



नेपाल राजपत्र

श्री ५ को सरकारद्वारा प्रकाशित

खण्ड ४४) काठमाडौं, भदौ १३ गते २०५१ साल (अतिरिक्ताङ्क २३(ख))

भाग ५

श्री ५ को सरकार

कानून, न्याय तथा संसदीय व्यवस्था मन्त्रालयको सूचना

वातावरण संरक्षणका सम्बन्धमा सम्पन्न भएका निम्न लिखित अन्तर्राष्ट्रिय लिखतहरूको पक्ष बन्ने सिलसिलामा नेपालले सो लिखतहरूलाई सम्मिलन गरेको लिखत (Instrument of Accession) संयुक्त राष्ट्र संघका महासचिव समक्ष जुलाई ६, १९९४ तदनुसार २०५१ साल आषाढ २२ गते दर्ता भएकोले नेपाल सन्धि ऐन, २०४७ को दफा १२ को प्रयोजनको लागि सो लिखतहरूका अंग्रेजी प्रतिहरू प्रकाशन गरिएको छ ।

१. ओजन तहको संरक्षणको लागि व्यवस्था भएको भियना महासन्धि, १९८५ (Vienna Convention for the protection of the Ozone Layer, 1985)
२. ओजन तहलाई नष्ट गर्ने पदार्थहरू सम्बन्धी मन्ट्रियल प्रोटोकल,

१६८

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

१९८७ (Montreal Protocol on substances that Deplete the Ozone Layer, 1987)

३. पक्षहरूको दोश्रो बैठकद्वारा समायोजित एवं संशोधित ओजन तहलाई नष्ट गर्ने पदार्थहरू सम्बन्धी मन्ट्रियल प्रोटोकल, लण्डन, १९९० (Montreal Protocol on Substances that Deplete the Ozone Layer as adjusted and amended by the Second Meeting of the Parties, London, 1990)

उपर्युक्त भियना महासन्धि, मन्ट्रियल प्रोटोकल तथा तत् सम्बन्धी लण्डन संशोधन नेपालको हकमा अक्टोबर ४, १९९४ तदनुसार २०५१ साल आश्विन १८ गतेदेखि लागू हुनेछ ।

1. VIENNA CONVENTION FOR THE PROTECTION OF THE OZONE LAYER

Preamble

The Parties to this Convention,

Aware of the potentially harmful impact on human health and the environment through modification of the ozone layer,

Recalling the pertinent provisions of the Declaration of the United Nations Conference on the Human Environment, and in particular principle 21 which provides that "States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction",

Taking into account the circumstances and particular requirements of developing countries,

Mindful of the work and studies proceeding within both international and national organizations and, in particular, of the World Plan of Action on the Ozone Layer of the United Nations Environment Programme,

Mindful also of the precautionary measures for the protection of the ozone layer which have already been taken at the national and international levels,

Aware that measures to protect the ozone layer from modifications due to human activities require international co-operation and action, and should be based on relevant scientific and technical considerations,

Aware also of the need for further research and systematic observations to further develop scientific knowledge of the ozone layer and possible adverse effects resulting from its modification,

Determined to protect human health and the environment against adverse effects resulting from modifications of the ozone layer,

९८९ (३)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

HAVE AGREED AS FOLLOWS:

Article 1
DEFINITIONS

For the purposes of this Convention:

1. "The ozone layer" Means the layer of atmospheric ozone above the planetary boundary layer.
2. "Adverse effects" means changes in the physical environment or biota, including changes in climate, which have significant deleterious effects on human health or on the composition, resilience and productivity of natural and managed ecosystems, or on materials useful to mankind.
3. "Alternative technologies or equipment" means technologies or equipment the use of which makes it possible to reduce or effectively eliminate emissions of substances which have or are likely to have adverse effects on the ozone layer.
4. "Alternative substances" means substances which reduce, eliminate or avoid adverse effects on the ozone layer.
5. "Parties" means, unless the text otherwise indicates, Parties to this Convention.
6. "Regional economic integration organization" means an organization constituted by sovereign States of a given region which has competence in respect of matters governed by this Convention or its protocols and has been duly authorized, in accordance with its internal procedures, to sign, ratify accept, approve or accede to the instruments concerned.
7. "Protocols" means protocols to this Convention.

