REPORT OF THE MEETING TO RESOLVE THE LINGERING ISSUES BETWEEN THE NATIONAL AGENCY FOR FOOD & DRUG ADMINISTRATION & CONTROL (NAFDAC) AND NIGERIA AGRICULTURAL QUARANTINE SERVICE (NAQS) ON THE BAN OF THE USE METHYL BROMIDE (MB) IN NIGERIA

VENUE: HONOURABLE MINISTER OF HEALTH CONFERENCE ROOM (1ST FLOOR), FEDERAL MINISTRY OF HEALTH, FEDERAL SECRETARIAT COMPLEX, PHASE III, AHMADU BELLO WAY, CENTRAL BUSINESS DISTRICT, FCT, ABUJA, NIGERIA

DATE: THURSDAY 1ST AUGUST, 2019

TIME: 12:00 NOON

1.0 ATTENDANCE:

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1.1 The meeting was well attended by representatives from the Federal Ministry of Health, Federal Ministry of Justice (FMOJ), Federal Ministry of Environment (FMEnv), Federal Ministry of Agriculture and Rural Development (FMARD), National Agency for Food & Drug Administration & Control (NAFDAC), Nigeria Agricultural Quarantine Service (NAQS), National Environmental Standards and Regulations Enforcement Agency (NESREA) and Nigerian Immigration Service (NIS).

2.0 BACKGROUND:

The Montreal Protocol aims “to protect the ozone layer by taking precautionary measures to control equitably total global emissions of substances that deplete it, with the ultimate objective of their elimination on the basis of developments in scientific knowledge, taking into account technical and economic considerations and bearing in mind the developmental
needs of developing countries”. Typically, this is being achieved through agreed controls on production and consumption of all ozone-depleting substances.

Methyl bromide was recognized as an ozone-depleting substance under the Montreal Protocol and control measures for the chemical was included in the Copenhagen Amendment in 1992 under Article 2H of the Protocol. Agreed control measures required Parties to phase out the production and consumption of methyl bromide by 1 January 2005 for developed countries and 1 January 2015 for developing countries.

Methyl Bromide, also known as bromomethane, is an organobromine compound with chemical formula CH$_3$Br. Methyl bromide is an odorless, colorless and nonflammable gas which is produced both industrially and biologically. It has a tetrahedral shape and it is a recognized ozone-depleting chemical. Based on the requirement of the 1987 Montreal Protocol on Ozone Depleting Substances (ODS), it has been approved and listed to be phase out.

Methyl bromide is a Class I Ozone-Depleting Substance (ODS), as defined by the Montreal Protocol on Substances that Deplete the Ozone Layer. Montreal Protocol on Substances that Deplete the Ozone Layer (1989) and the Vienna Convention for the Protection of the Ozone Layer (1988) are committed to stopping depletion of the ozone layer, it had to be phased out for all but for quarantine purposes by 2005.

The aim of the meeting is to resolve the lingering issues between the National Agency for Food & Drug Administration & Control (NAFDAC) and Nigeria Agricultural Quarantine Service (NAQS) on use of Methyl Bromide in Nigeria.

3.0 OPENING:

The meeting started at 12:20 PM with the opening remarks delivered by the Permanent Secretary Federal Ministry of Health who was ably represented by Pharmacist M.O Lawal, the Director Food and Drug Services Department who welcomed the relevant stakeholders and stated that the reason why we find ourselves in this national embarrassment is because MDAs have decided to work alone and that essence of this meeting is to that all stakeholders work together as a Nation on this issue. He urged stakeholders at the meeting to conduct themselves in a peaceful manner and avoid the use of offensive words so as to resolve this issue amicably.

4.0 PRESENTATIONS:
The major stakeholders made their presentations on the issue of the seized MB as follows:

4.1 NATIONAL AGENCY FOR FOOD & DRUG ADMINISTRATION & CONTROL (NAFDAC):

- On 13th and 19th February 2019 respectively, two companies (namely Messrs Refem Millers Limited and the Nigerian – Mexico Chamber of Commerce) approached NAFDAC to request for the position of the agency on the use of Methyl bromide for fumigation on hibiscus flower.

- On the 20th February, 2019, NAFDAC responded to the request by stating that the routine use of Methyl bromide is not permitted and proceeded to issue a public statement restating the ban on use of Methyl bromide for routine pest control operators, as well as advising farmers to use safer alternatives.

