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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 1.8.2008
COM(2008) 505 final

2008/0165 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of [...]

on substances that deplete the ozone layer

(Recast)
(Text with EEA relevance)

Part 2

{SEC(2008)2366 final}
{SEC(2008)2367 final}

(presented by the Commission)

EXPLANATORY MEMORANDUM

1) CONTEXT OF THE PROPOSAL

This proposal aims to revise and recast Regulation (EC) No 2037/2000 of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer¹ and subsequent amending acts against the context of a near complete phase out of ODS and a number of outstanding challenges that need tackling from an EU or global perspective (see general context below).

The main objectives of this revision are: (1) to simplify and recast Regulation (EC) No 2037/2000 whilst at the same time reducing any unnecessary administrative burden in line with the Commission's commitment to better regulation; (2) to ensure compliance with the Montreal Protocol as adjusted in 2007; and (3) to make sure that the future challenges are addressed, in order to ensure the timely recovery of the ozone layer and to avoid adverse impacts on human health and ecosystems.

General context

The stratospheric ozone layer shields life on earth from harmful ultraviolet radiation from the sun. In the early 1980s, scientists observed a significant decrease in the concentration of ozone in the stratosphere over the Antarctic, which became widely known as the “ozone hole”. At its peak – during spring in the late 1990s – the ozone hole was most severe around the poles, although concentrations were significantly reduced in other places as well. Increased UV radiation has an adverse impact on human health, e.g. by increasing the incidence of skin cancers and cataracts, and on ecosystems.

As early as 1987, governments agreed on the Montreal Protocol on Substances that Deplete the Ozone Layer, thereby starting the phase-out of ozone-depleting substances (ODS) in all signatories following a set timetable. In 2007, the Parties (including the European Community) celebrated the twentieth anniversary of the Montreal Protocol, hailing it as one of the most successful of all international environmental agreements. By then, all 191 Parties had achieved a 95% reduction in consumption of ODS compared with the baselines set. Reductions were highest (99.2%) in industrialised countries and somewhat lower (80%) in developing countries².

In its latest report, released in 2007, the Scientific Assessment Panel (SAP) established under the Montreal Protocol confirmed that the ozone layer is slowly recovering thanks to the control measures introduced by the Protocol – albeit 10 to 15 years behind the projections in its earlier 2002 report. Average and Arctic ozone levels are now expected to recover by 2050 and the Antarctic ozone hole between 2060 and 2075.

According to UNEP, controls introduced under the Montreal Protocol will avoid millions of fatal skin cancers and tens of millions of non-fatal skin cancers and cataracts worldwide. Furthermore, these controls will help to avoid greenhouse gas emissions equivalent to more

¹ OJ L 244, 29.9.2000, p. 1.

² Successful reductions in developing countries have been made possible by the Multilateral Fund which to date has channelled about US\$2.4 billion into technology transfer and related capacity-building projects. Timetables for developing countries typically lag a few years behind those of industrialised countries.

than 100 billion tonnes of CO₂ between 1990 and 2010 or, annually, more than five times the Kyoto target during a 20-year period. By 2010, ODS emissions will account for less than 5% of global projected CO₂ emissions compared with nearly 50% in 1990.³

In its 2007 report, SAP warned the Parties that, despite the successes, continued vigilance was required to keep to the newly projected timetable for recovery of the ozone layer, also taking account of the remaining uncertainties, notably about the impact of climate change. Key remaining challenges relate to the release of “banked” ODS/GHG (greenhouse gas) emissions into the atmosphere, exempted uses of ODS, and new ODS. These challenges are described in detail in the accompanying impact assessment. The SAP also expressed serious concerns about the faster growth of production of hydrochlorofluorocarbons (HCFCs) ahead of the full phase-out in 2040 in developing countries. However, the Parties acted swiftly by agreeing immediately, in 2007, on an adjustment to the Protocol on accelerated HCFC phase-out schedules to achieve reductions of up to 1 million ODP tonnes and 18 billion tonnes of CO_{2eq} globally.

Regulation (EC) No 2037/2000 is the European Communities’ main instrument for implementing the Montreal Protocol. It was amended by:

- Regulation (EC) No 2038/2000 of the European Parliament and of the Council of 28 September 2000, OJ L 244, 29.9.2000, p. 25;
- Regulation (EC) No 2039/2000 of the European Parliament and of the Council of 28 September 2000, OJ L 244, 29.9.2000, p. 26;
- Commission Decision 2003/160/EC of 7 March 2003, OJ L 65, 8.3.2003, p. 29;
- Regulation (EC) No 1804/2003 of the European Parliament and of the Council of 22 September 2003, OJ L 265, 16.10.2003, p. 1;
- Commission Decision 2004/232/EC of 3 March 2004, OJ L 71, 10.3.2004, p. 28;
- Commission Regulation (EC) No 2077/2004 of 3 December 2004, OJ L 359, 4.12.2004, p. 28;
- Commission Regulation (EC) No 29/2006 of 10 January 2006, OJ L 6, 11.1.2006, p. 27;
- Regulation (EC) No 1366/2006 of the European Parliament and of the Council of 6 September 2006, OJ L 264, 25.9.2006, p. 12;
- Commission Regulation (EC) No 1784/2006 of 4 December 2006, OJ L 337, 5.12.2006, p. 3;
- Council Regulation (EC) No 1791/2006 of 20 November 2006, OJ L 363, 20.12.2006, p. 1;
- Commission Regulation (EC) No 899/2007 of 27 July 2007, OJ L 196, 28.7.2007, p. 24;
- Commission Decision 2007/540/EC of 30 July 2007, OJ L 198, 31.7.2007, p. 35;

³ These big contributions to climate change are due to the very high global warming potential (GWP) of ozone-depleting substances (some of which are more than 14 000 times more potent than CO₂).

- Commission Regulation (EC) No 473/2008 of 29 May 2008, OJ L 140, 30.5.2008, p. 9;
- Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded, OJ L 236, 23.9.2003, p. 33.

Consistency with other policies and objectives of the Union

This proposal is consistent with Article 175 of the Treaty establishing the European Community and aims to provide a high level of protection for human health and the environment and to implement an international environmental agreement. It contains substantive trade measures to achieve these objectives and is therefore also based on Article 133 of the Treaty. The proposal also provides for simplification of the legislation and of the administrative procedures for public (EU or national) authorities and companies (See 5 below).

2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

Consultation of interested parties, collection and use of expertise

Preparations for the review started at the end of 2006 with the launching of an extensive survey of Member States' authorities and other relevant agencies, companies, industries and non-governmental organisations. The survey showed general satisfaction with the effectiveness of the Regulation. The main comments related to the Regulation's complexity and a desire for simplification and clarification. Based on the above-mentioned input and other expert sources (e.g. latest analyses and recommendations from the Montreal Protocol's Scientific, Technical and Economic Assessment Panels), policy options and associated impact assessments were identified and analysed from January 2008 onwards.

Impact assessment

The proposed policy options build on the strengths of the existing Regulation and reflect a deep commitment to simpler and better regulation based on sound analysis. A review of a wide range of options led to a package aiming at ensuring continued compliance with the Montreal Protocol, while addressing future challenges and simplifying the current Regulation. Building on past successes and opportunities for simplification, the overall reductions in administrative costs will total nearly €3 million over the period 2010-2020, with about €2 million accruing to industry, €0.7 million to Member State authorities and the remainder to the European Commission. The cumulative additional direct economic impact over the period 2010-2020 is expected to stay below €13 million, mainly related to measures to reduce methyl bromide use for QPS purposes⁴.

The most tangible environmental benefits from the package are related to policy action on QPS activities and recovery and destruction of "banked" ODS. These could add up to a net gain of 16 000 ODP tonnes over the period 2010-2020 or 112 million tonnes of CO_{2eq} which

⁴ Costs would be significantly lower if taking into account the likely decision to deregister Methyl Bromide on health grounds.

would contribute to reducing the risk of further depletion of the ozone layer, whilst also bringing real climate change benefits⁵.

3) LEGAL ELEMENTS OF THE PROPOSAL

Summary of the proposed action

The aim of this proposal is to simplify, revise and consolidate Regulation (EC) No 2037/2000 which has been amended several times since it was adopted.

Recasting makes it possible to combine in a single text both the substantive amendments proposed to the Regulation and the original provisions which remain unchanged.

Furthermore, the proposal will tighten up or add certain provisions to ensure better implementation and enforcement of the legislation by national authorities with the aim of achieving a high level of environmental protection, while simplifying legislation and at the same time reducing unnecessary administrative burdens. Its clearer structure and provisions will allow better monitoring and enforcement of the legislation with the aid of Community action.

Legal basis

The primary objectives of the Regulation are to provide a high level of protection for the environment and to implement an international environmental agreement. However, the Regulation contains trade measures to achieve these objectives and therefore this proposal is based on Article 175 and Article 133 of the EC Treaty.

Subsidiarity principle

The subsidiarity principle applies insofar as the proposal does not fall under the exclusive competence of the Community.

The objectives of the proposal cannot be sufficiently achieved by the Member States and Community action will achieve the objectives better for the following reasons:

Protection of the ozone layer is a transboundary issue. Action at Community level is necessary to ensure compliance with the obligations taken on by the European Community as a Party to the Montreal Protocol, which is implemented by this Regulation. The scale of the problem demands Community-wide as well as parallel global action. Individual Member States cannot solve the problems alone and concerted action on an EU scale is required.

Furthermore, the Regulation provides for prohibiting production, placing on the market and use of controlled substances and is therefore also of relevance to the functioning of the internal market. Some of the measures concern external trade, which falls under the exclusive competence of the Community.

⁵ In terms of global warming potential, this is equivalent to about 2% of greenhouse gas emissions in 1990. For comparison only, reductions are equivalent to 1/10th of the reductions necessary to achieve the 2020 objective of cutting greenhouse gas emissions by 20% under the climate and energy package.

The proposal concentrates on simplifying the existing legislation and on strengthening some provisions to improve implementation and enforcement of the legislation by Member States aided by Community action.

The proposal therefore complies with the subsidiarity principle.

Proportionality principle

The proposal complies with the proportionality principle for the following reasons:

This revision marks the end of the phase-out process for most controlled substances. This phase-out process gave all concerned sufficiently long transition periods to adapt to the schedule in an economically efficient way.

Where restrictions on remaining uses of controlled substances are envisaged, the proposal ensures that technically and economically feasible alternatives are available. If, under particular circumstances, this would not be the case, the proposal allows derogations to be granted.

No detailed provisions are proposed in areas where the objectives might be better achieved by actions in other policy areas, for example by the waste legislation, in order to avoid overlaps that might lead to unclear allocation of responsibilities and thus create an additional burden for administrations and companies.

The proposal aims at streamlining procedures (e.g. for reporting) and avoiding unnecessary administrative burdens. However, some new requirements are proposed where this is considered necessary to ensure compliance with the European Community's international obligations (e.g. to accelerate the phase-out of HCFCs) and to achieve the overall objective of contributing to efficient protection of the ozone layer, for example by avoiding harmful trade in controlled substances and related products and equipment.

Choice of instruments

The legal instrument chosen is a Regulation as (1) the proposal aims to recast and simplify the existing Regulation and (2) the licensing system for trade in controlled substances has been established at Community level and has proven to work efficiently. Any change to this approach would unduly burden both Member States and the companies active in this sector.

4) BUDGETARY IMPLICATION

The proposal has no incremental impact on the Community budget.

5) ADDITIONAL INFORMATION

Simplification

The proposal provides for simplification of the legislation and of the administrative procedures for public (EU or national) authorities and companies.

The recast will simplify and streamline the existing provisions. Redundant provisions and unnecessary obligations will be repealed, while reporting and monitoring requirements will be simplified. This should help Member States and companies to reduce unnecessary administrative procedures.

