

SPF Santé Publique - FOD Volksgezondheid)

From:

Sent:

mercredi, 18 octobre 2023 18:21

To:

Cc:

Subject:

VS: Montreal Protocol: US initiative - A5 reclassification decision for MOP

Dear all,

Regarding to the EU position is discussing CHI reclassification, we would like to thank DE once again for their very clear and thorough ideas.

We made use of the DE text and included our positions in green. Please see below.

See you in Nairobi,

Eeva & Tapio & Annika

1. Voting behaviour of the EU

DE Position: The EU should vote together and speak with one voice during the meeting.

FI Position: Agree. (Avoid voting as much as possible.)

2. Adoption of the agenda

If there is no prior informal agreement between China and the US, it may be possible that parties have to vote on the agenda.

FI: In outreach with the US EU should emphasize the importance of reaching informal agreement between US and China

DE Position:

- Preferred option: Abstention.
- Fall-back option: Agree to include the point on the agenda. While we do not support the US initiative to reclassify China, we do not want to prevent the US from having the opportunity to present their initiative in plenary, if they wish to do so. ?

FI Position: These two can be seen also as alternative options.

- Because in the long run we see a need to discuss reclassification, we do not want to prevent the US from having the opportunity to present their initiative in plenary.
Bear in mind that it might be seen as strange behaviour if EU would not support an ally country to present its views, demanded by its senate. It could trigger the US to adopt the other resolution on US finances in the Senate

3. Plenary discussion on the reclassification of China and developing countries in general

DE Position:

- Preferred Option: Abstention.
- Fall-back option: In case the situation requires the EU to speak up, the EU could indicate that the sensitive issue of reclassification requires a cooperative and informal exchange format for discussion. We prefer to take the time needed to find a consensual solution for reclassification. Reclassification of individual developing countries at the request of other Parties should be avoided. However, in the long term, we advocate that parties assume responsibility in proportion to their economic and political weight.

FI Position: EU should be neutral. It is neither appropriate nor there is a need to get involved in the political dispute between the USA and China on matters that are ongoing on many other agreements also.

- Preferred option: If there is a plenary discussion, the elements for a deliberation could consist of the following:
 - the current classification is becoming soon outdated
 - consumption of Ozone Depleting Substances (ODS's) per capita: countries are in their last phase of phase-out of ODS
 - being a developing country: OECD/DAC criteria, based on GNI/capita threshold, is usually applied. List of developing countries is renewed every three years by the OECD DAC. Is which is purely based on the GNI per capita definition. Countries automatically move off the list of ODA eligible countries when their GNI exceeds a certain threshold for three years. (China this has already been exceeded in one year.)
 - Any reclassification should be done through careful consideration of possible criteria, which could best support protection of the ozone layer, mitigation of global warming in environmentally sustainable way and taking into account fair distribution of funding through MLF
 - The criteria should be formulated carefully, based on current patterns in production and consumption of controlled substances, including HFC's, as amended in the Kigali amendment
 - All countries should be treated fairly and equally, acknowledging the premises above, for formulating the criteria.
- alternative option: Abstention

4. Establishment of a contact group for the negotiations

DE Position: The EU is opposed to the establishment of a formal contact group at MOP35. In case of a vote, the EU should abstain.

Fi: position: Agree

5. negotiations in the contact group

DE Position: No active support of the US initiative by the EU in terms of content and also for formal/practical reasons. For the rest, the position on point 3 could also be represented here.

Fi: position: If formal or informal contact group is established EU should take elements as explained above.

Considerations

While we agree that countries, including China, assume responsibility in proportion to their economic and political weight, we do not support the US initiative. The chances of success are low, it can be seen as an affront to China and has the potential to jeopardise the implementation of the Kigali Amendment as a whole :FI: fully agree

