



REPUBLIC OF ZAMBIA

REPORT

OF THE

COMMITTEE ON AGRICULTURE, LANDS AND NATURAL RESOURCES

**ON THE PROPOSAL TO RATIFY THE KIGALI AMENDMENT TO THE
MONTREAL PROTOCOL ON SUBSTANCES THAT DEplete THE OZONE
LAYER**

FOR THE FIFTH SESSION OF THE TWELFTH NATIONAL ASSEMBLY

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REPORT OF THE COMMITTEE ON AGRICULTURE, LANDS AND NATURAL RESOURCES ON THE PROPOSAL TO RATIFY THE KIGALI AMENDMENT TO THE MONTREAL PROTOCOL ON SUBSTANCES THAT DEplete THE OZONE LAYER FOR THE FIFTH SESSION OF THE TWELFTH NATIONAL ASSEMBLY

The Committee consisted of Mr M J B Ng’onga, MP (Chairperson); Mrs M C Mazoka, MP (Vice Chairperson); Mr D Mung’andu, MP; Mr O S Mutaba, MP; Mr P C Mecha, MP; Mr M Mawere, MP; Mr B Hamusonde, MP; Mr S K Michelo, MP; Dr M Imakando, MP; and Mr J Chishala, MP.

The Honourable Mr Speaker
National Assembly
Parliament Buildings
LUSAKA

Sir,

The Committee has the honour to present its Report on the Proposal to Ratify the Kigali Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer for the Fifth Session of the Twelfth National Assembly.

2.0 Functions of the Committee

Pursuant to Article 63 the Constitution of Zambia as amended by Act No. 2 of 2016 and section 5 of the *Ratification of International Agreements Act, No. 34 of 2016*, the National Assembly is reposed with the power to oversee the performance of Executive functions by, among other things, approving international agreements and treaties before they are acceded to or ratified. The Committee was mandated to receive submissions and make recommendations to the House on the proposal to ratify the Kigali Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer.

3.0 Meetings of the Committee

The Committee held ten meetings to consider the Kigali Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer.

4.0 Procedure adopted by the Committee

In order to acquaint itself with the provisions and ramifications of the Kigali Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer, the Committee sought both written and oral submissions from stakeholders. The stakeholders who appeared before the Committee are listed at Appendix II.

5.0 Background

The Committee was informed that the Vienna Convention on the Protection of the Ozone Layer of 1985 (“the Convention”) was a global treaty with the objective of protecting the ozone layer. The Convention provided frameworks for international reductions in the production of Chlorofluorocarbons (“CFCs”) due to their contribution to the depletion of the ozone layer. This was to provide for the protection of human health and the environment

against adverse effects resulting or likely to result from human activities which modify or were likely to modify the ozone layer.

In order to attend to the problem of substances that depleted the ozone layer, the Montreal Protocol (“the Protocol”), was adopted in 1987. The Protocol was an Action Plan designed to protect the Ozone Layer by phasing out the production and consumption of numerous substances that deplete the ozone layer. Zambia acceded to the Convention and the Protocol on 24th January, 1990.

The Protocol had over the years undergone amendments in order to ensure efficient implementation of the Convention. The amendments were the London (1990), Copenhagen (1992), Montreal (1997) and Beijing (1999) amendments. Zambia was a Party to all the above amendments and the provisions had since been domesticated under the provisions of the *Environmental Management Act, No. 12 of 2011* and the Environmental Management (Licensing) Regulations, Statutory Instrument No. 112 of 2013 (“the Regulations”). The latest amendment was the Kigali Amendment (2016), which Zambia was yet to ratify.

6.0 Scope of the Amendment

The Committee was informed that the Kigali Amendment (2016) focused on the production and consumption of Hydrofluorocarbons (“HFCs”) by adding HFCs to the list of substances controlled under the Montreal Protocol. HFCs were non-ozone depleting chemicals that were introduced in the 1990s as alternatives to Chlorofluorocarbons (CFCs) and Hydrochlorofluorocarbons (“HCFCs”). The introduction of HCFCs had accelerated the phase out of ozone depleting substances and had helped protect the ozone layer. However, HFCs had high global warming potential and therefore, a high climate impact.

The Committee was informed that the Kigali Amendment aimed at protecting the climate by phasing down HFCs which had a high global warming potential (GWP). HFCs were commonly used as refrigerants. By phasing them down, the Kigali Amendment sought to protect the global climatic systems for the benefit of human health and the environment. The phase-down in the global production and consumption of HFCs could save as much as 0.5 degree Celsius of global warming by 2045 while continuing to protect the ozone layer. Therefore, the implementation of the Kigali Amendment would make a major contribution towards combating climate change. It would also assist Zambia meet its obligations under the Paris Agreement with respect to Nationally Determined Contributions.