The proposal is included in the Commission Legislative and Work Programme for 2008 (COM(2007) 640 final) on the list of simplification initiatives in Annex 2.

Repeal of existing legislation

Adoption of the proposal will repeal Regulation (EC) No 2037/2000.

European Economic Area

The proposed act is of EEA relevance and should therefore extend to the European Economic Area.

Detailed explanation of the proposal

The proposal maintains the scope of Regulation (EC) No 2037/2000, except where it extends it to products and equipment relying on controlled substances with a view to better align definitions with those in the Montreal Protocol and closing loopholes for trade in products containing controlled substances. The proposed Regulation would apply to substances listed in Annexes I and II. Annex II provides flexibility to establish certain monitoring measures for substances found to have ozone-depleting potential or control measures where this potential is significant.

The proposal follows the structure of Regulation (EC) No 2037/2000, but adds a new chapter on derogations from the bans on production, placing on the market and use, which were originally spread between various provisions on the phase-out schedules for controlled substances and products. This change makes the text more readable and thereby facilitates application of the legislation.

Comments on the Articles

These comments relate only to the Articles which are new or to which substantive changes have been made.

• Definitions – Chapter I, Article 3

The existing definitions broadly reflect those used in the Montreal Protocol. Whilst this approach should generally be maintained, a number of adaptations appeared necessary to avoid inconsistencies in the legislation (the term “use” is also applied in the context of feedstock applications, which are currently excluded from the definition of this term). Furthermore, a number of clarifications take account of legal interpretations developed over the years (e.g. defining “placing on the market” as “making available for the first time”).

• Phase-out schedule – Chapter II, Articles 4, 5 and 6

As phase-out dates for all controlled substances but HCFCs were reached, the relevant Articles can be significantly simplified by removing the obsolete provisions. Furthermore,

derogations from the ban on placing on the market certain products and equipment produced before the original end dates are no longer of any practical relevance.

The phase-out schedule for HCFCs has to be adjusted by bringing the ban on production forward to 2020 in order to ensure compliance with the 2007 Decision XIX/6 of the Parties adjusting the Protocol. The remaining production for servicing (0.5% of the baseline production) allowed by this Decision is not relevant in the EU as virgin HCFCs must not be used from 2010 on.

- **Exemptions – Chapter III, Articles 7 to 13**

This chapter brings together the provisions on the different uses for which consumption remains allowed under the Protocol and/or to which the ban under the EC legislation does not apply (feedstock, processing agents and specific uses of HCFCs, halons and methyl bromide). Placing on the market (including import) for destruction will remain possible. In line with the legal interpretation developed over the years, changes from one of those uses to another will be excluded.

In line with the Protocol, controlled substances intended for use as feedstock are exempted from the control measures laid down in Chapter II. In order to facilitate enforcement and to reduce illegal use and trade, labelling should identify the substances as feedstock (**Article 7**).

The provisions on controlled substances for essential laboratory and analytical uses will be aligned with the current practice, where quotas are allocated to the producers and importers of the substances and the end-users (e.g. laboratories) and registered in a database operated by the Commission. A cap on the overall quantities used should be introduced to increase the incentives for applying available alternatives to controlled substances (**Article 10**).

From 2010 on, no virgin HCFCs may be used for maintenance and servicing of refrigeration and air-conditioning equipment. To make it possible to enforce this restriction, it is necessary to draw a clear distinction between reclaimed and virgin material and to identify reclaimed material as such. The further restriction to reclaimed HCFCs, excluding use of recycled substances (unless recovered by the operator of the equipment itself), will reduce exchanges of HCFCs which, in turn, will increase traceability and, thus, reduce the risk of illegal use and trade. The required labelling of equipment containing HCFCs will facilitate recovery of HCFCs when the equipment is disposed of and will reduce the risk of illegal export (**Article 11**).

Use of methyl bromide for quarantine and pre-shipment applications should be limited to current levels of consumption. In order to reduce the emissions linked to this use, recapture technologies will be applied. Such uses will be ended by 2015, considering the health and safety concerns and the associated legislative responses. (**Article 12**).

As alternatives are now available to replace halons in fire protection applications, end dates for existing applications can now be set. This process is pursued separately under comitology. However, in individual cases it will be possible to grant derogations from these end dates if no technically and economically feasible alternatives are available (**Article 13**).

- **Trade – Chapter IV, Articles 15 to 20**

Controlled substances and products and equipment containing or relying on those substances shall not be accepted on the territory of the EU, unless these goods comply with the

exceptions foreseen in the Regulation (**Articles 15 and 17**). The specific exception for methyl bromide and HCFCs imported under the inward processing regime will not be retained, consistent with the approach applied to the other controlled substances, i.e. ending inward processing once a ban on use enters into force, for consistency reasons and to reduce reduces the administrative burden.

Since the current Regulation was adopted the Commission has been operating a web-based, online licensing system for imports and exports. This system has proven to work efficiently and will be further developed towards fully electronic licensing also in the context of the modernised customs code. Based on this system, the extension of the licensing requirements to imports of products and equipment (**Articles 15, 17 and 18**) will create no administrative burden disproportionate to the benefits of stronger enforcement of the trade restrictions in place. The licensing requirements have been extended to all imports, regardless which customs procedure or customs approved treatment is applied, with the exception of temporary storage, including transshipments, and the transit through the Community. For the latter cases also an exemption from the export licensing is foreseen. For the imports exempted from the licensing control and monitoring measures could be introduced after evaluating the potential risks of illegal trade linked to such movements (**Article 19**).

A legal basis should be created enabling the Commission to reject requests for a licence in cases where the exporting or importing country indicates that the intended shipment does not comply with its domestic control measures. Also, the possibility to exchange the information submitted in the licensing process will contribute to more efficient participation by the Community in the iPIC (informal Prior Informed Consent) system established under the Montreal Protocol (**Articles 18**).

Tightening the export ban on products and equipment containing or relying on controlled substances, in particular by extending it to those containing or relying on HCFCs, will contribute to avoiding any increasing dependence on these substances on the part of developing countries, whilst any disproportionate burden on exporters may be prevented by granting derogations case by case (**Article 17**).

- **Recovery and destruction of used controlled substances – Chapter V, Article 22**

For destruction of controlled substances, only technologies approved by the Parties shall be applied. In order to facilitate implementation of this requirement, the content of the relevant Decisions of the Parties should be incorporated in the Regulation and kept updated by the committee procedure.

The Commission will be empowered to compile a list of products and equipment for which recovery, or destruction without prior recovery, of controlled substances will be considered technically and economically feasible and will therefore be mandatory.

- **New substances – Chapter VI, Article 24**

A flexible mechanism should be established to ensure that substances identified as ozone depleting by the Scientific Assessment Panel under the Protocol are to be reported, to allow for assessing the magnitude of their environmental impact, and to ensure that those new substances which have been identified as having a significant ozone depleting potential are submitted to control measures. To this end Annex II will be re-established, listing in its Part A

substances which are submitted to control measures and in Part B those on which undertakings have to report.

- **Reporting – Chapter VII, Articles 26 and 27**

Article 25 brings together all the reporting obligations on Member States. The obligation to report to the Commission on destruction will complete the data available in the ODS database and is a precondition for streamlining the reporting under the Protocol and reducing the reporting obligations on the Member States.

- **Inspection – Chapter VII, Article 28**

The responsibility of the Member States to carry out inspections on all aspects of the Regulation should be made more explicit. Those inspections must follow a risk-based approach.

- **Implementing measures**

The Regulation confers implementing powers on the Commission. The cases in which implementing powers have been conferred are specified in each relevant Article.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of [...]

on substances that deplete the ozone layer

(Recast)
(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 133 and 175(1) thereof,

Having regard to the proposal from the Commission⁶,

Having regard to the opinion of the European Economic and Social Committee⁷,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁸, ~~in the light of the joint text approved on 5 May 2000 by the Conciliation Committee,~~

Whereas:

↓ new

(1) Regulation (EC) No 2037/2000 of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer⁹ has been substantially amended several times. Since further amendments are to be made, it should be recast in the interests of clarity.

⁶ OJ C 286, 15.9.1998, p. 6 and OJ C 83, 25.3.1999, p. 4.

⁷ OJ C 40, 15.2.1999, p. 34.

⁸ ~~Opinion of the European Parliament of 17 December 1998 (OJ C 98, 9.4.1999, p. 266), confirmed on 16 September 1999, Council Common Position of 23 February 1999 (OJ C 123, 4.5.1999, p. 28) and Decision of the European Parliament of 15 December 1999 (not yet published in the Official Journal), Decision of the European Parliament of 13 June 2000 and Decision of the Council of 16 June 2000.~~

⁹ OJ L 244, 29.9.2000, p. 1. Regulation as last amended by Commission Regulation (EC) No 473/2008 (OJ L 140, 30.5.2008, p. 9).

↓ 2037/2000 recital (1) (adapted)
⇒ new

(12) It is established that continued emissions of ozone-depleting substances ~~at current levels continue to~~ cause significant damage to the ozone layer. ~~Ozone depletion in the southern hemisphere reached unprecedented levels in 1998. In three out of four recent springs severe ozone depletion has occurred in the Arctic region.~~ ⇒ There is clear evidence of a decrease in the atmospheric burden of ozone depleting substances and some early signs of stratospheric ozone recovery have been observed. However, the recovery of the ozone layer to concentration level existing before 1980 is not projected to take place before the middle of the 21st century. ⇐ Increased UV-B radiation resulting from ozone depletion ⇒ therefore persists as ⇐ poses a significant threat to health and environment. Further efficient measures need therefore to be taken in order to protect human health and the environment against adverse effects resulting from such emissions ⇒ and to avoid risking further delay in the recovery of the ozone layer ⇐.

↓ 2037/2000 recital (2) (adapted)

(32) In view of its responsibilities for the environment and trade, the Community, pursuant to ⇐ Council ⇐ Decision 88/540/EEC ⇐ of 14 October 1988 ⇐¹⁰, has become a Party to the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer ⇐ (hereinafter "the Protocol") ⇐, ~~as last amended by the Parties to the Protocol at their second eleventh meeting in London, and at their fourth meeting in Copenhagen.~~

↓ 2037/2000 recital (3) and (4)
(adapted)
⇒ new

(43) Additional measures for the protection of the ozone layer were adopted by the Parties to the Montreal Protocol at their ~~seventh meeting in Vienna in December 1995, at their ninth meeting in Montreal in September 1997~~ ⇐ 2007 ⇐ in which the Community participated. It is necessary for action to be taken at Community level to ~~carry out~~ ⇐ comply with ⇐ the Community's obligations under ~~the Vienna Convention and the latest amendments and adjustments to the Montreal Protocol,~~ and in particular to ~~phase out the production and the placing on the market of methyl bromide within the Community and to provide for a system for the licensing not only of imports but also of exports of ozone-depleting substances~~ ⇒ implement the accelerated phase-out of hydrochlorofluorocarbons ⇐.

↓ new

(5) Following the concerns stated in the 2006 Report of the Scientific Assessment Panel related to the accelerating growth of hydrochlorofluorocarbons production and consumption in developing countries, the Parties to the Protocol in 2007 adopted

¹⁰ OJ L 297, 31.10.1988, p. 8.

Decision XIX/6 at their 19th Meeting providing for an accelerated phase out schedule for hydrochlorofluorocarbons. Following this Decision the production phase out date should be moved from currently 2025 to 2020.

- (6) According to Regulation (EC) 2037/2000 as from 2010, virgin hydrochlorofluorocarbons can no longer be used for the maintenance and servicing of refrigeration and air conditioning equipment. In order to minimise the risk of illegal use of virgin hydrochlorofluorocarbons as recycled or reclaimed material, only reclaimed material should be used in servicing operations while prohibiting the re-selling of recycled hydrochlorofluorocarbons, which should only be used when recovered by the operator of the equipment.