- **Developing country status:** To date, China is still a developing country according to the OECD's DAC list and therefore eligible to receive ODA. China thus continues to meet the requirements for the A5 status. FI: In the long run, we see a need to consider CHI status. The problem may be solved by itself as China has already exceeded the threshold level of not being a developing country for one year. Anyhow, as mentioned before, it is important to review the criteria, not picking and individual country as a target.
- **Change from previous practice:** Until now, countries have only been reclassified at their own request. A precedent would now be set whereby one country would request the reclassification of another country. Until now, all decisions in the Montreal Protocol have been taken by consensus. China's agreement to the US initiative is unlikely. A vote is possible in principle, but would contribute to uncertainty/bloc-building. FI: We agree with DE and want to avoid block building and creating division in the world
- **US initiative as domestic exercise for the USA:** The submission of the draft decision is probably only a domestic exercise for the US to comply with the Senate resolution. Therefore, the US is not likely to push its initiative with much effort during the meeting. It is conceivable that the continuation of a backdoor agreement between China and the US will be pursued, whereby China continues to voluntarily waive funds to finance the HFC phase-down. FI: We also see it as an expression of internal policy of the US, but are worried because a follow-up draft resolution is presented to the senate for USA to withdraw funding of MLF if China continues to be funded (has to be confirmed)
- **Unequal treatment vis-à-vis other A5 countries:** Other countries that are no longer considered developing countries under the OECD DAC list continue to have A5 status under the Montreal Protocol. This is the case, for example, with Chile, Uruguay, Saudi Arabia, and Singapore. The US initiative does not include these countries. Moreover, the US has not put forward a proposal on how to successively reclassify these countries. FI: Agree also on this consideration with DE. Singapore and South-Korea have voluntarily changed their status, while Saudi-Arabia, UAE and some others not
- **Negative impact on Kigali implementation:** Kigali implementation for A5 countries will start with a freeze from 2024, followed by the phase-down. In this crucial phase, the focus should be on implementing existing obligations in A5 states, not on tightening obligations through reclassification. A discussion at the MOP would lead to uncertainty and loss of confidence in A5 countries. FI: Any possible discussion on reclassification would need to be accompanied with the assurance from EU that obligations (including timetables) agreed in the Kigali amendment will not change. A country could be classified as non-A5 country with phase- down schedules of the A5's as agreed in the Kigali amendment, but not receiving funding for at all or not for compliance related activities, but remaining eligible for funding of some specified activities (to keep information flowing). Do we know if US thinking is similar - or does their proposal include also A2 obligations ?
- **Cooperation with China:** Cooperation with China will remain important. China is the most relevant party to achieve the reduction targets, as China has by far the highest quantities of controlled substances in both consumption and production. In the past, China has shown itself to be cooperative and has taken effective measures against illegal emissions/production of controlled substances. FI: Easy to agree as this is what we have emphasized several times with NEM and EU-coordinations. Quite essential- one of the key considerations
- **Funding cap:** It is already practice for China and other A5 countries to forgo financial support from the MLF. Appropriate informal arrangements can also be made in the future to ensure that financial support primarily benefits countries that need support to make the transition to alternatives. FI: Support DE. We are in agreement with this consideration. The best option in the long run would be widening of the scope of the MP to take also environmentally safe refrigerants to the scope of funding and thus avoiding wide scale phase-in of PFAS-chemicals, which is unfortunately going to take place through KIP's.

Neuvotteleva virkamies/ Ministerial Adviser
Ympäristöministeriö / Ministry of the Environment
PL 35 (Aleksanterinkatu 7) / P.O.Box 35

Lähetäjä:

Lähetetty: perjantai 6. lokakuuta 2023 17.48

Vastaanottaja: '

Aihe: AW: Montreal Protocol: US initiative - A5 reclassification decision for MOP

Dear colleagues,

Please find below our position re the potential questions arising from the US initiative to reclassify China.

Position

1. Voting behaviour of the EU

DE Position: The EU should vote together and speak with one voice during the meeting.

2. Adoption of the agenda

If there is no prior informal agreement between China and the US, it may be possible that parties have to vote on the agenda.

DE Position:

- Preferred option: Abstention.
- Fall-back option: Agree to include the point on the agenda. While we do not support the US initiative to reclassify China, we do not want to prevent the US from having the opportunity to present their initiative in plenary, if they wish to do so.

3. Plenary discussion on the reclassification of China and developing countries in general

DE Position:

- Preferred Option: Abstention.
- Fall-back option: In case the situation requires the EU to speak up, the EU could indicate that the sensitive issue of reclassification requires a cooperative and informal exchange format for discussion. We prefer to take the time needed to find a consensual solution for reclassification. Reclassification of individual developing countries at the request of other Parties should be avoided. However, in the long term, we advocate that parties assume responsibility in proportion to their economic and political weight.