Article 2
GENERAL OBLIGATIONS

1. The Parties shall take appropriate measures in accordance with the provisions of this convention and of those protocols in

force to which they are party to protect human health and the environment against adverse effects resulting or likely to result from human activities which modify or are likely to modify the ozone layer.

2. To this end the parties shall, in accordance with the means at their disposal and their capabilities:
 - (a) Co-operate by means of systematic observations, research and information exchange in order to better understand and assess the effects of human activities on the ozone layer and the effects on human health and the environment from modification of the ozone layer.
 - (b) Adopt appropriate legislative or administrative measures and co-operate in harmonizing appropriate policies to control, limit, reduce or prevent human activities under their jurisdiction or control should it be found that these activities have or are likely to have adverse effects resulting from modification or likely modification of the ozone layer;
 - (c) Co-operate in the formulation of agreed measures, procedures and standards for the implementation of this Convention, with a view to the adoption of protocols and annexes;
 - (d) Co-operate with competent international bodies to implement effectively this Convention and protocols to which they are party.

The provisions of this Convention shall in no way affect the right of Parties to adopt, in accordance with international law, domestic measures additional to those referred to in paragraphs 1 and 2 above, nor shall they affect additional domestic measures already taken by a Party, provided that these measures are not incompatible with their obligations under this Convention.

4. The application of this article shall be based on relevant scientific and technical considerations

Article 3

RESEARCH AND SYSTEMATIC OBSERVATIONS

1. The parties undertake, as appropriate, to initiate and co-operate in, directly or through competent international bodies, the conduct of research and scientific assessments on;

- (a) The physical and chemical processes that may affect the ozone layer;
 - (b) The human health and other biological effects deriving from any modification of the ozone layer, particularly those resulting from changes in ultra-violet solar radiation having biological effects (UV-B);
 - (c) Climatic effects deriving from any modifications of the ozone layer,
 - (d) Effects deriving from any modifications of the ozone layer and any consequent change in UV-B radiation on natural and synthetic materials useful to mankind;
 - (e) Substances, practices, processes and activities that may affect the ozone layer, and their cumulative effects;
 - (f) Alternative substance and technologies;
 - (g) Related socio-economic matters;
- and as further elaborated in annexes I and II.
2. The Parties undertake to promote or establish, as appropriate, directly or through competent international bodies and taking fully into account national legislation and relevant ongoing activities at both the national and international levels, joint or complementary programmes for systematic observation of the state of the ozone layer and other relevant parameters, as elaborated in annex I.
 3. The Parties undertake to co-operate, directly or through competent international bodies, in ensuring the collection, validation and transmission of research and observational data through appropriate world data centres in a regular and timely fashion.

Article 4

CO-OPERATION IN THE LEGAL, SCIENTIFIC AND TECHNICAL FIELDS

1. The Parties shall facilitate and encourage the exchange of scientific, technical, socio-economic, commercial and legal information relevant to this convention as further elaborated in annex II. Such information shall be supplied to bodies agreed upon by the Parties. Any such body receiving information regarded as confidential by the supplying Party shall ensure

(६)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

खण्ड ४४ अतिरिक्ताङ्क २३(ख) नेपाल राजपत्र भाग ५ मिति २०५१।५।१३

that such information is not disclosed and shall aggregate it to protect its confidentiality before it is made available to all Parties.

2. The Parties shall co-operate, consistent with their national laws, regulations and parties and taking into account in particular the needs of the developing countries, in promoting, directly or through competent international bodies, the development and transfer of technology and knowledge. Such co-operation shall be carried out particularly through;
 - (a) Facilitation of the acquisition of alternative technologies by other Parties;
 - (b) Provision of information on alternative technologies and equipment, and supply of special manuals or guides to them;
 - (c) The supply of necessary equipment and facilities for research and systematic observations;
 - (d) Appropriate training of scientific and technical personnel.