Zambia, as a Party to the Convention and the Protocol, was obliged under Article 2 of the Convention, to adopt appropriate legislative or administrative measures to control, limit, prevent or reduce human activities that modified or were likely to modify the ozone layer or caused global warming. The ratification of the Kigali Amendment would help facilitate the development of appropriate legislative and administrative measures in combating global warming and, therefore, complying with the requirements of the Convention.

7.0 Salient Provisions of the Amendment

The Committee was informed that the Kigali Amendment was a binding international agreement, or treaty, which was intended to create rights and obligations in international law. The following were some of its salient features:

Article 2

Article 2 of the Kigali Amendment provided that parties were required to place controls on the production and consumption of the HFCs listed in Annex F by freezing production/consumption with effect from 1st January, 2019 for developed countries and with effect from 1st January, 2024 for developing countries.

Further, Article 2 (6) provided that parties must ensure that HFCs or emissions of HFCs were destroyed using technology approved by the parties. This was not necessary for Zambia as she did not produce HFCs.

Article 4

Article 4 of the Montreal Protocol restricted parties from trading in controlled substances with states that were not party to the Protocol. Similarly, Article 4 of the Amendment restricted trade in HFCs between parties and states that were not parties to the Kigali Amendment. This ban would enter into force on 1st January, 2033, provided that at least 70 states ratified the amendment. This provided an incentive for states to ratify the Amendment before the associated trade restrictions entered into force.

Further, Article 4 required parties to establish and implement licensing systems for the import and export of HFCs by 1st January, 2019. Where a party decided that it was not in a position to establish and implement such a system, it may delay taking these actions until 1st January, 2021.

Article 5

Under Article 5 of the Kigali Amendment, parties had the flexibility to delay their compliance with their obligation to phase down HFCs. The amendment was designed to give parties sufficient time and opportunities to phase down HFCs in a way that suited their needs and interests, setting their own priorities for particular HFCs, sectors, technologies and alternatives based on their specific needs and national circumstances. The Kigali Amendment did not require countries to phase-down HFCs completely immediately; it recognised that in some circumstances the use of HFCs would be permitted.

Article 7

Article 7 required that each party to the Amendment should provide statistical data on its annual emissions of controlled substances.

Article 10

Article 10 of the Montreal Protocol established a financial mechanism to provide financial and technical support, including the transfer of technologies, to support parties' compliance with the Protocol.

8.0 Submissions from Stakeholders

All the stakeholders who appeared before the Committee recommended that the National Assembly should approve the proposal to ratify the Kigali Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer. Stakeholders submitted that as a

member of the UNFCCC and an active actor in the formulation of the Amendment, it was imperative that Zambia ratifies it.

The Committee was informed that the Kigali Amendment had now been ratified by 112 of the 198 UN member states, which was well over the trigger number of Parties for it to be in force. Africa accounted for 31 of the 112 states that had ratified the amendment this far. Under the Montreal Protocol, Zambia was listed under Article 5 Parties and in sub-group I of the two subgroups. The phase down schedule of HFCs for sub-group I countries was provided for in the Kigali Amendment compliance timelines as summarised below.

- i. Freeze HFCs consumption/production at 2024 level
- ii. Step 1, achieve 10% reduction in consumption/production of 2024 level by 2029
- iii. Step 2, achieve 30% reduction in consumption/production of 2024 level by 2035
- iv. Step 3, achieve 50% reduction in consumption/production of 2024 level by 2040;
- v. Step 4, achieve 80% reduction in consumption/production of 2024 level by 2045.

The Committee further learnt that the HFCs trade ban with non-parties to the Kigali Amendment was set to come into force in 2033.

The Committee was further informed that there were some costs of becoming a party to the Kigali Amendment. These administrative costs would include those outlined hereunder.

- i. The cost of adapting existing laws or introducing new ones to achieve the HFC phase-down.
- ii. The cost of extending the Ozone Depleting Substances import and export licensing system to cover HFCs.
- iii. The cost of putting in place, where appropriate, any practical arrangements that may be required for customs officers to assume extra responsibilities concerning HFCs.
- iv. The cost of surveying existing HFC consumption and production.
- v. The cost of developing the resources for reporting under the Amendment.
- vi. The cost of developing a strategy for HFC phase-down, including monitoring and enforcement.

The Committee was informed that as Zambia updated its future Nationally Determined Contributions, the inclusion of sources that produced HFCs would enhance the mitigation potential of the country and, therefore, contribute to the global goal of reducing greenhouse gas emissions.