- Based on the NAFDAC statement, NAQS sent a brochure to NAFDAC highlighting exemptions for the use of Methyl bromide. The brochure is a joint paper developed by Montreal Protocol on substances that deplete Ozone layers and International Plant Protection Convention (IPPC). It states that, exemptions are permitted on specific situations where there is no alternative pest control agent for a particular plant pest or diseases. The exemptions are in three (3) categories:
  - Use as a chemical feedstock
  - Uses that the parties to the Montreal Protocol deem critical under Decision IX/6 of the parties to the protocol subsequent to complete phase – out.
  - And use for quarantine and pre-shipment.

- While NAFDAC was preparing to respond and point out to NAQS that exemption for the use of Methyl bromide for quarantine and pre-shipment purpose is permissible if the need is justified and contained facility is available for the application, NAQS made a publication in the Punch Newspaper of 27th February, 2019 titled “Methyl bromide: Ignore NAFDAC’s Warning” to farmers and grain merchants.

- In reaction to this development, NAFDAC sent a letter to NAQS indicating that the routine use of Methyl bromide as pesticide for control of storage pest, termites, rodent, and treatment of soil borne disease by farmers and grain merchants could pose serious health hazard both to man & environment and it is still not permitted.

- On the 2nd May, 2019, NAQS wrote a letter to NAFDAC seeking for permit to import 4500kg of Methyl bromide into the country for quarantine purpose. This was after 4,500kg (4.5 tons) of Methyl Bromide had been imported into the country by Toon Consolidated Company Limited based in Lagos on the authority of NAQS. NAQS gave the authority on 12th February 2019.

- Consequent to this, on 19th July, 2019, NAFDAC wrote a letter to Federal Ministry of Environment for clearance; as in line with the provisions of the Montreal Protocol the
national Ozone Desk domiciled in that Ministry is to determine quantity to be
imported by any applicant

- On 20\textsuperscript{th} May 2019 Federal Ministry of Environment (FMoE) wrote a letter to NAQS
copying NAFDAC to furnish additional information required under the Montreal
Protocol for the importation and use of Methyl Bromide.

- Also acting on the letter from the group “Virtues Unlimited Restorative Justice
Initiative- Request To Refuse Admittance Into Nigeria” letter, on 17\textsuperscript{th} May, 2019,
Federal Ministry of Justice wrote NAFDAC seeking for urgent status of Methyl
Bromide.

- On the 11\textsuperscript{th} July, 2019, NAQS wrote the National Security Adviser (NSA) informing
that NAFDAC has refused to grant permit for the importation of Methyl Bromide
allegedly on the instruction the NSA; and appealed for the release of the already
imported consignment.

- The ONSA also wrote NAFDAC seeking for Comments on the allegation made by
NAQS.

- Finally, NAFDAC asserted that in line with provisions of the Montreal Protocol the
routine use Methyl Bromide has been phased out in Nigeria since 2015.

- NAFDAC acknowledged that the Agency is aware of the existence of National Ozone
Desk, and NAQS as well as their mandates.

- The Agency also agreed that both organs of government were not consulted prior to
the publication on the ban on Methyl Bromide.

4.2  \textbf{NIGERIA AGRICULTURAL QUARANTINE SERVICE (NAQS)}

i.  NAQS asserted the International Plant Protection Convention (IPPC) 1997 states that:
"Inspection and other related activities leading to issuance of phytosanitary
certificates shall be carried out only by or under the authority of the official national
plant protection organization (NAQS). The issuance of phytosanitary certificates shall
be carried out by public officers who are technically qualified and duly authorized by
the official national plant protection organization to act on its behalf and under its
control with such knowledge and information available to those officers that the
authorities of importing contracting parties may accept the phytosanitary certificates
with confidence as dependable documents."

ii.  Methyl Bromide is not allowed for use by every farmer.

iii.  In order to prevent the proliferation of differing import regulations, the International
Plant Protection Convention (IPPC) Secretariat, part of the Food and Agriculture
Organization (FAO) of the United Nations, h issued ISPM 15 (International Standards
for Phytosanitary Measures) "Guidelines for Regulating Wood Packaging Material in
International Trade".
iv. NAQS acknowledged that statutorily, it lacked the power to authorize the importation of Chemicals, but NAFDAC does.

v. NAQS also did not consult NAFDAC, FMEnv and ONSA before importing the Methyl Bromide that is in the custody of Nigeria Custom.

4.3 FEDERAL MINISTRY OF ENVIRONMRNT (FMEVN) THROUGH NATIONAL OZONE UNITS (NOUS)

The Federal Ministry of Environment in collaboration with the United Nations Development Programme as the Lead Implementing and United Nations Industrial Development Organization (UNIDO), the cooperating agency has been implementing the Montreal Protocol’s Hydrochlorofluorocarbons Phase-out Management Plan (HPMP) project.

