



Enforcing Licensing System for HCFC Trade Control Beyond the Customs Check Points

BANGKOK, 3 July 2019 – What happens to refrigerants after they enter a country? Are there any refrigerants that enter the market improperly? What can be done when you find them? These and other questions were considered at an event organized by UN Environment OzonAction Compliance Assistance Program (CAP) in the margins of the 41st Open-Ended Working Group of the Parties to the Montreal Protocol. The National Ozone Officers of Lao People's Democratic Republic (PDR), Mongolia and the Federated States of Micronesia used this opportunity to share with peers their innovative and inspiring approaches to monitor and enforce HCFC trade controls beyond the customs check points.

The need for strengthening monitoring, verification, reporting and evaluation of national compliance systems has gained significant momentum recently under the Montreal Protocol on Substances that Deplete the Ozone Layer. The experiences of the three countries are excellent examples of what can be done in developing countries, including those that consume low volumes of controlled ozone depleting substances (ODS). Whereas enforcement actions usually focus on customs officers who traditionally work at the borders, these countries have taken a deeper dive and tried to understand what happens in their markets and places where refrigerants are used, i.e. "beyond the customs check points."

Welcoming the participants who gathered to discuss this timely theme, Mr. James Curlin, Acting Head of OzonAction Branch said that, *"Robust licensing and quota systems and well-trained and vigilant customs officers are critical for effective management of trade in controlled substances. However, the enforcement of the ODS licensing system should not stop at the customs check-point. Ozone Officers need to check what is happening in your domestic market to understand whether or not your licensing system and customs controls are really working in practice, not just on paper."*

Mr. Thevarack Phonekeo, National Ozone Officer, Lao PDR, presented their approach of market inspection led by a Joint Inspection Unit that comprised the National Ozone Unit, Customs and various government departments and enforcement agencies. In their country, ODS cylinders imports can enter the country from the customs check point only after they have been verified and provided with a unique label by the National Ozone Unit. The inspection was carried out at three markets and 706 kg of smuggled ODS and non-ODS refrigerants were confiscated. Mr. Phonekeo stated that, *"consumer protection, safety of technicians and loss to the exchequer were the main motivations behind undertaking this difficult exercise."* The idea for the Joint Inspection emanated from the recommendations of the country's HCFC Phase out Management Plan verification project.

Prof. Adiyasuren Tsokhio and Ms. Dulamsuren Dashdorj, of the National Ozone Authority of Mongolia presented their case study of an illegal trade of HCFC-141b identified detected from a discrepancy in Article 7 data. Having been notified by CAP of the data issue, the National Ozone Unit worked with their customs counterpart re-checked the import data. As the result of investigation and inspection, the Customs General Administration seized remaining three cylinders of HCFC-141b out of ten illegally imported through mis-declaration. Based on the customs rules, the importer was directed to ship the seized stock back to source country, which was done. Prof. Adiyasuren explained that, *"returning illegally imported HCFC-141b was possible thanks to good cooperation with the NOU of the exporting country established through OzonAction's South Asia Network"*. Learning from this experience, a new provision was included



in the country's recently amended Ozone Regulation allowing the NOU to launch an investigation of suspected illegal cases through the environmental inspection agency of Mongolia.



Mr. Yota Pacifico Oue, National Ozone Officer, Micronesia, discussed the case of prosecution of seized HCFC-22 cylinders from a fishing vessel dry-docked in the country. After the cylinders were off-loaded into the country during the dry-docking procedure, a routine vessel inspection by Customs revealed that the vessel did not obtain the requisite permit to transport HCFCs into Micronesia. The company had the intention of selling two cylinders of HCFC-22. With this discrepancy, the case was brought to the attention of the Department of Justice. After various consultations it was decided that the firm would be fined \$12,243 based on the relevant duty penalty and violation of national regulations. Mr. Oue stated, *"through this exercise, which was the first prosecution of ODS smuggling in our country, we realized that there is need to develop standard operating procedures for penalties and how they should be calculated."*





There were several observations and questions from the audience, who also shared their experiences and challenges. Issues such as weak institutional frameworks, how to handle seized ODS, contaminated refrigerants, and limited resources available for enforcement were some concerns expressed by participants. In his closing statement, Mr. Tom Land of the US Environmental Protection Agency congratulated the presenters for their excellent work of going beyond standard practices for monitoring and enforcement of ODS trade controls. Mr. Land mentioned that these case studies showed that deterrents such as stiff penalties, canceling of commercial licenses, and publishing cases of enforcement actions against violators can send a strong signal to all importers. He also appreciated that training provided to Custom Officers is bringing some good practical achievements, and applauded the effort made by the NOUs in updating their regulations as a result of their enforcement experience.

As part of CAP services, UN Environment OzonAction supports developing countries in strengthening control of trade in controlled substances under the Montreal Protocol on Substances that Deplete the Ozone Layer.

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