↓ 2037/2000 recital (5) (adapted)
⇒ new

- (7~~5~~) In view of the ~~earlier than anticipated~~ ⇒ wide ⇐ availability of technologies ⇒ and alternative substances ⇐ for replacing ozone-depleting substances, it is appropriate in certain cases to provide for control measures which are stricter than those provided for in ~~Council~~ Regulation (EC) No ~~3093/94 of 15 December 1994~~ ⊗ 2037/2000 ⊗ ~~on substances that deplete the ozone layer¹¹~~ and stricter than those of the Montreal Protocol.

↓ 2037/2000 recital (6) (adapted)

- ~~(6) Regulation (EC) No 3093/94 must be modified substantially. It is in the interest of legal clarity and transparency to revise that Regulation completely.~~

↓ 2037/2000 recital (7) (adapted)

- (8~~7~~) Under Regulation (EC) No ⊗ 2037/2000 ⊗ ~~3093/94~~ the production ⊗ and placing on the market ⊗ of chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride, 1,1,1-trichloroethane, ~~and~~ hydrobromofluorocarbons ⊗, bromochloromethane and methyl bromide have ⊗ ~~has~~ been phased out. ~~The production of those controlled substances is thus prohibited, subject to possible derogation for essential uses and to meet the basic domestic needs of Parties pursuant to Article 5 of the Montreal Protocol. It is now also appropriate progressively to prohibit the placing on the market and use of those substances and of products and equipment containing those substances.~~

↓ 2037/2000 recital (8) (adapted)
⇒ new

- (9~~8~~) Even after the phase-out of controlled substances the Commission ~~may~~ ⊗ should ⊗ under certain conditions grant exemptions for essential ⊗ laboratory and analytical ⊗ uses. ⇒ In particular Decision X/14 of the Parties to the Protocol establishes criteria for granting of exemptions for those uses. The Commission should be empowered to establish conditions for essential laboratory and analytical uses. To

¹¹ ~~QJL 333, 22.12.1994, p. 1~~

avoid an increase in the quantities used for these purposes, producers and importers should not be allowed to significantly increase the quantities placed on the market. Specific conditions decided by the Parties for the placing on the market of substances for those uses should be integrated in this Regulation to ensure compliance with them.

↩

↓ 2037/2000 recital (9) (adapted)

⇒ new

(109) The ~~growing~~ availability of alternatives to methyl bromide should be reflected in more substantial reductions in its production and consumption compared to the ~~Montreal Protocol~~. The ~~⇒ exemption for critical uses~~ ~~↩ production and consumption~~ of methyl bromide should cease completely ~~⇒ whilst maintaining the possibility to grant derogation in emergency situations in the case of unexpected pests or disease outbreaks where such emergency use is to be permitted under Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market¹² and Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market¹³. In such cases measures to reduce emissions, such as the use of virtually impermeable films for soil fumigation, should be foreseen. ~~↩ subject to possible derogations for critical uses determined at Community level following the criteria established under the Montreal Protocol~~.~~

(11) The use of methyl bromide for quarantine and ~~pre-shipment~~ pre-shipment applications should also be controlled. ~~Such use~~ ~~⊗~~ The average levels of use during the period from 2005 to 2008 ~~⊗~~ should not ~~⊗~~ be exceeded ~~⊗~~ ~~exceed current levels~~ and ultimately be reduced ~~⇒~~ and phased-out by 2015, while in the meantime recuperation technologies should be applied ~~↩ in the light of technical development and developments under the Montreal Protocol~~.

↓ 2037/2000 recital (10) (adapted)

~~(10) Regulation (EC) No 3093/94 provides for controls on the production of all other ozone-depleting substances but not for controls on the production of hydrochlorofluorocarbons. It is appropriate to introduce such provision to ensure that hydrochlorofluorocarbons do not continue to be used where non-ozone-depleting alternatives exist. Measures for the control of the production of hydrochlorofluorocarbons should be taken by all Parties to the Montreal Protocol. A freeze on production of hydrochlorofluorocarbons would reflect that need and the Community's determination to take a leading role in this respect. The quantities produced should be adapted to the reductions envisaged for the placing on the Community market of hydrochlorofluorocarbons and to the declining demand worldwide as a consequence of reductions in the consumption of hydrochlorofluorocarbons required by the Protocol.~~

¹² OJ L 230, 19.8.1991, p. 1. Directive as last amended by Commission Directive 2007/52/EC (OJ L 214, 17.8.2007, p. 3).

¹³ OJ L 123, 24.4.1998, p. 1. Directive as last amended by Commission Directive 2007/70/EC of 29 November 2007 (OJ L 312, 30.11.2007 p. 26).

↓ 2037/2000 recital (11) (adapted)
⇒ new

~~(1211)~~ The ~~Montreal~~ Protocol, in Article 2F(7), requires the Parties to endeavour to ensure that the use of hydrochlorofluorocarbons is limited to those applications where other more environmentally suitable alternative substances or technologies are not available. In view of the availability of alternative and substitute technologies, the placing on the market and use of hydrochlorofluorocarbons ~~and~~ ☒ as well as of ☒ products ☒ and equipment ☒ containing ⇒ or relying on ⇐ hydrochlorofluorocarbons can be further limited. Decision VI/13 ~~of the Meeting~~ of the Parties to the ~~Montreal~~ Protocol provides that the evaluation of alternatives to hydrochlorofluorocarbons should take into account such factors as ozone-depleting potential, energy efficiency, potential flammability, toxicity and global warming ☒ potential ☒ and the potential impacts on the effective use and phase-out of chlorofluorocarbons and halons. ☒ The Parties concluded in that decision that ☒ ~~hydrochlorofluorocarbon~~ controls under the ~~Montreal~~ Protocol should be considerably tightened to protect the ozone layer and to reflect the availability of alternatives.

↓ new

(13) Control measures regarding products and equipment containing controlled substances should be extended to products and equipment relying on those substances in order to prevent circumventions of the restrictions under this Regulation. By covering additionally products and equipment for which the design, the use or the proper functioning requires the presence of a controlled substance, a potential opportunity to place on the market, import or export products or equipment which do not contain controlled substances at that moment, but which would have to be refilled at a later date, is eliminated. Furthermore, exemptions for products and equipment manufactured before the entry into force of the control measures should be removed as they are no longer relevant and might constitute a risk of illegal placing on the market and trade.

↓ 2037/2000 recital (12) (adapted)
⇒ new

~~(1412)~~ ~~Quotas for the release for free circulation in the Community of controlled substances should be allocated only for limited uses of controlled substances.~~ Controlled substances ~~and~~ as well as products ☒ and equipment ☒ containing ⇒ or relying on ⇐ controlled substances from States not party to the ~~Montreal~~ Protocol should not be imported. ⇒ Furthermore, the export of products and equipment containing or relying on hydrochlorofluorocarbons after the entry into force of ban on use of those products and equipment in the Community should be prohibited in order to avoid the building-up of banks of those substances in countries where sufficient destruction facilities are not available. ⇐

↓ 2037/2000 recital (13) (adapted)
⇒ new

(15~~13~~) The licensing system for controlled substances ~~should be extended to~~ includes the authorisation of exports of controlled substances, in order to ☒ improve the monitoring of and control of ☒ ~~monitor~~ trade in ozone-depleting substances and to allow for exchange of information between Parties. ⇒ That licensing system should be extended to products and equipment containing or relying on controlled substances ⇐.

↓ new

(16) To improve the monitoring and control of trade the licensing should cover not only the entry of goods into the customs territory for release for free circulation in the Community but also the entry under other customs procedures or for customs-approved treatments and uses. Transshipment in Community ports and airports as well as transit through the Community under customs supervision should still be possible without licensing in order to avoid unnecessary burden on operators and customs authorities.

(17) Before issuing import and export licences the Commission should be enabled to verify with the competent authorities of the third country concerned whether the intended transaction would comply with the requirements applicable in that country, in order to avoid illegal and unwanted trade.

(18) Council Directive 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances¹⁴ and Directive 1999/45/EC of the European Parliament and of the Council of 31 May 1999 concerning the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations¹⁵ require the labelling of substances classified as ozone depleting substances. As ozone depleting substances produced for feedstock uses can be released for free circulation in the Community, they should be distinguished from those substances produced for other uses, in order to avoid any diversions of feedstock to other uses which are controlled under the Regulation. Furthermore, in order to inform end users and to facilitate the enforcement of the Regulation also products and equipment containing or relying on such substances should be so labelled during servicing and maintenance.

↓ 2037/2000 recital (14) (adapted)
⇒ new

(19~~14~~) ⇒ To reduce the release of controlled substances in the atmosphere, ⇐ ~~provision~~ should be made for the recovery of used controlled substances, and ~~to prevent~~ ☒ the prevention of ☒ leakages of controlled substances.

¹⁴ OJ 196, 16.8.1967, p. 1. Directive as last amended by Directive 2006/121/EC of the European Parliament and of the Council (OJ L 396, 30.12.2006, p. 850).

¹⁵ OJ L 200, 30.7.1999, p. 1. Directive as last amended by Regulation (EC) No 1907/2006 (OJ L 396, 30.12.2006, p. 1).

↓ 2037/2000 recital (15) (adapted)
⇒ new

~~(2015)~~ The ~~Montreal~~ Protocol requires reporting on trade in ozone-depleting substances. Annual reporting should therefore be required from producers, importers and exporters of controlled substances. ⇒ In order to enable the Commission to streamline the reporting procedures to comply with the Protocol and avoid duplications in the process, destruction facilities should also report directly to the Commission. To ensure compliance with reporting obligations under the Protocol and to improve their practical application the Commission should be empowered to modify the reporting requirements for Member States and undertakings. ⇐

↓ new

(21) The protection of individuals with regard to the processing of personal data by the Member States is governed by Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data¹⁶ and the protection of individuals with regard to the processing of personal data by the Commission is governed by Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data¹⁷ in particular as regards to the requirements of confidentiality and security of processing, the transfer of personal data from the Commission to the Member States, the lawfulness of processing, and the rights of data subjects to information, access to and rectification of their personal data.

(22) Member States should carry out inspections on a risk-based approach in order to ensure compliance with all provisions of the Regulation thus targeting those activities representing the highest risk of illegal trade or emission of controlled substances.

(23) In order to ensure compliance with the Protocol, the Commission should be empowered to align Annexes to this Regulation with decisions of the Parties, in particular with those concerning approved destruction methods, conditions for the placing on the market of controlled substances for essential laboratory and analytical uses and concerning processes in which controlled substances may be used as processing agents.

↓ 2037/2000 recital (16) (adapted)

~~(2416)~~ The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the

¹⁶ OJ L 281, 23.11.1995, p. 31. Directive as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council of 29 September 2003 (OJ L 284, 31.10.2003, p. 1).

¹⁷ OJ L 8, 12.1.2001, p. 1.

procedures for the exercise of implementing powers conferred on the Commission
☒¹⁸ ☒.

↓ new

(25) In particular, the Commission should be empowered to determine the format and content of labels for controlled substances for feedstock uses, to amend Annex III on processes for which controlled substances may be used as process agents, to adopt measures to reduce the placing on the market and use of methyl bromide for quarantine and pre-shipment uses, to amend Annex VI on critical uses of halons, to adopt additional monitoring and control measures on trade, to adopt requirements for products produced with controlled substances in countries not party to the Protocol, to amend Annex VII on destruction technologies, to establish a list with products and equipment from which the recovery and subsequent destruction of controlled substances shall be mandatory, to adopt minimum qualification requirements for personnel, to establish requirements for the prevention of emissions and leakages of controlled substances, to include new substances into Annex II and to amend reporting requirements for Member States and undertakings. Since those measures are of general scope and are designed to amend non-essential elements of this Regulation, *inter alia* by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

↓ new

(26) Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste¹⁹ and Council Directive 91/689/EEC of 12 December 1991 on hazardous waste²⁰ provide for measures on the destruction of controlled substances. In accordance with the Protocol only technologies approved by the Parties may be applied to the destruction of controlled substances. The relevant Decisions of the Parties should therefore be incorporated in this Regulation.