The Committee was further informed that businesses and entrepreneurs would be able to tap into new, eco-friendly and energy efficient industries and create sustainable, impactful and socially responsible jobs. The Committee was informed that ratifying the Kigali Amendment would also open doors to new funding opportunities such as the Kigali Cooling Efficiency Programme (K-CEP), in addition to the existing Global Environment Facility (GEF), the Green Climate Fund (GCF), European Commission funding programmes and regional banks. With possible new funding avenues, Zambia had a unique opportunity to directly switch to solutions that did not harm the environment, and to help move towards a sustainable economic transition and positive societal change.

8.1 *Benefits of Ratifying the Amendment*

The Committee was informed that the benefits of ratifying the Amendment included the ones outlined below.

- i. Ratifying the Amendment would contribute to Zambia attaining its Nationally Determined Contributions in strengthening global response to the threat of climate change under the Paris Agreement. This was so because the HFCs that were being phased down under the Kigali Amendment contributed to global warming. The amendment would, therefore, abate the effects of climate change, thereby contributing to the enhancement of human health, social and environmental welfare.
- ii. It would facilitate the establishment of a legal framework to regulate HFCs that were currently on the Zambian market. The existing legal framework in Zambia provided for the regulations of Ozone Depleting Substances only. However, with the presence of HFCs on the Zambia market, the need to develop the requisite legislative framework had now become imperative.
- iii. The ratification of the Amendment would promote the use of alternative and efficient climate friendly technologies. Alternative gases available for use such as hydrocarbons and natural gases were energy efficient compared to the HFCs being phased down. Therefore, the phase down of HFCs would promote the use of more climate friendly energy sources and thereby resonated with the principles under article 255 of the Constitution which promoted the saving of energy and the sustainable use of renewable energy sources.
- iv. Ratifying the Amendment would give Zambia access to financial and technical support. The Montreal Protocol established a financial mechanism to provide financial and technical cooperation, including the transfer of technologies, to support developing countries like Zambia in complying with the Protocol. By ratifying the Kigali Amendment, Zambia would have access to the financial and technical support available under the Multilateral Fund of the Montreal Protocol to implement activities aimed at phasing down the use of HFCs, including the disposal of obsolete equipment.
- v. Ratification would also assist in the creation of local business opportunities. The Kigali Amendment would create a business opportunity in the new technologies for technicians and suppliers of the alternatives to HFCs.
- vi. Skills and Technology Transfer - ratification of the Kigali Amendment would provide capacity building which would include skills and technology transfer, technology development and application necessary in facilitating transition from current to the new technologies both for the public and private sector.

8.2 *Consequences of not Ratifying the Amendment*

The Committee was informed that by not ratifying the Kigali Amendment, the following consequences would accrue to Zambia:

- i. Under the Montreal Protocol, parties had agreed to restrict trading of controlled substances between party and non-party states. Zambia was not a manufacturer of refrigerants and cooling equipment but depended on importation of the same from

countries which had ratified the Kigali Amendment. In this regard, if Zambia did not ratify the Kigali Amendment, she would not be able to trade with party states who were producers of the refrigerants and cooling technologies.

- ii. A Kigali Amendment non-party may operate with technologies that were becoming obsolete, failing to update its processes and facilities and so operating at an economic disadvantage. Zambia was likely to become a dumping ground for obsolete equipment containing HFCs in the absence of a legislative framework at domestic level. Consequently, Zambia would incur huge costs in disposing of the existing cooling equipment that would become obsolete after all member states had complied with the provisions of the Kigali Amendment.
- iii. Zambia's exporting sectors such as agriculture and horticulture mostly relied on controlled substances which would not be accepted at international level if the country did not ratify the Kigali Amendment and continued to use HFCs. This would mean that the country would lose out on revenue from the collapse of the said exports. Due to restrictive markets, non-party states would operate with technologies that would be obsolete and failure to upgrade their processes and facilities may lead to economic disadvantage. Sectors such as health and food processing which depended on refrigerant based equipment would also be negatively affected.
- iv. Non-ratification of the Kigali Amendment would render Zambia ineligible to receive financial and technical support under the Kigali Amendment. The financial and technical support was necessary for Zambia to undertake the activities to phase down the use of HFCs.
- v. Zambia would lose out on the capacity development programmes that were provided for under the Kigali Amendment. Capacity building was aimed at transfer and application of technology among technicians and increase knowledge for environmental inspectors, customs and judicial officers in the management of refrigerants and enforcement of environmental laws.