4. Establishment of a contact group for the negotiations

DE Position: The EU is opposed to the establishment of a formal contact group at MOP35. In case of a vote, the EU should abstain.

5. negotiations in the contact group

DE Position: No active support of the US initiative by the EU in terms of content and also for formal/practical reasons. For the rest, the position on point 3 could also be represented here.

Considerations

While we agree that countries, including China, assume responsibility in proportion to their economic and political weight, we do not support the US initiative. The chances of success are low, it can be seen as an affront to China and has the potential to jeopardise the implementation of the Kigali Amendment as a whole:

- **Developing country status:** To date, China is still a developing country according to the OECD's DAC list and therefore eligible to receive ODA. China thus continues to meet the requirements for the A5 status.
- **Change from previous practice:** Until now, countries have only been reclassified at their own request. A precedent would now be set whereby one country would request the reclassification of another country. Until now, all decisions in the Montreal Protocol have been taken by consensus. China's agreement to the US initiative is unlikely. A vote is possible in principle, but would contribute to uncertainty/bloc-building.
- **US initiative as domestic exercise for the USA:** The submission of the draft decision is probably only a domestic exercise for the US to comply with the Senate resolution. Therefore, the US is not likely to push its initiative with much effort during the meeting. It is conceivable that the continuation of a backdoor agreement between China and the US will be pursued, whereby China continues to voluntarily waive funds to finance the HFC phase-down.
- **Unequal treatment vis-à-vis other A5 countries:** Other countries that are no longer considered developing countries under the OECD DAC list continue to have A5 status under the Montreal Protocol. This is the case, for example, with Chile, Uruguay, Saudi Arabia, and Singapore. The US initiative does not include these countries. Moreover, the US has not put forward a proposal on how to successively reclassify these countries.
- **Negative impact on Kigali implementation:** Kigali implementation for A5 countries will start with a freeze from 2024, followed by the phase-down. In this crucial phase, the focus should be on implementing existing obligations in A5 states, not on tightening obligations through reclassification. A discussion at the MOP would lead to uncertainty and loss of confidence in A5 countries.
- **Cooperation with China:** Cooperation with China will remain important. China is the most relevant party to achieve the reduction targets, as China has by far the highest quantities of controlled substances in both consumption and production. In the past, China has shown itself to be cooperative and has taken effective measures against illegal emissions/production of controlled substances.
- **Funding cap:** It is already practice for China and other A5 countries to forgo financial support from the MLF. Appropriate informal arrangements can also be made in the future to ensure that financial support primarily benefits countries that need support to make the transition to alternatives.

Best regards,

Von:

Gesendet: Dienstag, 5. September 2023 14:46

An:

Betreff: RE: Montreal Protocol: US initiative - A5 reclassification decision for MOP

Dear colleagues,

We would like first to thank you for your reflections and positions on the US initiative.

After internal discussions, we believe the US CRP to reclassify the status of China under the Montreal Protocol as a developing country is a delicate issue and would recommend a cautious approach by the EU at this stage. To that end, we are not at this moment in a position to co-sponsor this CRP. Moreover, from an economic perspective, we would like to remind that China is still eligible to receive ODA based on GNI per capita as published by the WB (China's GNI per capita is \$ 12,850 which is below the high-income threshold of 13 845\$ used by OECD-DAC).

We also have the same questions as raised by other colleagues, specifically on the fact that other A5 Parties could fall into the same category as China. So the question would also to be to understand if the US are going to consider those Parties and are they planning to put forward additional Parties at a later stage?

Finally, it should be noted that for other Article 5 countries, such as the United Arab Emirates or Saudi Arabia, it has been decided (based on mutual agreement but without a formal decision) that, although remaining Article 5 Parties (which allows them to benefit from the timetable specific to Article 5 Parties and not to contribute to the FMPM), they would not submit a funding request to the FMPM. We believe this could be another option to explore for China.

Kind regards,

Adjoint au chef du bureau Financements multilatéraux pour le développement et le climat | Deputy Head of Multilateral Finance for Development and Climate

Ministère de l'Économie, des Finances et de la Souveraineté industrielle et numérique
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www.tresor.economie.gouv.fr

De :

Envoyé : mercredi 30 août 2023 09:54

À : '

Objet : Montreal Protocol: US initiative - A5 reclassification decision for MOP

Dear all,

In regard to the US CRP to reclassify the status of China under the Montreal Protocol as a developing country we consider this as a delicate issue and propose a cautious approach by the EU. We are at this moment not in favor to co-sponsor this CRP as such.