(27) The Commission should be empowered to compile a list of products and equipment for which recovery, or destruction without prior recovery, of controlled substances shall be considered technically and economically feasible, and therefore mandatory.

↓ 2037/2000 recital (17) (adapted)
⇒ new

~~(28)~~ ⇒ A flexible mechanism should be established to ensure that substances identified as ozone depleting by the Scientific Assessment Panel under the Protocol are to be reported, to allow for assessing the magnitude of their environmental impact, and to ensure that those new substances which have been identified as having a significant ozone depleting potential are submitted to control measures ← ~~Decision X/8 of the~~

¹⁸ OJ L 184, 17.7.1999, p. 23 ☒ Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11). ☒

¹⁹ OJ L 114, 27.4.2006, p 9.

²⁰ OJ L 377, 31.12.1991, p. 20. Directive as last amended by Regulation (EC) No 166/2006 of the European Parliament and of the Council, OJ L 33, 4.2.2006, p. 1.

~~10th meeting of the Parties to the Montreal Protocol encourages Parties to take measures actively, as appropriate, to discourage the production and marketing of new ozone-depleting substances and in particular of bromochloromethane. To this end a mechanism should be established to provide for new substances to be addressed by this Regulation. The production, importation, placing on the market and use of bromochloromethane should be prohibited.~~

↓ 2037/2000 recital (18) (adapted)

~~(18) The switch to new technologies or alternative products, required because the production and use of controlled substances are to be phased out, could lead to problems for small and medium-sized enterprises (SMEs) in particular. The Member States should therefore consider providing appropriate forms of assistance specifically to enable SMEs to make the necessary changes,~~

HAVE ADOPTED THIS REGULATION:

CHAPTER I

~~INTRODUCTORY~~ ☒ GENERAL ☒ PROVISIONS

↓ new

Article 1

Subject matter

↓ 2037/2000 Art. 1 paragraph 1 (adapted)
⇒ new

This Regulation ~~shall apply to the~~ ☒ lays down rules on the ☒ production, importation, exportation, placing on the market, use, recovery, recycling, ~~and~~ reclamation and destruction of ~~chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride, 1,1,1-trichloroethane, methyl bromide, hydrobromofluorocarbons, hydrochlorofluorocarbons and bromochloromethane,~~ to ☒ substances that deplete the ozone layer, on ☒ the reporting of information ~~on~~ ☒ related to ☒ those substances and ☒ on ☒ ~~to~~ the importation, exportation, placing on the market and use of products and equipment containing ⇒ or relying on ⇐ those substances.

↓ 2037/2000 Art. 1

Article 2~~1~~

Scope

↓ 1804/2003 Art. 1.1 (adapted)
⇒ new

1. _____ This Regulation shall apply to the ☒ controlled substances, to new substances and ☒ ~~production, importation, exportation, placing on the market, use, recovery, recycling and reclamation and destruction of chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride, 1,1,1-trichloroethane, methyl bromide, hydrobromofluorocarbons, hydrochlorofluorocarbons and bromochloromethane,~~ to the reporting of information on these substances and to the importation, exportation, placing on the market and use of products and equipment containing ⇒ or relying on controlled ☐ these substances.

↓ 2037/2000 Article 2, 4th and 14th indent (adapted)
⇒ new

2. ⇒ This Regulation shall not apply to ☐ ~~This definition shall not cover any substance which is in a manufactured product other than a container used for transportation or storage of that substance, or insignificant quantities of any controlled substance~~ ☒ referred to in paragraph 1 ☒, ~~originating~~ ☒ contained in any product or substance and that originates ☒ from inadvertent or coincidental production during a manufacturing process, from unreacted feedstock, or from use as a processing agent which is present in chemical substances as trace impurities, or that is emitted during product manufacture or handling.

↓ 2037/2000 Art. (2) (adapted)

Article 23

Definitions

For the purposes of this Regulation ☒ the following definitions shall apply ☒:

~~‘Protocol’ means the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer, as last amended and adjusted,~~

~~‘Party’ means any party to the Protocol,~~

(1) ~~‘State not party to the Protocol’~~ ☒ means ☒, with respect to a particular controlled substance, any State ~~or regional economic integration organisation~~ that has not agreed to be bound by the provisions of the ☒ Montreal ☒ Protocol ☒ on Substances that Deplete the Ozone Layer (hereinafter "the Protocol") ☒ applicable to that substance,

↓ 1804/2003 Art. 1.2(a) (adapted)

(2) ~~‘controlled substances’ means~~ ☒ substances listed in Annex I, including their isomers ☒ ~~chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride, 1,1,1-trichloroethane, methyl bromide, hydrobromofluorocarbons, hydrochlorofluorocarbons and bromochloromethane,~~

whether alone or in a mixture, and whether they are virgin, recovered, recycled or reclaimed. ~~This definition shall not cover any controlled substance which is in a manufactured product other than a container used for the transportation or storage of that substance, or insignificant quantities of any controlled substance, originating from inadvertent or coincidental production during a manufacturing process, from unreacted feedstock, or from use as a processing agent which is present in chemical substances as trace impurities, or that is emitted during product manufacture or handling,~~

↓ 2037/2000 Art. 2 (adapted)

~~≡ 'chlorofluorocarbons' (CFCs) means the controlled substances listed in Group I of Annex I, including their isomers,~~

~~≡≡≡ 'other fully halogenated chlorofluorocarbons' means the controlled substances listed in Group II of Annex I, including their isomers,~~

~~(3)- 'halons' means the controlled substances listed in Group III of Annex I, including their isomers,~~

~~≡≡≡ 'carbon tetrachloride' means the controlled substance specified in Group IV of Annex I,~~

~~≡≡≡ '1,1,1 trichloroethane' means the controlled substance specified in Group V of Annex I,~~

~~(4)- 'methyl bromide' means the controlled substance specified in Group VI of Annex I,~~

~~≡≡≡ 'hydrobromofluorocarbons' means the controlled substances listed in Group VII of Annex I, including their isomers,~~

↓ 1804/2003 Art. 1.2(b) (adapted)

~~≡≡≡ 'bromochloromethane' means the controlled substance indicated in Group IX of Annex I,~~

↓ 2037/2000 Art. 2 (adapted)

~~(5)- 'hydrochlorofluorocarbons' (HCFCs) means the controlled substances listed in Group VIII of Annex I, including their isomers,~~

~~(6)- 'new substances' means substances listed in Annex II. This definition shall cover substances whether alone or in a mixture, and whether they are virgin, recovered, recycled or reclaimed. This definition shall not cover any substance which is in a manufactured product other than a container used for transportation or storage of that substance, or insignificant quantities of any new substance, originating from inadvertent or coincidental production during a manufacturing process or from unreacted feedstock,~~

- ~~(7)-~~ 'feedstock' means any controlled substance or new substance that undergoes chemical transformation in a process in which it is entirely converted from its original composition and whose emissions are insignificant,
- ~~(8)-~~ 'processing agent' means controlled substances used as chemical processing agents in those applications listed in Annex III ~~VI~~, ~~in installations existing at 1 September 1997, and where emissions are insignificant. The Commission shall, in the light of those criteria and in accordance with the procedure referred to in Article 18(2), establish a list of undertakings in which the use of controlled substances as processing agents shall be permitted, laying down maximum emission levels for each of the undertakings concerned. It may, in accordance with the procedure referred to in Article 18(2), amend Annex VI as well as the list of undertakings referred to above in the light of new information or technical developments, including the review provided for in Decision X/14 of the Meeting of the Parties to the Protocol,~~
- ~~(9)-~~ 'producer' means any natural or legal person manufacturing controlled substances ☒ or new substances ☒ within the Community,
- ~~(10)-~~ 'production' means the amount of controlled substances produced ☒, including the amount produced as by-product ☒, less the amount destroyed by technologies approved by the Parties ~~and less the amount entirely used as feedstock or as a processing agent in the manufacture of other chemicals~~. No amount recovered, recycled or reclaimed shall be considered as 'production',
- ~~(11)-~~ 'ozone-depleting potential' means the figure specified in ~~the third column of~~ Annex I ☒ and II ☒ representing the potential effect of each controlled substance ☒ or new substances ☒ on the ozone layer,
- ~~(12)-~~ 'calculated level' means a quantity determined by multiplying the quantity of each controlled substance by its ozone-depleting potential and by adding together, for each group of controlled substances in Annex I separately, the resulting figures,
- ~~(13)-~~ 'industrial rationalisation' means the transfer either between Parties or within a Member State of all or a portion of the calculated level of production of one producer to another, for the purpose of optimising economic efficiency or responding to anticipated shortfalls in supply as a result of plant closures,

↓ new

- (14) 'import' means any entry of goods into the customs territory of the Community,
- (15) 'export' means the exit of Community goods from the Community customs territory or of non-Community goods in the case of re-exportation, as referred to in Regulation (EC) No 450/2008 of the European Parliament and of the Council²¹.

²¹ OJ L 145, 4.6.2008, p. 1

- (16)- 'placing on the market' means the supplying or making available to third persons ⇒ within the Community for the first time ⇐, against payment or free of charge, ⇒ and includes the release for free circulation as referred to in Regulation (EC) No 450/2008 ⇐ of controlled substances or products containing controlled substances covered by this Regulation,
- (17)- 'use' means the utilisation of controlled substances ☒ or new substances ☒ in the production or maintenance, in particular refilling, of products or equipment or in other processes ~~except for feedstock and processing agent uses,~~
- ~~'reversible air conditioning/heat pump system' means a combination of interconnected refrigerant containing parts constituting one closed refrigeration circuit, in which the refrigerant is circulated for the purpose of extracting and rejecting heat (i.e. cooling, heating), processes which are reversible in that the evaporators and condensers are designed to be interchangeable in their functions,~~
- ~~'inward processing' means a procedure provided for in Article 114(1)(a) of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code²²,~~
- (18)- 'recovery' means the collection and the storage of controlled substances from, for example, machinery, equipment and containment vessels during servicing or before disposal,
- (19)- 'recycling' means the reuse of a recovered controlled substance following a basic cleaning process such as filtering and drying. ~~For refrigerants, recycling normally involves recharge back into equipment as is often carried out on site,~~
- (20)- 'reclamation' means the reprocessing and upgrading of a recovered controlled substance through such processes as filtering, drying, distillation and chemical treatment in order to restore the substance to a specified ~~standard of performance~~ ☒ quality equivalent to virgin material ☒, ~~which often involves processing off site at a central facility,~~
- (21)- 'undertaking' means any natural or legal person:
- who produces, recycles ☒ or reclaims ☒ for placing on the market ☒, ☒ ~~or~~ uses ⇒ or destroys ⇐ controlled substances ☒ or new substances ☒ ~~for industrial or commercial purposes in the Community,~~
 - who ~~releases~~ ☒ imports ☒ such ~~imported~~ substances for free circulation in the Community, or
 - who exports such substances ~~from the Community for industrial or commercial purposes.~~

²² OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 955/1999 (OJ L 119, 7.5.1999, p. 1.)

↓ new

(22) 'quarantine applications' means treatments to prevent the introduction, establishment or spread of officially controlled pests of potential importance to the areas endangered thereby and not yet present there, or present but not widely distributed, including diseases, or to ensure their control performed or authorized by a national authority;

(23) 'pre-shipment applications' means treatments, other than quarantine applications, applied within 21 days prior to export to meet the requirements which are established by a national authority of the importing or of the exporting country.