9.0 Committee's Observations and Recommendations

The Committee observes that climate change is one of the biggest environmental challenges that the current generation is facing. It affects all sectors of life and concerted action is required to address the challenges that the country and the world is facing as a result of the effects of climate change. By signing the Montreal Protocol on the Substances that Deplete the Ozone Layer, Zambia showed commitment and resolve to take action in order to safeguard the planet.

The Committee notes that the fact that the average global temperature is on the rise and greenhouse gas emissions have not yet peaked, underlines the urgency of ratifying the Amendment and implementing its provisions. Ratifying the Kigali Amendment will enhance Zambia's role in shaping the world's response to the adverse effects of climate change. Ratifying the Amendment will also provide an opportunity for the country to access finances from the global community.

The Committee further notes that Zambia, as a party to the Vienna Convention and the Montreal Protocol, is obliged under Article 2 of the Convention, to adopt appropriate legislative or administrative measures to control, limit, prevent or reduce human activities that modify or are likely to modify the ozone layer or cause global warming. The Committee, therefore, wishes to point out that the ratification of the Kigali Amendment will help facilitate the development of appropriate legislative and administrative measures in combating global warming and therefore, complying with the requirements of the Vienna Convention.

The Committee, therefore, recommends that the House do approve the proposal to ratify the Kigali Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer.

The Committee makes further recommendations as outlined below.

- i. The Government should ensure that, as a matter of urgency, necessary steps are taken to ratify and thereafter, domesticate the Kigali Amendment.
- ii. There should be widespread sensitisation on the Amendment and what its benefits to the country are.
- iii. The Government should engage with UNIDO so as to access assistance in phasing out and destruction of refrigerants which are currently in use but have been identified for phasing out under the Kigali Amendment.
- iv. The Government should set up a team of refrigeration experts and other stakeholders to come up with a road map of actions to facilitate achievement of the Kigali Amendment provisions.

10.0 Conclusion

The Montreal Protocol seeks to restore the ozone layer by phasing out Ozone Depleting Substances and in the process mitigating the effects of climate change. Under the Kigali Amendment, parties will phase down production and consumption of HFCs, creating the potential to avoid up to 0.5°C of warming by the end of the century. Through the Kigali Amendment, the Montreal Protocol takes responsibility for HFCs and plays a leading role in working towards an environmentally sustainable world. Therefore, the ratification of the Kigali amendment is encouraged as it is consistent with Zambia's obligation to ensure that the environmental standards enforced are of benefit to citizens in line with Article 257 of the Constitution of Zambia.

Furthermore, ratification will demonstrate Zambia's commitment to protecting the environment and will enhance her international reputation. Non-ratification of the Kigali Amendment is undesirable as Zambia will be viewed as a country that is not committed to promoting and protecting environmental safety by phasing out ozone depleting substances as provided under the Montreal Protocol that she has ratified.

By ratifying the Kigali Amendment, Zambia will join the international community in protecting the citizens' health and the environment at large. Therefore, it is recommended that National Assembly supports the ratification of the Kigali Amendment to the Montreal Protocol on substances that deplete the ozone layer.

The Committee wishes to express its gratitude to all stakeholders who appeared before it and tendered both oral and written submissions; and to thank you, Mr Speaker, for affording it an opportunity to scrutinise the proposal to ratify the Kigali Amendment to the Montreal Protocol. The Committee also appreciates the services rendered by the Office of the Clerk of the National Assembly.

We have the Honour to be, Sir, the Committee on Agriculture, Lands and Natural Resources mandated to consider the proposal to ratify the Kigali Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer for the Fifth Session of the Twelfth National Assembly.

Mr M J B Ng'onga, MP
(Chairperson)

Mrs M C Mazoka, MP
(Vice Chairperson)

Mr D Mung'andu, MP
(Member)

Mr O S Mutaba, MP
(Member)

Mr P C Mecha, MP
(Member)

Dr M Imakando, MP
(Member)

Mr M Mawere, MP
(Member)

Mr B Hamusonde, MP
(Member)

Mr J Chishala, MP
(Member)

Mr S K Michelo, MP
(Member)

January 2021
LUSAKA

APPENDIX I - List of National Assembly Officers

Ms C Musonda, Principal Clerk of Committees
Mr H Mulenga, Deputy Principal Clerk of Committees (SC)
Mrs C K Mumba, Senior Committee Clerk (SC)
Mrs M K Siwo, Committee Clerk
Ms I Mwiya, Typist
Mr M Chikome, Committee Assistant
Mr D Lupiya, Committee Assistant
Mr M Kantumoya, Parliamentary Messenger