The National Ozone Unit (NOU) is responsible for managing their national programmes to comply with the Montreal Protocol on Substances that Deplete the Ozone Layer. Each developing country has an NOU that is supported by the Multilateral Fund through an Institutional Strengthening project.

These Unit have wide ranging responsibilities including overseeing the national compliance strategy, collecting and reporting data, monitoring and facilitating national projects approved by the Multilateral Fund, developing and enforcing policies and legislation, coordinating with other government ministries as well as the Implementing Agencies, interacting with industry and civil society, and undertaking public awareness activities.

The NOUs Office stated that for any party to the Protocol the following must be put in place:

i. There must be an Implementation Office.
ii. There must be a survey writing instrument.
iii. A licensing system.

He added that NAFDAC issues permit but that NOU gives quota for the amount of products that will be allowed into the country.

On the issue of MB use at stake, Engr. Idris intimated participants that although MB was banned in the country in 2010 alongside CFCs, there are exemptions under the MP. He said these exemptions have conditions to be met before it can be permitted for importation. He mentioned use as feedstocks, use that the MP deem as critical use and use for QPS purpose. For QPS purpose, he said there is need to know the quantity imported, application, details of importers for effective monitoring verification and reporting to the Montreal Protocol’s Ozone Secretariat. Once NAQS furnishes the NOO of the Federal Ministry of Environment with these details, the NOO as the Agency mandated for coordination of implementation of
the MP’s ODS phase out programme in Nigeria will communicate NAFDAC to release the MB after fulfilling internal requirements of NAFDAC.

4.4 COMMENTS:-

It was observed by the Chairman, DFDS, that:-

- NAFDAC was supposed to have consulted the National Ozone Office, NAQS and other stakeholders before going to the press on the status of methyl bromide in the country since the Agency does not have full authority on the issue of Ozone Depleting Substances in the country.
- NAQS was also supposed to have called for stakeholders meeting to resolve the issue and not resorting to a counter publication.
- That this action of NAQS was uncalled for, a national embarrassment that could have resulted to anarchy, and a waste of public funds.
- The authorization for the importation of Methyl Bromide without obtaining import permit from NAFDAC was a violation of the law.
- The absence of a national forum for stakeholders on the subject is a big minus and it is partially responsible for the current situation.

5.0 RESOLUTIONS:

a. All correspondences between NAFDAC, NAQS, FMEnv (National Ozone Office), Office of the National Security Adviser (ONSA) and Federal Ministry of Justice etc. should be sent to the Director, Food and Drug Services through (molawal60@gmail.com) and National Coordinator (Food Safety and Quality Programme) on (fubarachuku@yahoo.com) by Friday 2nd August, 2019.

b. National Ozone Office of the Federal Ministry of Environment is to setup a National Steering Committee on Ozone issues and the members of the committee shall include:
   i. Federal Ministry of Environment (National Ozone Office) - Chairman;
   ii. Federal Ministry of Health - Member;
   iii. Federal Ministry of Justice (FMoJ) - Member;
   iv. Federal Ministry of Agriculture and Rural Development (FMARD)- Member;
   v. National Agency for Food & Drug Administration & Control (NAFDAC) - Member;
   vi. Nigeria Agricultural Quarantine Service (NAQS) - Member;
   vii. Nigeria Customs Service (NCS) - Member; and
   viii. Office of the National Security Adviser (NSA) - Member.
c. There is need to invite Nigeria Customs Services and National Security Adviser (NSA) in subsequent meetings.

d. The Steering Committee Meeting should be called in the 3rd week of August to discuss the following issues:
   
   • The Committee is to deliberate and take a national status on Ozone Depleting Substances (ODS) of which methyl bromide is one. The committee is to decide on the framework for using the exemption window of Montreal Protocol and also to equally deliberate on whether alternatives are available, how safe, availability and affordability.

   • A press release is to be issued by the Federal Ministry of Environment on the nation’s position on the importation and use of Methyl Bromide after the Steering Committee meeting in August this year.

   • On the issue of 4500kg of methyl bromide at the Wharf, the stakeholders recommended that the consignment be cleared for now to avoid accumulation demurrage subject to NAQS response to Federal Ministry of Environment letter of 20th May 2019 on or before Friday next week (9th August, 2019).

   • The National Ozone office will then write NAFDAC on how to clear the 4,500kg since the Country can still use it under the exemption window with strict monitoring in accordance to Montreal Protocol (MP).

   • The report of this stakeholders’ meeting will be circulated through the emails as soon as possible.