↓ 2037/2000 (adapted)
⇒ new

CHAPTER II

~~PHASE-OUT SCHEDULE~~ ☒ CONTROLLED SUBSTANCES ☒

Article ~~34~~

~~Control of production of controlled substances~~ ☒ Production ☒

1. ~~Subject to paragraphs 5 to 10, the~~ ☒ The ☒ production of ⇒ controlled substances except hydrochlorofluorocarbons ⇐ ~~the following~~ shall be prohibited.≡

~~(a) chlorofluorocarbons;~~

~~(b) other fully halogenated chlorofluorocarbons;~~

~~(c) halons;~~

~~(d) carbon tetrachloride;~~

~~(e) 1,1,1 trichloroethane;~~

~~(f) hydrobromofluorocarbons;~~

↓ 1804/2003 Art. 1.3 (adapted)

~~(g) bromochloromethane~~

↓ 2037/2000 Art. 3(1)
subparagraph 2 (adapted)

~~In the light of the proposals made by Member States, the Commission shall, in accordance with the procedure referred to in Article 18(2), apply the criteria set out in Decision IV/25 of the Parties in order to determine every year any essential uses for which the production and~~

~~importation of controlled substances referred to in the first subparagraph may be permitted in the Community and those users who may take advantage of those essential uses. Such production and importation shall be allowed only if no adequate alternatives or recycled or reclaimed controlled substances referred to in the first subparagraph are available from any of the Parties.~~

↓ 2037/2000 Art. 3(2) (adapted)

~~2. (i) Subject to paragraphs 5 to 10, each producer shall ensure that:~~

~~(a) the calculated level of its production of methyl bromide in the period 1 January to 31 December 1999 and in each 12-month period thereafter does not exceed 75 % of the calculated level of its production of methyl bromide in 1991;~~

~~(b) the calculated level of its production of methyl bromide in the period 1 January to 31 December 2001 and in each 12-month period thereafter does not exceed 40 % of the calculated level of its production of methyl bromide in 1991;~~

~~(c) the calculated level of its production of methyl bromide in the period 1 January to 31 December 2003 and in each 12-month period thereafter does not exceed 25 % of the calculated level of its production of methyl bromide in 1991;~~

~~(d) it produces no methyl bromide after 31 December 2004.~~

~~The calculated levels referred to in subparagraphs (a), (b), (c) and (d) shall not include the amount of methyl bromide produced for quarantine and pre-shipment applications.~~

~~(ii) In the light of the proposals made by Member States, the Commission shall, in accordance with the procedure referred to in Article 18(2), apply the criteria set out in Decision IX/6 of the Parties, together with any other relevant criteria agreed by the Parties, in order to determine every year any critical uses for which the production, importation and use of methyl bromide may be permitted in the Community after 31 December 2004, the quantities and uses to be permitted and those users who may take advantage of the critical exemption. Such production and importation shall be allowed only if no adequate alternatives or recycled or reclaimed methyl bromide is available from any of the Parties.~~

~~In an emergency, where unexpected outbreaks of particular pests or diseases so require, the Commission, at the request of the competent authority of a Member State, may authorise the temporary use of methyl bromide. Such authorisation shall apply for a period not exceeding 120 days and to a quantity not exceeding 20 tonnes.~~

↓ 2037/2000 Art. 3(3) (adapted)

⇒ new

~~23. Subject to paragraphs 8, 9 and 10, each~~ ☒ Each ☒ producer shall ensure ☒ the following ☒ that:

~~(a) the calculated level of its production of hydrochlorofluorocarbons in the period 1 January 2000 to 31 December 2000 and in each 12-month period thereafter does not exceed the calculated level of its production of hydrochlorofluorocarbons in 1997;~~

~~(b) the calculated level of its production of hydrochlorofluorocarbons in the period ~~from 1 January 2008~~ 2010 ~~to 31 December 2008~~ 2010 and in each 12-month period thereafter does not exceed 35 % of the calculated level of its production of hydrochlorofluorocarbons in 1997;~~

~~(be) the calculated level of its production of hydrochlorofluorocarbons in the period ~~from 1 January 2014~~ 2014 and in each 12-month period thereafter does not exceed ~~20~~ 14 % of the calculated level of its production of hydrochlorofluorocarbons in 1997;~~

~~(cd) the calculated level of its production of hydrochlorofluorocarbons in the period 1 January 2020 to 31 December 2020 and in each 12-month period thereafter does not exceed 15 % of the calculated level of its production of hydrochlorofluorocarbons in 1997;~~

~~(e) it produces no hydrochlorofluorocarbons after 31 December ~~2019~~ 2025.~~

~~Before 31 December 2002, the Commission shall review the level of production of hydrochlorofluorocarbons with a view to determining:~~

- ~~– whether a production cut ahead of the year 2008 should be proposed, and/or~~
- ~~– whether a change to the levels of production provided for under (b), (c) and (d) should be proposed.~~

~~This review will take into account the development of hydrochlorofluorocarbon consumption worldwide, the hydrochlorofluorocarbon exports from the Community and other OECD countries and the technical and economic availability of alternative substances or technologies as well as relevant international developments under the Protocol.~~

↓ 2037/2000 Art. 3 (adapted)

~~4. The Commission shall issue licences to those users identified in accordance with the second subparagraph of paragraph 1 and paragraph 2(ii) and shall notify them of the use for which they have authorisation and the substances and quantities thereof that they are authorised to use.~~

~~5. A producer may be authorised by the competent authority of the Member State in which that producer's relevant production is situated to produce the controlled substances referred to in paragraphs 1 and 2 for the purpose of meeting the requests licensed in accordance with paragraph 4. The competent authority of the Member State concerned shall notify the Commission in advance of its intention to issue any such authorisation.~~

~~6. The competent authority of the Member State in which a producer's relevant production is situated may authorise that producer to exceed the calculated levels of production laid down in paragraphs 1 and 2 in order to satisfy the basic domestic needs of Parties pursuant to Article 5 of the Protocol, provided that the additional calculated levels of production of the Member State concerned do not exceed those permitted for that purpose by Articles 2A to 2E~~

~~and 2H of the Protocol for the periods in question. The competent authority of the Member State concerned shall notify the Commission in advance of its intention to issue any such authorisation.~~

~~7. To the extent permitted by the Protocol, the competent authority of the Member State in which a producer's relevant production is situated may authorise that producer to exceed the calculated levels of production laid down in paragraphs 1 and 2 in order to satisfy any essential or critical uses of Parties at their request. The competent authority of the Member State concerned shall notify the Commission in advance of its intention to issue any such authorisation.~~

~~8. To the extent permitted by the Protocol, the competent authority of the Member State in which a producer's relevant production is situated may authorise that producer to exceed the calculated levels of production laid down in paragraphs 1 to 7 for the purpose of industrial rationalisation within the Member State concerned, provided that the calculated levels of production of that Member State do not exceed the sum of the calculated levels of production of its domestic producers as laid down in paragraphs 1 to 7 for the periods in question. The competent authority of the Member State concerned shall notify the Commission in advance of its intention to issue any such authorisation.~~

~~9. To the extent permitted by the Protocol, the Commission may, in agreement with the competent authority of the Member State in which a producer's relevant production is situated, authorise that producer to exceed the calculated levels of production laid down in paragraphs 1 to 8 for the purpose of industrial rationalisation between Member States, provided that the combined calculated levels of production of the Member States concerned do not exceed the sum of the calculated levels of production of their domestic producers as laid down in paragraphs 1 to 8 for the periods in question. The agreement of the competent authority of the Member State in which it is intended to reduce production shall also be required.~~

~~10. To the extent permitted by the Protocol, the Commission may, in agreement with both the competent authority of the Member State in which a producer's relevant production is situated and the government of the third Party concerned, authorise a producer to combine the calculated levels of production laid down in paragraphs 1 to 9 with the calculated levels of production allowed to a producer in a third Party under the Protocol and that producer's national legislation for the purpose of industrial rationalisation with a third Party, provided that the combined calculated levels of production by the two producers do not exceed the sum of the calculated levels of production allowed to the Community producer under paragraphs 1 to 9 and the calculated levels of production allowed to the third Party producer under the Protocol and any relevant national legislation.~~

↓ 2037/2000 Art. 4 (adapted)

Article 45

~~Control of the~~ **Placing on the market and use of controlled substances**

↓ 2037/2000 Art. 4(1) (adapted)
→₁ Art. 2 4th indent 2nd sentence

~~1. Subject to paragraphs 4 and 5, the placing on the market and the use of the following controlled substances →₁ This definition shall not cover any controlled substance which ⊗ are not ⊗ is in a manufactured product other than a container used for the transportation or storage of that substance, or insignificant quantities of any controlled substance, originating from inadvertent or coincidental production during a manufacturing process, from unreacted feedstock, or from use as a processing agent which is present in chemical substances as trace impurities, or that is emitted during product manufacture or handling ← shall be prohibited.~~

~~(a) chlorofluorocarbons;~~

~~(b) other fully halogenated chlorofluorocarbons;~~

~~(c) halons;~~

~~(d) carbon tetrachloride;~~

~~(e) 1,1,1-trichloroethane;~~

~~(f) hydrobromofluorocarbons;~~

↓ 1804/2003 Art. 1.4(a) (adapted)

~~(g) bromochloromethane.~~

↓ 2037/2000 4(4)(v) (adapted)

~~2. Except for uses ⊗ referred to Article 13 ⊗ listed in Annex VII, fire protection systems and fire extinguishers containing halons shall be decommissioned before 31 December 2003, and halons shall be recovered in accordance with Article ⊗ 22 ⊗ 16.~~

↓ 2037/2000 Art. 4(1)
subparagraph 2 (adapted)

~~The Commission may, following a request by a competent authority of a Member State and in accordance with the procedure referred to in Article 18(2), authorise a temporary exemption to allow the use of chlorofluorocarbons until 31 December 2004 in delivery mechanisms for hermetically sealed devices designed for implantation in the human body for delivery of measured doses of medication, and until 31 December 2008, in existing military applications, where it is demonstrated that, for a particular use, technically and economically feasible alternative substances or technologies are not available or cannot be used.~~

↓ 2037/2000 Art. 4(2) (adapted)

~~2. i) Subject to paragraphs 4 and 5, each producer and importer shall ensure that:~~

~~(a) the calculated level of methyl bromide which it places on the market or uses for its own account in the period 1 January 1999 to 31 December 1999 and in~~

~~each 12-month period thereafter does not exceed 75 % of the calculated level of methyl bromide which it placed on the market or used for its own account in 1991;~~

~~(b) the calculated level of methyl bromide which it places on the market or uses for its own account in the period 1 January 2001 to 31 December 2001 and in each 12-month period thereafter does not exceed 40 % of the calculated level of methyl bromide which it placed on the market or used for its own account in 1991;~~

~~(c) the calculated level of methyl bromide which it places on the market or uses for its own account in the period 1 January 2003 to 31 December 2003 and in each 12-month period thereafter does not exceed 25 % of the calculated level of methyl bromide which it placed on the market or used for its own account in 1991;~~

~~(d) it does not place any methyl bromide on the market or use any for its own account after 31 December 2004.~~

~~To the extent permitted by the Protocol, the Commission shall, following a request by a competent authority of a Member State and in accordance with the procedure referred to in Article 18(2), adjust the calculated level of methyl bromide referred to in Article 3(2) (i) (c) and subparagraph (c) where it is demonstrated that this is necessary to meet the needs of that Member State, because technically and economically feasible alternatives or substitutes that are acceptable from the standpoint of environment and health are not available or cannot be used.~~

~~The Commission, in consultation with Member States, shall encourage the development, including research, and the use of alternatives to methyl bromide as soon as possible.~~