Although we are open to a process of re-evaluation, we feel that this should be based on a stepwise and careful process. Given the fact that the US has tabled a CRP on reclassification of China we feel that the discussion now should be limited on that Party. We should however be careful not to '*bump China in the head*'. But we should also be careful on the direct and indirect consequences this might have towards other MEA's.

In our response at the MoP we should maintain a wait-and-see approach, considering the fact that many questions we currently have within the EU have not been answered yet by the US on the one hand. And on the other hand we would also like to know how Parties from both A2 and A5 value the draft. For the moment we would limit the discussion only on the aspect of using the MLF funds, and not yet stretch it towards compliance as an A2 and/ or pay MLF contribution. However, we do think this might be an issue for the future, as long as this is done using a reasonable transition period and based on an evaluation/ analysis (f.e. by TEAP).

And we would also like to consider the possible consequences when China would not receive funds from the MLF anymore? What would this mean for the other A5 Parties? And we also find the question interesting in regard to limiting funds to China for only the Kigali part. Would it mean that other projects would still be considered feasible for funding by the US?

Regards,

Van:

Verzonden: dinsdag 29 augustus 2023 12:31

Aan:

Onderwerp: RE: Montreal Protocol: US initiative - A5 reclassification decision for MOP -CZ Contribution

Dear all,

PL position regarding reclassification of A5 countries based on their current status against criteria set in Article 5 of the MP (i.e. being a developing country and not exceeding 0,3 kg of controlled substances per capita per annum) is well known to all Colleagues as it was presented several times at the NexCom meetings and supported with some detailed analysis showing clearly that a whole group of countries that are currently classified as A5 should not have that status since they cannot be considered as developing countries anymore, specifically based on their Human Development Index. We also suggested that the Ozone Secretariat may be asked to make a list of A5 countries where their annual consumption of HFCs per capita in the recent years would be displayed, so we would be able to judge whether there are countries which do not meet the other criterion – 0.3 kg per capita per year. So, we welcome the initiative of the USA and would even suggest that it is considered in a broader context that just China, so also certain other countries could potentially be reclassified.

Moreover, while we think that the group of countries to be re-classified should cover more countries than just China, we also think that this re-classification may be limited just to not providing financial assistance to these countries regarding HFC phase down and keeping their HCFC phase out and HFC phase down schedules as agreed upon in Kigali. Finding a general support in the MP for requesting them now to follow HCFC phase out and HFC phase down schedules that are mandatory for A2 countries would probably be extremely difficult to achieve.

Best regards,

Radca, Samodzielne Stanowisko ds. Ochrony Warstwy Ozonowej
Pełnomocnik ds. Zarządzania Środowiskowego w Ministerstwie Klimatu i Środowiska
Departament Strategii i Analiz
Ministerstwo Klimatu i Środowiska
ul. Wawelska 52/54, 00-922 Warszawa

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Ministerstwo
Klimatu i Środowiska



From:

Sent: Friday, August 25, 2023 3:51 PM

To:

Subject: SV: Montreal Protocol: US initiative - A5 reclassification decision for MOP -CZ Contribution

Dear all,

Thank you for sharing your reflections on the US initiative, which is very helpful. We from the Danish side agree with many of the reflections and questions raised by the colleagues already.

In addition, it would be helpful to understand more of the background and the thinking behind the timing and placement of the initiative. Why not have the discussion in OECD-DAC, for example? In addition, it would be useful to know more about how the US envisions the process and possible results.

Look forward to continuing the conversation.

Best,

MINISTRY OF FOREIGN AFFAIRS OF DENMARK

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[HOW WE PROCESS PERSONAL INFORMATION](#)

Fra:

Sendt: 25. august 2023 15:41

Til:

Emne: Sv: Montreal Protocol: US initiative - A5 reclassification decision for MOP -CZ Contribution

[CAUTION - EXTERNAL EMAIL] This email was sent from outside the MFA organisation. DO NOT reply, click on links, or open attachments unless you have verified the sender and know the content is safe.