Article 5

TRANSMISSION OF INFORMATION

The Parties shall transmit, through the secretariat, to the Conference of the Parties established under article 6 information on the measures adopted by them in implementation of this Convention and of protocols to which they are party in such form and at such intervals as the meetings of the parties to the relevant instruments may determine.

Article 6

CONFERENCE OF THE PARTIES

1. A Conference of the Parties is hereby established. The first meeting of the Conference of the Parties shall be convened by the secretariat designated on an interim basis under article 7 not later than one year after entry into force of this Convention. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be determined by the Conference at its first meeting.
2. Extraordinary meetings of the Conference of the Parties shall be held at such other times as may be deemed necessary by the

१८५ (७)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

खण्ड ४४ अतिरिक्ताङ्क २३(ख) नेपाल राजपत्र भाग ५ मिति २०५१।५।१३

Conference, or at the written request of any Party, provided that, within six months of the request being communicated to them by the secretariat, it is supported by at least one third of the Parties.

3. The Conference of the parties shall by consensus agree upon and adopt rules of procedure and financial rules for itself and for any subsidiary bodies it may establish, as well as financial provisions governing the functioning of the secretariat.
4. The conference of the parties shall keep under continuous review the implementation of this convention, and, in addition, shall:
 - (a) Establish the form and the intervals for transmitting the information to be submitted in accordance with article 5 and consider such information as well as reports submitted by any subsidiary body;
 - (b) Review the scientific information on the ozone layer, on its possible modification and on possible effects of any such modification;
 - (c) Promote, in accordance with article 2, the harmonization of appropriate policies, strategies and measures for minimizing the release of substances causing or likely to cause modification of the ozone layer, and make recommendations on any other measures relating to this convention;
 - (d) Adopt, in accordance with articles 3 and 4, programmes for research, systematic observations, scientific and technological co-operation, the exchange of information and the transfer of technology and knowledge;
 - (e) Consider and adopt, as required, in accordance with articles 9 and 10, amendments to this convention and its annexes;
 - (f) consider amendments to any protocol, as well as to any annexes thereto, and, if so decided, recommend their adoption to the parties to the protocol concerned;
 - (g) Consider and adopt, as required, in accordance with article 10, additional annexes to this convention;
 - (h) Consider and adopt, as required, protocols in accordance

(८)

आधिकारिकता सुदूर विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

with article 8;

- (i) Establish such subsidiary bodies as are deemed necessary for the implementation of this convention;
 - (j) Seek, where appropriate, the services of competent international bodies and scientific committees, in particular the world Meteorological Organization and the World Health Organization, as well as the Co-operating Committee on the Ozone layer, in scientific research, systematic observations and other activities pertinent to the objectives of this Convention, and make use as appropriate of information from these bodies and committees;
 - (k) Consider and undertake any additional action that may be required for the achievement of the purposes of this Convention.
5. The United nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not party to this Convention, may be represented at meetings of the Conference of the Parties by observers. Any body or agency, whether national or international, governmental or non-governmental, qualified in fields relating to the protection of the ozone layer which has informed the secretariat of its wish to be represented at a meeting of the Conference of the Parties as an observer may be admitted unless at least one-third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

Article 7

SECRETARIAT

1. The functions of the secretariat shall be:
- (a) To arrange for and service meetings provided for in articles 6, 8, 9, and 10;
 - (b) To prepare and transmit reports based upon information received in accordance with articles 4 and 5, as well as upon information derived from meetings of subsidiary bodies established under article 6;
 - (c) To perform the functions assigned to it by any protocol;
 - (d) To prepare reports on its activities carried out in

५८७(९)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

implementation of its functions under this Convention and present them to the Conference of the parties;

- (e) To ensure the necessary co-ordination with other relevant international bodies, and in particular to enter into such administrative and contractual arrangements as may be required for the effective discharge of its functions;
 - (f) To perform such other functions as may be determined by the conference of the parties.
2. The secretariat functions will be carried out on an interim basis by the United Nations Environment programme until the completion of the first ordinary meeting of the conference of the parties held pursuant to article 6. At its first ordinary meeting, the conference of the parties shall designate the secretariat from amongst those existing competent international organizations which have signified their willingness to carry out the secretariat functions under this Convention.