~~(ii) Subject to paragraph 4, the placing on the market and the use of methyl bromide by undertakings other than producers and importers shall be prohibited after 31 December 2005.~~

~~(iii) The calculated levels referred to in subparagraphs (i) (a), (b), (c) and (d) and (ii) shall not include the amount of methyl bromide produced or imported for quarantine and pre-shipment applications. For the period 1 January 2001 to 31 December 2001 and for each 12-month period thereafter, each producer and importer shall ensure that the calculated level of methyl bromide which it places on the market or uses for its own account for quarantine and pre-shipment applications shall not exceed the average of the calculated level of methyl bromide which it placed on the market or used for its own account for quarantine and pre-shipment in the years 1996, 1997 and 1998.~~

~~Each year Member States shall report to the Commission the quantities of methyl bromide authorised for quarantine and pre-shipment used in their territory, the purposes for which methyl bromide was used, and the progress in evaluating and using alternatives.~~

~~The Commission shall, in accordance with the procedure referred to in Article 18(2), take measures to reduce the calculated level of methyl bromide which producers and~~

~~importers may place on the market or use for their own account for quarantine and pre-shipment in the light of technical and economic availability of alternative substances or technologies and of the relevant international developments under the Protocol.~~

~~(iv) The total quantitative limits for the placing on the market or use for their own account by producers and importers of methyl bromide are set out in Annex III.~~

↓ 2037/2000 Art. 4(3) (adapted)
→₁ 2039/2000 Art. 1

~~3. (i) Subject to paragraphs 4 and 5 and to Article 5(5):~~

~~(a) the calculated level of hydrochlorofluorocarbons which producers and importers place on the market or use for their own account in the period 1 January 1999 to 31 December 1999 and in the 12-month period thereafter shall not exceed the sum of:~~

~~— 2,6 % of the calculated level of chlorofluorocarbons which producers and importers placed on the market or used for their own account in 1989; and~~

~~— the calculated level of hydrochlorofluorocarbons which producers and importers placed on the market or used for their own account in 1989;~~

~~(b) the calculated level of hydrochlorofluorocarbons which producers and importers place on the market or use for their own account in the period 1 January 2001 to 31 December 2001 shall not exceed the sum of:~~

~~— 2,0 % of the calculated level of chlorofluorocarbons which producers and importers placed on the market or used for their own account in 1989; and~~

~~— the calculated level of hydrochlorofluorocarbons which producers and importers placed on the market or used for their own account in 1989;~~

~~(c) the calculated level of hydrochlorofluorocarbons which producers and importers place on the market or use for their own account in the period 1 January 2002 to 31 December 2002 shall not exceed 85 % of the level calculated pursuant to subparagraph (b);~~

~~(d) the calculated level of hydrochlorofluorocarbons which producers and importers place on the market or use for their own account in the period 1 January 2003 to 31 December 2003 shall not exceed 45 % of the level calculated pursuant to subparagraph (b);~~

~~(e) the calculated level of hydrochlorofluorocarbons which producers and importers place on the market or use for their own account in the period 1 January 2004 to 31 December 2004 and in each 12-month period thereafter shall not exceed 30 % of the level calculated pursuant to subparagraph (b);~~

~~(f) the calculated level of hydrochlorofluorocarbons which producers and importers place on the market or use for their own account in the period 1 January 2008 to 31 December 2008 and in each 12-month period thereafter shall not exceed 25 % of the level calculated pursuant to subparagraph (b);~~

~~(g) producers and importers shall not place hydrochlorofluorocarbons on the market or use them for their own account after 31 December 2009;~~

~~(h) each producer and importer shall ensure that the calculated level of hydrochlorofluorocarbons which it places on the market or uses for its own account in the period 1 January 2001 to 31 December 2001 and in the 12-month period thereafter shall not exceed, as a percentage of the calculated levels set out in (a) to (e), →₁ the percentage share assigned to it in 1999 ←;~~

↓ 1366/2006 Art. 1 (adapted)

~~(i) by way of derogation from point (h), each producer and importer in the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia shall ensure that the calculated level of hydrochlorofluorocarbons which it places on the market or uses for its own account shall not exceed, as a percentage of the calculated levels set out in points (b), (d), (e) and (f), the average of its percentage market share in 2002 and 2003.~~

↓ 2037/2000 Art. 4(3) (adapted)

~~(ii) Before 1 January 2001, the Commission shall, in accordance with the procedure referred to in Article 18(2), determine a mechanism for the allocation of quotas to each producer and importer of the calculated levels set out in (d) to (f), applicable for the period 1 January 2003 to 31 December 2003 and for each 12-month period thereafter.~~

~~(iii) In the case of producers, the quantities referred to in this paragraph shall apply to the amounts of virgin hydrochlorofluorocarbons which they place on the market or use for their own account within the Community and which were produced in the Community.~~

~~(iv) The total quantitative limits for the placing on the market or use for their own account by producers and importers of hydrochlorofluorocarbons are set out in Annex III.~~

↓ 2037/2000 Art. 4(4) (adapted)

~~4. (i) (a) Paragraphs 1, 2 and 3 shall not apply to the placing on the market of controlled substances for destruction within the Community by technologies approved by the Parties;~~

~~(b) paragraphs 1, 2 and 3 shall not apply to the placing on the market and use of controlled substances if:~~

~~— they are used for feedstock or as a processing agent; or~~

~~— they are used to meet the licensed requests for essential uses of those users identified as laid down in Article 3(1) and to meet the licensed requests for critical uses of those users identified as laid down in Article 3(2) or to meet the requests for temporary emergency applications authorised in accordance with Article 3(2) (ii).~~

~~(ii) Paragraph 1 shall not apply to the placing on the market, by undertakings other than producers, of controlled substances for the maintenance or servicing of refrigeration and air conditioning equipment until 31 December 1999.~~

~~(iii) Paragraph 1 shall not apply to the use of controlled substances for the maintenance or servicing of refrigeration and air conditioning equipment or in fingerprinting processes until 31 December 2000.~~

↓ 1804/2003 Art. 1.4(b) (adapted)

~~(iv) Paragraph 1(e) shall not apply to the placing on the market and use of halons that have been recovered, recycled or reclaimed in existing fire protection systems until 31 December 2002 or to the placing on the market and use of halons for critical uses as set out in Annex VII. Each year the competent authorities of the Member States shall notify to the Commission the quantities of halons used for critical uses, the measures taken to reduce their emissions and an estimate of such emissions, and the current activities to identify and use adequate alternatives. Each year the Commission shall review the critical uses listed in Annex VII and, if necessary, adopt modifications and, where appropriate, time frames for phase out, taking into account the availability of both technically and economically feasible alternatives or technologies that are acceptable from the standpoint of environment and health, in accordance with the procedure referred to in Article 18(2).~~

↓ 2037/2000 4(4) (adapted)

~~(v) Except for uses listed in Annex VII, fire protection systems and fire extinguishers containing halons shall be decommissioned before 31 December 2003, and halons shall be recovered in accordance with Article 16.~~

~~5. Any producer or importer entitled to place controlled substances referred to in this Article on the market or use them for its own account may transfer that right in respect of all or any quantities of that group of substances fixed in accordance with this Article to any other producer or importer of that group of substances within the Community. Any such transfer shall be notified in advance to the Commission. The transfer of the right to place on the market or use shall not imply the further right to produce or to import.~~

↓ 1804/2003 Art. 1.4(c) (adapted)

~~6. The importation and placing on the market of products and equipment containing chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride, 1,1,1 trichloroethane, hydrobromofluorocarbons and bromochloromethane shall be prohibited, with the exception of products and equipment for which the use of the respective controlled substance has been authorised in accordance with the second subparagraph of Article 3(1) or is listed in Annex VII. Products and equipment shown to be~~

~~manufactured before the entry into force of this Regulation shall not be covered by this prohibition.~~

↓ 2037/2000 Art. 5 (adapted)

~~Article 5~~

~~Control of the use of hydrochlorofluorocarbons~~

~~1. Subject to the following conditions, the use of hydrochlorofluorocarbons shall be prohibited:~~

~~(a) in aerosols;~~

~~(b) as solvents:~~

~~(i) in non-contained solvent uses including open-top cleaners and open-top dewatering systems without refrigerated areas, in adhesives and mould-release agents when not employed in closed equipment, for drain-cleaning where hydrochlorofluorocarbons are not recovered;~~

~~(ii) from 1 January 2002, in all solvent uses, with the exception of precision cleaning of electrical and other components in aerospace and aeronautics applications where the prohibition shall enter into force on 31 December 2008;~~

~~(c) as refrigerants:~~

~~(i) in equipment produced after 31 December 1995 for the following uses:~~

- ~~– in non-confined direct evaporation systems;~~
- ~~– in domestic refrigerators and freezers;~~
- ~~– in motor vehicle, tractor and off-road vehicle or trailer air-conditioning systems operating on any energy source, except for military uses where the prohibition shall enter into force on 31 December 2008;~~
- ~~– in road public transport air-conditioning;~~

~~(ii) in rail transport air-conditioning, in equipment produced after 31 December 1997;~~

~~(iii) from 1 January 2000, in equipment produced after 31 December 1999 for the following uses:~~

- ~~– in public and distribution cold stores and warehouses;~~
- ~~– for equipment of 150 kW and over, shaft input;~~

~~(iv) from 1 January 2001, in all other refrigeration and air-conditioning equipment produced after 31 December 2000, with the exception of fixed air-conditioning equipment, with a cooling capacity of less than 100 kW, where~~

~~the use of hydrochlorofluorocarbons shall be prohibited from 1 July 2002 in equipment produced after 30 June 2002 and of reversible air-conditioning/heat pump systems where the use of hydrochlorofluorocarbons shall be prohibited from 1 January 2004 in all equipment produced after 31 December 2003;~~

~~(v) from 1 January 2010, the use of virgin hydrochlorofluorocarbons shall be prohibited in the maintenance and servicing of refrigeration and air-conditioning equipment existing at that date; all hydrochlorofluorocarbons shall be prohibited from 1 January 2015.~~

~~Before 31 December 2008 the Commission shall review the technical and economic availability of alternatives to recycled hydrochlorofluorocarbons.~~

~~The review shall take into account the availability of technically and economically feasible alternatives to hydrochlorofluorocarbons in existing refrigeration equipment with the view to avoiding undue abandonment of equipment.~~

~~Alternatives for consideration should have a significantly less harmful effect on the environment than hydrochlorofluorocarbons.~~

~~The Commission shall submit the result of the review to the European Parliament and to the Council. It shall, as appropriate, in accordance with the procedure referred to in Article 18(2), take a decision on whether to adapt the date of 1 January 2015;~~

~~(d) for the production of foams:~~

~~(i) for the production of all foams except integral skin foams for use in safety applications and rigid insulating foams;~~

~~(ii) from 1 October 2000, for the production of integral skin foams for use in safety applications and polyethylene rigid insulating foams;~~

~~(iii) from 1 January 2002, for the production of extruded polystyrene rigid insulating foams, except where used for insulated transport;~~

~~(iv) from 1 January 2003, for the production of polyurethane foams for appliances, of polyurethane flexible faced laminate foams and of polyurethane sandwich panels, except where these last two are used for insulated transport;~~

~~(v) from 1 January 2004, for the production of all foams, including polyurethane spray and block foams;~~

~~(e) as carrier gas for sterilisation substances in closed systems, in equipment produced after 31 December 1997;~~

~~(f) in all other applications.~~

~~2. By way of derogation from paragraph 1, the use of hydrochlorofluorocarbons shall be permitted:~~

- ~~(a) in laboratory uses, including research and development;~~
- ~~(b) as feedstock;~~
- ~~(c) as a processing agent;~~

