decide the compliance or noncompliance status of a Party.**

CA & Beyond

- **Collection and reporting of data,**
- **Technical assistance,**
- **Technology transfer and financial assistance**
- **Information transfer and training**
- **Issue cautions**
- **Suspend specific rights and privileges under the Protocol**
 - **industrial rationalization, production, consumption,**
 - **trade,**
 - **transfer of technology,**
 - **financial mechanism &**
 - **institutional arrangements.**

3 types

- **Response A:** MLF agrees to meet agreed incremental costs of Article 5 Parties.
- **Response B:** Cautions when Parties in non-compliance have not put in adequate efforts.
 - The cautions hold a threat that they will be deprived of assistance or that Response C would be applied if they do not return to the path of compliance.
- **Response C:** Suspend rights and privileges
 - Trade restrictions, No access to alternatives / technologies

Some Reasons for non compliance

- **Increase in consumption and/or production over the baseline –**
- **Accidental importation of ODS for stockpile**
- **Misreported A7 data to Ozone Secretariat**
- **Country Programme in progress and not yet been completed. Data not reported**
- **Country Programme completed but projects not formulated/ approved by the Executive Committee**
- **Delays in implementation of projects**

Response: Preventive & remedial

- A void non-compliance with control measures under the Protocol:
 - Establish a warning system to monitor and verify the compliance status by comparing the baseline data with the current year data and the expected data for next year
 - Close monitoring of the on-going project implementation to avoid any
- Delays
 - Enact and enforce the national ozone layer protection policies/ regulations as per Country Programme/RMP
 - Training and improve public awareness