Dear Cornelius, dear colleagues,

Thank you for sharing the US proposal to reclassify China with us and giving us the opportunity to provide preliminary comments.

We have received some feedback from our Ministry for Foreign Affairs and in general Sweden is of the view that China should no longer be seen as a developing country but should be encouraged to increase its financial multilateral contributions. However, it would be important that such a proposal within the Montreal Protocol enjoys broad support outside of Northern American and EU/European countries (as it otherwise risks being divisive and ineffective) and in addition, is in line with the protocol's rules and practice.

Having said this, the Protocol has a list of countries that are classified as Article-5. Reclassification in the Protocol has happened before. South Africa and Turkey have been listed as Article 5 countries on the grounds that these are developing countries according to the World Bank, the OECD and the UNDP. Other countries have been reclassified mainly at the request of the country itself (Malta, Cyprus, Croatia, Romania, and Slovenia) under the Protocol.

Our understanding of the US proposal is that that they are not only aiming to change the eligibility for funding from the MLF but also aiming to reclassify China as an A2 country including all A2 obligations. In practise this would mean that all requirements should apply as from 1 January 2025, meaning no transitional period for China to implement the requirements. This means that China needs to reduce the HCFC production/consumption in 2025 from 67.5% to 100% and for HFC production/consumption from freeze level to 40% reduction. It would be interesting to know if the US they have done a feasibility/impact assessment study and if so, are they willing to share that study with the EU.

China is fulfilling the Montreal Protocol criteria to be classified as Article-5 country in that they are eligible for DAC status and not exceeding the 0,3 kg consumption/capita. It is therefore unclear for us on what technical grounds the US is suggesting this reclassification.

There are also other Parties that could fall into the same category as China. Is the US going to consider those Parties and are they planning to put forward additional Parties at a later stage? On the other hand, there are also other Parties that are on the DAC-list and contributing to the MLF (example Azerbaijan). It would also be interesting to know if the US will raise the reclassification of China in other fora?

This is a very delicate issue, we must consider that our credibility could be damaged, and the issue could spill over to other political areas.

Presently we are not prepared at all to co-sponsor the US proposal. We look forward to discussing the important issue in depth at the upcoming NEM.

Kind regards,

SWEDISH ENVIRONMENTAL PROTECTION AGENCY
EU Policy Unit
OFFICE: Virkesvägen 2, Stockholm
POSTAL: SE-106 48 Stockholm, Sweden

www.swedishepa.se

Från:

Skickat: den 24 augusti 2023 14:01

Till:

Ämne: VS: Montreal Protocol: US initiative - A5 reclassification decision for MOP -CZ Contribution

Dear all,

We have just today discussed the matter of US proposal on CHI reclassification with our Ministry of Foreign Affairs and with our colleagues dealing with other MEAs. Our initial comments and some questions below.

Generally we agree that eligibility of China for funding from the MLF deserves to be addressed in a long run. It is a second largest economy and therefore, it should not be in need for MLF funding anymore.

Ideally, bringing the reclassification topic on the table would induce CHI itself to propose reclassification.

Firstly, we would need to understand if the US proposal aims to change the eligibility for funding from the MLF only OR is the aim also to reclassify CHI as an A2 country including A2 obligations (A2 phase-down timetables and obligation to provide funding).

Secondly, it would be good to hear if US discussed with e.g. ARG and BRA. What about other A5s ?

In addition, there are many aspects requiring careful consideration.

- Timing of the proposal: We do understand that in order to reclassify, decision needs to be taken before the next replenishment cycle. We also acknowledge that US must raise the issue because of their domestic policy, but do we have time and possibilities for this extensive topic in addition to the replenishment this year ?
- We need to be prepared for the question why this reclassification would touch CHI alone, why not other countries that have developed and are regarded as middle-income economies ? Why not develop a new definition for A5 status altogether ?

We also would like to point out that Art 5 definition of an A5 Party is: "Any **Party that is a developing country and whose annual calculated level of consumption of the controlled substances in Annex A is less**

than 0.3 kilograms per capita...” Our legal experts understand that a Party must both be eligible for DAC status and not exceed the 0,3 kg consumption/capita. In consequence, when the status in DAC-listing changes, status as an A5 country changes too. In the long run this affects CHI as well as other middle income countries.