APPENDIX II - List of Witnesses

MINISTRY OF WATER DEVELOPMENT, SANITATION AND ENVIRONMENTAL PROTECTION

Mr M Sakala, Permanent Secretary

Mr G F Gondwe, Director – Department of Environment and Natural Resources

Mr T Musonda, Director – Planning

MINISTRY OF JUSTICE

Mr A Nkunika, Permanent Secretary

Mr C Mulenga, Assistant Director – International Laws and Agreements

Ms H Musonda, Counsel

ZAMBIA ENVIRONMENT MANAGEMENT AGENCY (ZEMA)

Mr J Msimuko, Director General

Ms K Banda, Director Legal Services

Mr M Banda, National Coordinator - Ozone Project

Mr M Kumwenda, Principal Legal Officer

Mr B Simfukwe, Assistant Officer – Ozone Project

MOPANI COPPER MINES

Eng C Makina, Engineering Superintendent Instrumentation

Eng M P Bwalya, Engineering Superintendent Instrumentation

ZAMBIA INSTITUTE OF ENVIRONMENTAL MANAGEMENT

Mr M Katati, Chief Executive Officer

Mr M Sishekanu, Legal Researcher

Ms I Tembo, Projects Manager

DANIA REFRIGERATION AND AIR-CONDITIONING LIMITED

Mr J Kaluba, Director

REFRIGERATION AND AIR-CONDITIONING ASSOCIATION OF ZAMBIA

Mr S Ngoma, President

Mr K P Kwila, Vice President

ZAMBIA ASSOCIATION OF MANUFACTURERS

Ms F Muleya, Chief Executive Officer

Ms K Chituta, Policy Analyst – Data and Evidence

ZAMBIA CLIMATE CHANGE NETWORK

Ms M Chundama, Chairperson

Mr S B Nyirenda, National Coordinator

Mr M Wamunyima, PELUM Coordinator

Ms M Mubanga, Caritas Zambia

Mr C Mpandamabula, Climate Change Officer – Actionaid Zambia

Ms M M Mwape, Director – Centre for Environment Justice

Ms L Chibambo, Energy and Gender Officer

Mr P Kabanda, Programmes Officer

Mr S Mwamba, Partnerships and Advocacy Officer

ZAMBIA CHAMBER OF COMMERCE AND INDUSTRIES

Mr P Daka, Chief Executive Officer
Ms S B Mwansa, Vice President
Mr A Oza, Board Member
Mr K Shula, Business Development Officer
Mr B M Mumba, Research Officer

MINISTRY OF HIGHER EDUCATION

Ms K Siame, Permanent Secretary
Mr S Mubanga, Director – Planning and Information
Mr C Mulenga, Director – University Education
Ms J Chinkusu, Director – Science and Technology
Mr N Peleti, Assistant Director – Human Resource and Administration
Mr B Mutale, Parliamentary Liaison Officer

NATIONAL INSTITUTE FOR SCIENTIFIC AND INDUSTRIAL RESEARCH

Dr H Njapau, Acting Director
Dr A Muvundika, Acting Deputy Director – Environment and Climate Change

MINISTRY OF HEALTH

Dr K Malama, Permanent Secretary – Technical Services
Dr A Kabulo, Director – Health Promotion and Environment
Dr A Silumesi, Director – Public Health and Research
Dr C Sichone, Director – Health Policy
Ms N Kwendeni, Principal State Advocate
Mr E Malikana, Assistant Director – Health Policy

UNIVERSITY OF ZAMBIA SCHOOL OF NATURAL RESOURCES

Dr O Munyati, Dean – Department of Chemistry
Dr J Nyirenda, Senior Lecturer – Department of Chemistry
Mr K Kaunda, Lecturer – Department of Chemistry

MINISTRY OF NATIONAL DEVELOPMENT PLANNING

Mr D Chisenda, Permanent Secretary – Development Cooperation, Monitoring & Evaluation
Ms M Mukubesa, Director – Development Planning
Mr H Tembo, Assistant Director – Climate Change Coordination
Mr A M Mushe, Senior Planner

MINISTRY OF ENERGY

Mr A Simwaba, Acting Permanent Secretary
Mr M Chipala, Acting Director- Planning
Mr V Chingangu, Executive Assistant to the Permanent Secretary

MINISTRY OF LANDS AND NATURAL RESOURCES

Mr N Yumba, Permanent Secretary
Mr E M Shitima, Director – Climate Change
Ms N P Chellah, Senior Planner – Parliamentary Liaison Officer
Mr G C Chipalo, Director - Human Resource and Administration
Mr I Simasiku Acting Director - Forestry
Mr G Mwanza, Chief Planner