Article 8

ADOPTION OF PROTOCOLS

1. The Conference of the Parties may at a meeting adopt protocols pursuant to article 2.
2. The text of any proposed protocol shall be communicated to the Parties by the secretariat at least six months before such a meeting.

Article 9

AMENDMENT OF THE CONVENTION OR PROTOCOLS

1. Any Party may propose amendments to this Convention or to any protocol. Such amendments shall take due account, inter alia, of relevant scientific and technical considerations.
2. Amendments to this Convention shall be adopted at a meeting of the Conference of the Parties. Amendments to any protocol shall be adopted at a meeting of the Parties to the protocol in question. The text of any proposed amendment to this Convention or to any protocol, except as may otherwise be provided in such protocol, shall be communicated to the Parties by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate proposed amendments to the signatories to this Convention for information.

3. The parties shall make every effort to reach agreement on any proposed amendment to this convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the parties present and voting at the meeting, and shall be submitted by the Depositary to all parties for ratification, approval or acceptance.
4. The procedure mentioned in paragraph 3 above shall apply to amendments to any protocol, except that a two-thirds majority of the parties to that protocol present and voting at the meeting shall suffice for their adoption.
5. Ratification, approval or acceptance of amendments shall be notified to the Depositary in writing. Amendments adopted in accordance with paragraphs 3 or 4 above shall enter into force between parties having accepted them on the ninetieth day after the receipt by the Depositary of notification of their ratification, approval or acceptance by at least three-fourths of the Parties to this Convention or by at least two-thirds of the parties to the protocol concerned, except as may otherwise be provided in such protocol. Thereafter the amendments shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, approval or acceptance of the amendments.
6. For the purposes of this article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

Article 10

ADOPTION AND AMENDMENT OF ANNEXES

1. The annexes to this Convention or to any protocol shall form an integral part of this convention or of such protocol, as the case may be, and, unless expressly provided otherwise, a reference to this Convention or its protocols constitutes at the same time a reference to any annexes thereto. Such annexes shall be restricted to scientific, technical and administrative matters.
2. Except as may be otherwise provided in any protocol with respect to its annexes, the following procedure shall apply to the proposal, adoption and entry into force of additional annexes to

४८४

(११)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।

this Convention or of annexes to a protocol:

- (a) Annexes to this Convention shall be proposed and adopted according to the procedure laid down in article 9. paragraphs 2 and 3, while annexes to any protocol shall be proposed and adopted according to the procedure laid down in article 9, paragraphs 2 and 4;
 - (b) Any party that is unable to approve an additional annex to this Convention or an annex to any protocol to which it is party shall so notify the Depositary, in writing, within six months from the date of the communication of the adoption by the Depositary. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time substitute an acceptance for a previous declaration of objection and the annexes shall thereupon enter into force for that Party;
 - (c) On the expiry of six months from the date of the circulation of the communication by the Depositary, the annex shall become effective for all Parties to this convention or to any protocol concerned which have not submitted a notification in accordance with the provision of subparagraph (b) above.
3. The proposal, adoption and entry into force of amendments to annexes to this convention or to any protocol shall be subject to the same procedure as for the proposal, adoption and entry into force of annexes to the Convention or annexes to a protocol. Annexes and amendments thereto shall take due account, inter alia, of relevant scientific and technical consideration.
 4. If an additional annex or an amendment to an annex involves an amendment to this Convention or to any protocol, the additional, annex or amended annex shall not enter into force until such time as the amendment to this Convention or to the protocol concerned enters into force.

Article 11

SETTLEMENT OF DISPUTES

1. In the event of a dispute between Parties concerning the interpretation or application of this Convention, the parties concerned shall seek solution by negotiation.

९९०

(१२)

आधिकारिकता मुद्रण विभागबाट प्रमाणित गरिएपछि मात्र लागु हुनेछ।