~~3. By way of derogation from paragraph 1, the use of hydrochlorofluorocarbons as fire-fighting agents in existing fire protection systems may be permitted for replacing halons in applications listed in Annex VII under the following conditions:~~

~~halons contained in such fire protection systems shall be replaced completely;~~

~~halons withdrawn shall be destroyed;~~

~~70 % of the destruction costs shall be covered by the supplier of the hydrochlorofluorocarbons;~~

~~each year, Member States making use of this provision shall notify to the Commission the number of installations and the quantities of halons concerned.~~

~~4. The importation and placing on the market of products and equipment containing hydrochlorofluorocarbons for which a use restriction is in force under this Article shall be prohibited from the date on which the use restriction comes into force. Products and equipment shown to be manufactured before the date of that use restriction shall not be covered by this prohibition.~~

~~5. Until 31 December 2009, the use restrictions under this Article shall not apply to the use of hydrochlorofluorocarbons for the production of products for export to countries where the use of hydrochlorofluorocarbons in those products is still permitted.~~

~~6. The Commission may, in accordance with the procedure referred to in Article 18(2), in the light of experience with the operation of this Regulation or to reflect technical progress, modify the list and the dates set out in paragraph 1, but in no case extend the periods set out therein, without prejudice to the exemptions provided for in paragraph 7.~~

~~7. The Commission may, following a request by a competent authority of a Member State and in accordance with the procedure referred to in Article 18(2), authorise a time-limited exemption to allow the use and placing on the market of hydrochlorofluorocarbons in derogation from paragraph 1 and Article 4(3) where it is demonstrated that, for a particular use, technically and economically feasible alternative substances or technologies are not available or cannot be used. The Commission shall immediately inform the Member States of any exemptions granted.~~

↓ new

Article 6

Placing on the market of products and equipment containing or relying on controlled substances

↓ 1804/2003 Art. 1.4(c) = Art 4(6)
(adapted)
⇒ new

~~6.~~ The ~~importation and~~ placing on the market of products and equipment containing ~~or~~ relying on controlled substances ~~⇐ chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride, 1,1,1-trichloroethane, hydrobromofluorocarbons and bromochloromethane~~ shall be prohibited, with the exception of products and equipment for which the use of the respective controlled substance has been authorised in accordance with ~~the second subparagraph of Article 3(1)~~ ~~⇔~~ Articles 10, 11(1), (2) and (4) ~~⇔~~ or ~~⇔~~ 13 ~~⇔ is listed in Annex VII. Products and equipment shown to be manufactured before the entry into force of this Regulation shall not be covered by this prohibition.~~

↓ new

CHAPTER III

EXEMPTIONS AND DEROGATIONS

Article 7

Feedstock uses

1. By way of derogation from Articles 4 and 5, controlled substances may be produced, placed on the market and used as feedstock.
2. Controlled substances produced or placed on the market as feedstock may only be used for that purpose. Containers containing such substances shall be labelled with a clear indication that the substance may only be used as feedstock.
3. The Commission may determine the form and content of the label to be used. Those measures, designed to amend non-essential elements of this Regulation, *inter alia* by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

Article 8

Use of controlled substances as processing agents

1. By way of derogation from Article 4 and 5, controlled substances may be produced, placed on the market and used as processing agents.

↓ 2037/2000 Art 2 16th indent 1st sentence (adapted)
⇒ new

2. ⇒ Controlled substances may only be used as processing agents ⇐ ~~processing agent² means controlled substances used as chemical processing agents in those applications listed in Annex VI,~~ in installations existing at 1 September 1997, and where emissions are insignificant .

↓ new

3. Controlled substances produced or placed on the market as processing agents may only be used for that purpose.

↓ Omnibus [COM(2008) 71 final = COD 2008/0032] 2.3(1) (adapted)
⇒ new

~~43.~~ The Commission ☒ may, ~~☒ shall, in the light of those criteria, and~~ in accordance with the procedure referred to in Article ~~18~~25(2), establish a list of undertakings in which the use of controlled substances as processing agents shall be permitted, laying down ⇒ , where appropriate, ⇐ maximum ⇒ quantities that may be used and ⇐ emission levels for each of the undertakings concerned.

In the light of new information or technical developments, the Commission may:

- a) ~~amend the list of undertakings referred to above in accordance with the procedure referred to in Article 24(2);~~
- b) amend Annex ~~III VI~~☒ referred to in Article 2(8) ☒. ~~Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3).~~

Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

↓ new

Article 9

Placing on the market of controlled substances for destruction

By way of derogation from Article 5, controlled substances may be placed on the market for destruction within the Community in accordance with the requirements for destruction laid out in Article 22(1).

↓ new

Article 10

Essential laboratory and analytical uses of controlled substances other than hydrochlorofluorocarbons

1. By way of derogation from Article 4(1) and 5, controlled substances other than hydrochlorofluorocarbons may be produced, placed on the market and used for essential laboratory and analytical uses, subject to registration and licensing in accordance with this Article.

↓ 2037/2000 Art. 3(1) 2nd subparagraph (adapted)
⇒ new

~~2.~~ In the light of the proposals made by Member States, the Commission shall, in accordance with the procedure referred to in Article ~~25(2)~~~~18(2)~~, ~~apply the criteria set out in Decision IV/25 of the Parties in order to~~ determine ~~every year~~ any essential laboratory and analytical uses for which the production and importation of controlled substances other than hydrochlorofluorocarbons ~~referred to in the first subparagraph~~ may be permitted in the Community , the respective quantities, the period for which the exemption shall be valid and those users who may take advantage of those essential laboratory and analytical uses. ~~Such production and importation shall be allowed only if no adequate alternatives or recycled or reclaimed controlled substances referred to in the first subparagraph are available from any of the Parties.~~

↓ new

3. Controlled substances produced or placed on the market for essential laboratory and analytical uses may only be used for that purpose.

Those substances shall only be placed on the market and further distributed under the conditions set out Annex V. The Commission may amend this Annex.

Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

↓ new

4. Any person using controlled substances other than hydrochlorofluorocarbons for essential laboratory and analytical uses shall register with the Commission, indicating the substances being used, the purpose, the estimated annual consumption and the suppliers of those substances, and shall update that information when changes occur.

↓ new

5. By the date specified in a notice issued by the Commission, producers and importers supplying the persons referred to in paragraph 4 or using the controlled substances for their

own account shall declare to the Commission the foreseen demand for the period specified in the notice, specifying the nature and quantities of controlled substances needed.

↓ 2037/2000 Art. 3(4) (adapted)
⇒ new

64. The Commission shall issue licences to ~~those users identified in accordance with the second subparagraph of paragraph 1 and paragraph 2(ii)~~ ⇒ producers and importers ⇐ and shall notify them of the use for which they have authorisation and the substances and quantities thereof that they are authorised to ⇒ place on the market or to ⇐ use ⇒ for their own account ⇐.

↓ new

The total quantity annually authorised under licences shall not exceed 130% of the average of the calculated level of controlled substances which producers or importers placed on the market or used for their own account for essential laboratory and analytical uses in the years 2005 to 2008.

↓ 2037/2000 Art. 3(5)

75. A producer may be authorised by the competent authority of the Member State in which that producer's relevant production is situated to produce the controlled substances referred to in paragraphs ~~1 and 2~~ for the purpose of meeting the requests licensed in accordance with paragraph 64.

The competent authority of the Member State concerned shall notify the Commission in advance of its intention to issue any such authorisation.

↓ 2037/2000 Art. 3(7) (adapted)

87. To the extent permitted by the Protocol, the competent authority of the Member State in which a producer's relevant production is situated may authorise that producer to produce or to exceed the calculated levels of production laid down in paragraphs ~~6 1 and 2~~ in order to satisfy any essential ⊗ laboratory and analytical ⊗, ~~or critical~~, uses of Parties at their request.

The competent authority of the Member State concerned shall notify the Commission in advance of its intention to issue any such authorisation.

↓ new

Article 11

Use and placing on the market of hydrochlorofluorocarbons and of products and equipment containing or relying on hydrochlorofluorocarbons

1. By way of derogation from Articles 4(2) and 5(1), hydrochlorofluorocarbons may be produced, placed on the market and used

↓ 2037/2000 Art. 5(2)(a)
(adapted)
⇒ new

~~(a)~~ in ☒ for ☒ laboratory ☒ and analytical ☒ uses.

⇒ Any person using hydrochlorofluorocarbons for laboratory and analytical uses shall register with the Commission, indicating the substances being used, the purpose, the estimated annual consumption and the suppliers of those substances, and shall update this information when changes occur ⇐ ~~including research and development.~~

↓ new

2. By way of derogation from Article 5, until 31 December 2014, reclaimed hydrochlorofluorocarbons may be placed on the market and used for the maintenance and servicing of existing refrigeration and air-conditioning equipment, provided that the container labelled with an indication that the substance has been reclaimed.

Until 31 December 2014, recycled hydrochlorofluorocarbons may be used for the maintenance and servicing of existing refrigeration and air-conditioning equipment provided that they have been recovered from such equipment by the undertaking concerned.

3. When reclaimed or recycled hydrochlorofluorocarbons are used for the maintenance and servicing, the refrigeration and air-conditioning equipment concerned shall be labelled with an indication of the type of substance, its quantity contained in the equipment and, as set out in Article 6 of Directive 67/548/EEC, the danger symbol and indication of danger involved in the use of the substance.

↓ 2037/2000 Art. 5(7) (adapted)
⇒ new

~~4.7.~~ ☒ By way of derogation from Articles 5 and 6, ☒ ~~the~~ Commission may, following a request by a competent authority of a Member State and in accordance with the procedure referred to in Article ~~18(2)~~25(2), authorise a time-limited exemption to allow the use and placing on the market of hydrochlorofluorocarbons ~~in derogation from paragraph 1 and Article 4(3)~~ ⇒ and of products and equipment containing or relying on hydrochlorofluorocarbons ⇐ where it is demonstrated that, for a particular use, technically and economically feasible alternative substances or technologies are not available or cannot be used. ~~The Commission shall immediately inform the Member States of any exemptions granted.~~

⇒ The exemption referred to in the first subparagraph may not be authorised for a period which extends beyond 31 December 2019. ⇐

↓ new

Article 12

Quarantine and pre-shipment applications and emergency uses of methyl bromide

1. By way of derogation from Article 5(1), methyl bromide may be placed on the market and used for quarantine and pre-shipment applications until 31 December 2014.

Methyl bromide may only be used on sites approved by the competent authorities of the Member State concerned and under the condition that methyl bromide released from the consignment is recovered with a recovery rate of at least [80 %].

↓ new

2. The calculated level of methyl bromide which importers place on the market or use for their own account in the period from 1 January 2010 to 31 December 2010 and in each 12-month period thereafter until 31 December 2014 shall not exceed 210 ODP tonnes.

↓ 2037/2000 Art.4(2)(iii) 2nd sentence (adapted)
⇒ new

For the period ~~from 1 January 2001 to 31 December 2001~~ and for each 12-month period thereafter ~~until 31 December 2010~~, each ~~producer and importer~~ shall ensure that the calculated level of methyl bromide which it places on the market or uses for its own account for quarantine and ~~pre-shipment~~ pre-shipment applications shall not exceed ~~100 % of~~ the average of the calculated level of methyl bromide which it placed on the market or used for its own account for quarantine and ~~pre-shipment~~ pre-shipment in the years 1996, 1997 and 1998.