- Geopolitical situation: We should carefully avoid generating further division of countries into political blocks. For example widening of BRICS (new countries: Argentina, Egypt, Ethiopia, Iran, Saudi Arabia and the United Arab Emirates) may have an effect on discussion of reclassification. Also possibility for narrowing political distance between CHI and RUS must be taken into account.
- Relations to other MEAs: reclassification within MP might have effects on the other MEA. The definition as a developing country varies in different MEAs, political issues with CHI are similar. For example in UNFCCC, CHI opposes any discussion of changing of its' status as a developing country, especially related to its responsibilities in funding.
- In the aftermaths of the CFC-11 incident, we have just persuaded CHI to organize extensive voluntary actions on controlled substances and even uncontrolled substances in the production chain including production for feedstock uses. These actions were presented in ExCom 92 and they included changes in legislation, implementation including punishments, monitoring of processes as well as atmospheric monitoring. Would the proposal on the A5 reclassification jeopardize this very important development ?

All in all, at this stage we do not support co-sponsoring the US proposal.

We look forward hearing opinions of the other MS and further discussions at the NEM.

Best regards,

Neuvotteleva virkamies/ Ministerial Adviser
Ympäristöministeriö / Ministry of the Environment
PL 35 (Aleksanterinkatu 7) / P.O.Box 35
00023 VALTIONEUVOSTO / FI-00023 GOVERNMENT, FINLAND

Lähetäjä:

Lähetetty: perjantai 18. elokuuta 2023 11.42

Vastaanottaja: '

Aihe: Montreal Protocol: US initiative - A5 reclassification decision for MOP -CZ Contribution

Dear Jana, Přemysl and Matěj,

Thanks a lot for this clear positioning and the questions raised.

Yesterday evening, Andrew (US) informed us, that they would need to submit the proposal already next week, to be reflected in the secretariat's pre-session documents.

In view of the political sensitivity, we already indicated to the US colleagues that a decision on a potential co-sponsoring, or other ways to support the decision, would require an in-depth discussion at our NEM meeting, 26/27 September.

In our reply to Andrew, I will reiterate this 'holding position', maintain the offer for a 'stock-taking' call with them end of August/first days of September (jointly with the Presidency) and put the pertinent questions asked in Jana's reply on the agenda.

From

To: [a](#)

Subject: Odpověď: Montreal Protocol: US initiative - A5 reclassification decision for MOP

Dear , dear colleagues,

Thank you for sharing with us this first draft of US CRP to reclassify China and remove it from the list of developing countries.

In view of the overall situation, taking into account the China's position in the world economy and its [Human Development Index \(HDI\)](#), the Czech Republic welcomes the US initiative and is ready to co-sponsor their proposal.

While there are other Parties that have been classified as developing countries by [Decision I/12E](#) in very similar position as China (according the above mentioned HDI and economical evaluations) we believe that China's situation should be the starting point for raising this issue of developing countries reclassification under the Montreal Protocol and China's case should be dealt with first.

We are well aware about the sensitivity of this issue, which needs to be carefully considered. This first rank of email responses could help to better understand the general positions of Member States before the National Experts Meeting, where we should be ready to develop a strategy on how to address this particular issue.

From the upcoming meeting between the Commission and the Presidency with the US, we are interested to know whether the US has information on the response of other donor countries, whether the US has contacted China and also other developing countries. It would also be useful to know the views on this issue of other developing countries whose HDI and economic situation are low. Reclassification of developing countries could also be beneficial for these countries.

Looking forward for further discussions in Brussels

Best regards

odbor ochrany ovzduší/ Air Protection Department
Ministerstvo životního prostředí/ Ministry of the Environment

Vršovická 65, 100 10 Praha 10



Ministerstvo životního prostředí

Od: "

Datum: 02.08.2023 18:56
Předmět: Montreal Protocol: US initiative - A5 reclassification decision for MOP

Dear All,

Please find attached a letter signed by Tom Van Ierland, Head of Unit CLIMA C1 concerning the subject mentioned above.

With best regards,

nt

*DG CLIMA-C1 – Low Carbon Solutions (I):
Montreal Protocol, Clean Cooling & Heating, Twin Transitions*



European Commission - Brussels
DG CLIMA

[příloha US initiative letter.pdf odstraněna uživatelem Jana Masickova/ENV/CZ]