↓ new

3. Methyl bromide placed on the market for quarantine and pre-shipment applications may only be used for those purposes.

↓ 2037/2000 Art. 4(2)(i) 3rd subparagraph (adapted)

~~3. The Commission, in consultation with Member States, shall encourage the development, including research, and the use of alternatives to methyl bromide as soon as possible.~~

↓ Omnibus [COM(2008) 71 final = COD 2008/0032] 2.3 (3) (adapted)
⇒ new

4. The Commission shall take measures to reduce the calculated level of methyl bromide which ~~producers and~~ importers may place on the market or use for their own account for quarantine and ~~pre-shipment~~ pre-shipment in the light of technical and economic availability of alternative substances or technologies, ~~and of the relevant international developments under the Protocol~~, in particular by adapting the quantities referred to in paragraph 2.

Those measures, designed to amend non-essential elements of this Regulation, ~~☒~~ *inter alia* ~~☒~~ by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article ~~18(3)~~25(3).

↓ 2037/2000 Art. 3(2)(ii) 2nd subparagraph (adapted)
⇒ new

5. In an emergency, where unexpected outbreaks of particular pests or diseases so require, the Commission, at the request of the competent authority of a Member State, may authorise the temporary ⇒ production, placing on the market and ⇐ use of methyl bromide. Such authorisation shall apply for a period not exceeding 120 days and to a quantity not exceeding 20 ☒ metric ☒ tonnes ⇒ and shall specify measures to be taken to reduce the emissions during the use ⇐.

↓ new

Article 13

Critical uses of halons

↓ new

1. By way of derogation from Article 5(1), halons may be placed on the market and used for critical uses set out in Annex VI.

↓ 1804/2003 Art. 1.4(b)
[=2037/2000 Art. 4(4)(iv) 3rd sentence] (adapted)
⇒ new

2. ~~Each year~~ The Commission ~~shall~~ ⇒ may ⇐ review the critical uses listed in Annex VI ~~VII~~ and, ~~if necessary~~, adopt modifications and, ~~where appropriate~~, time-frames for phase-out ⇒ by defining end dates ⇐, taking into account the availability of both, technically and economically feasible alternatives or technologies that are acceptable from the standpoint of environment and health, ~~in accordance with the procedure referred to in Article 18(2)~~.

↓ Omnibus [COM(2008) 71 final = COD 2008/0032] 2.3(3)(c) 3rd paragraph

Those measures, designed to amend non-essential elements of this Regulation, *inter alia* by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article ~~18~~25(3).

↓ new

3. The Commission may, at the request of the competent authority of a Member State and in accordance with the procedure referred to in Article 25(2), grant derogations from end

dates, provided those end dates have been specified in Annex VI in accordance with paragraph 2, for specific cases where it is demonstrated that no technically and economically feasible alternative is available.

↓ new

Article 14

Transfer of Rights and Industrial rationalisation

↓ 2037/2000 Art. 4(5) (adapted)

~~15.~~ Any producer or importer entitled to place controlled substances ~~referred to in this Article~~ on the market or use them for its own account may transfer that right in respect of all or any quantities of ~~that~~ the respective group of substances fixed in accordance with this Article to any other producer or importer of that group of substances within the Community. Any such transfer shall be notified in advance to the Commission. The transfer of the right to place on the market or use shall not imply the further right to produce or to import.

↓ 2037/2000 Art. 3(8) (adapted)

~~28.~~ To the extent permitted by the Protocol, the competent authority of the Member State in which a producer's relevant production is situated may authorise that producer to exceed the calculated levels of production laid down in Articles 4(2) and 10 ~~paragraphs 1 to 7~~ for the purpose of industrial rationalisation within the Member State concerned, provided that the calculated levels of production of that Member State do not exceed the sum of the calculated levels of production of its domestic producers as laid down in ~~paragraphs 1 to 7~~ Articles 4(2) and 10 for the periods in question. The competent authority of the Member State concerned shall notify the Commission in advance of its intention to issue any such authorisation.

↓ 2037/2000 Art. 3(9) (adapted)

~~39.~~ To the extent permitted by the Protocol, the Commission may, in agreement with the competent authority of the Member State in which a producer's relevant production is situated, authorise that producer to exceed the calculated levels of production laid down in Articles 4(2) and 10 ~~paragraphs 1 to 8~~ for the purpose of industrial rationalisation between Member States, provided that the combined calculated levels of production of the Member States concerned do not exceed the sum of the calculated levels of production of their domestic producers as laid down in Articles 4(2) and 10 ~~paragraphs 1 to 8~~ for the periods in question. The agreement of the competent authority of the Member State in which it is intended to reduce production shall also be required.

↓ 2037/2000 Art 3(10) (adapted)

~~44.~~ To the extent permitted by the Protocol, the Commission may, in agreement with both the competent authority of the Member State in which a producer's relevant production is situated and the government of the third country Party concerned, authorise a producer to combine the calculated levels of production laid down in Articles 4(2) and 10

~~paragraphs 1 to 9~~ with the calculated levels of production allowed to a producer in a third ~~country~~ Party under the Protocol and that producer's national legislation for the purpose of industrial rationalisation with a third ~~country~~ Party, provided that the combined calculated levels of production by the two producers do not exceed the sum of the calculated levels of production allowed to the Community producer under ~~Articles 4(2) and 10~~ ~~paragraphs 1 to 9~~ and the calculated levels of production allowed to the third ~~country~~ Party producer under the Protocol and any relevant national legislation.

↓ 2037/2000

CHAPTER ~~IV~~

TRADE

↓ 2037/2000 Art. 6 (adapted)

Article ~~6~~15

~~Licences to import~~ ~~Imports of controlled substances or products and equipment containing or relying on controlled substances~~ ~~from third countries~~

↓ new

1. Imports of controlled substances which are not in a product other than a container used for the transportation or storage of these substances and of products and equipment, other than personal effects, containing or relying on those substances shall be prohibited.
2. The prohibition set out in paragraph 1 shall not apply to imports of the following:
 - (a) controlled substances if they are intended to be used for essential laboratory and analytical uses referred to in Article 10,
 - (b) controlled substances if they are intended to be used for feedstock or as processing agents,
 - (c) controlled substances that are intended for destruction,
 - (d) methyl bromide that is intended for emergency uses referred to in Article 12(5) or, until 31 December 2014, for quarantine and pre-shipment applications referred to in Article 12(1),
 - (e) products and equipment containing or relying on controlled substances to satisfy essential analytical and laboratory uses referred to in Article 10,
 - (f) products and equipment containing or relying on halon to satisfy critical uses referred to in Article 13,

(g) products and equipment containing hydrochlorofluorocarbons for which the placing on the market has been authorised in accordance with Article 11(4).

↓ 1804/2003 Art. 1.5 (adapted)
[=Art. 6(1)]
⇒ new

~~31. The release for free circulation~~ ⇒ Imports referred to in paragraph 2, with the exception of imports for temporary storage as referred to in Regulation (EC) No 450/2008, including transshipment, or for transit through the Community, ~~in the Community or inward processing of controlled substances~~ shall be subject to the presentation of an import licence. ⇒ Those ~~Such~~ licences shall be issued by the Commission after verification of compliance with Articles ~~6, 7, 8 and 13,~~ ~~16 and 20~~ ~~16 and 20~~. ~~The Commission shall forward a copy of each licence to the competent authority of the Member State into which the substances concerned are to be imported. Each Member State shall appoint a competent authority for that purpose. Controlled substances listed in groups I, II, III, IV, V and IX as listed in Annex I shall not be imported for inward processing.~~

↓ 2037/2000 Art. 6 (adapted)

~~2. The licence, when related to an inward processing procedure, shall be issued only if the controlled substances are to be used in the customs territory of the Community under the system of suspension provided for in Article 114(2) (a) of Regulation (EEC) No 2913/92, and under the condition that the compensating products are re-exported to a State where the production, consumption or import of that controlled substance is not prohibited. The licence shall only be issued following approval of the competent authority of the Member State in which the inward processing operation is to take place.~~

~~3. A request for a licence shall state:~~

~~(a) the names and the addresses of the importer and the exporter;~~

~~(b) the country of exportation;~~

~~(c) the country of final destination if controlled substances are to be used in the customs territory of the Community under the inward processing procedure as referred to in paragraph 2;~~

~~(d) a description of each controlled substance, including:~~

~~– the commercial description;~~

~~– the description and the CN code as laid down in Annex IV;~~

~~– the nature of the substance (virgin, recovered or reclaimed);~~

~~– the quantity of the substance in kilograms;~~

~~(e) the purpose of the proposed import;~~

~~(f) if known, the place and date of the proposed importation and, where relevant, any changes to these data.~~

~~4. The Commission may require a certificate attesting the nature of substances to be imported.~~

↓ Omnibus [COM(2008) 71 final
= COD 2008/0032] 2.3(5)
(adapted)

~~5. The Commission may amend the list of items mentioned in paragraph 3 and Annex IV.~~

~~Those measures, designed to amend a non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3).~~

↓ 2037/2000 Art. 7 (adapted)
⇒ new

Article ~~7~~16

~~Imports~~ ⇒ **Release for free circulation in the Community** ⇐ **of controlled substances from third countries**

1. The release for free circulation in the Community of controlled substances imported from third countries shall be subject to quantitative limits. ☒ The Commission shall determine those limits and allocate quotas ☒ ~~Those limits shall be determined and quotas allocated~~ to undertakings for the period ☒ from ☒ 1 January to 31 December ☒ 2010 ☒ ~~1999~~ and for each 12-month period thereafter in accordance with the procedure referred to in Article ~~18~~25(2).

~~They~~ ☒ The quotas referred to in the first subparagraph ☒ shall be allocated only ☒ for any of the following substances ☒:

~~(a) for controlled substances of groups VI and VIII as referred to in Annex I;~~

~~(a)~~ (a) for controlled substances if they are used for essential ☒ laboratory and analytical ☒ ~~or critical~~ uses ☒ referred to in Article 10 ☒ ~~or~~

(b) ⇒ methyl bromide for either of the following uses: ⇐

⇒ (i) emergency uses referred to in Article 12(5), ⇐

⇒ (ii) until 31 December 2014 and subject to the quantitative limits for the placing on the market provided for in Article 12(2) ⇐ for quarantine and ~~pre-shipment~~ pre-shipment applications;

~~(c) for controlled substances if they are used for feedstock or as processing agents; or~~

~~(d) to undertakings having destruction facilities for recovered controlled substances if the controlled substances are used for destruction in the Community by technologies approved by the Parties.~~

↓ new

2. By the date specified in a notice issued by the Commission, importers of substances referred to in points (a) and (c) shall declare to the Commission the foreseen demand, specifying the nature and quantities of controlled substances needed. On the basis of those declarations the Commission shall establish quantitative limits to the imports of substances referred to in points (a) and (c).

↓ 2037/2000 (adapted)

~~Article 8~~

~~Imports of controlled substances from a State not party to the Protocol~~

~~The release for free circulation in the Community or inward processing of controlled substances imported from any State not party to the Protocol shall be prohibited.~~

~~Article 9~~

~~Imports of products containing controlled substances from a State not party to the Protocol~~

~~1. The release for free circulation in the Community of products and equipment containing controlled substances imported from any State not Party to the Protocol shall be prohibited.~~

↓ Omnibus [COM(2008) 71 final
= COD 2008/0032] 2.3(6)
(adapted)

~~2. A list of products containing controlled substances and of Combined Nomenclature codes is given in Annex V for guidance of the Member States' customs authorities. The Commission may add to, delete items from or amend that list in the light of the lists established by the Parties.~~

~~Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3).~~

↓ 2037/2000 Art. 11 (adapted)
⇒ new

Article ~~11~~17

Export of controlled substances or products ~~⊗~~ and equipment ~~⊗~~ containing ~~⇒~~ or
relying on ~~⇐~~ controlled substances

↓ 1804/2003 Art. 1.6(a) (adapted)
[=Art. 11(1)]
⇒ new

1. Exports from the Community of ~~chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride, 1,1,1 trichloroethane, hydrobromofluorocarbons and bromochloromethane~~ ⇒ controlled substances which are not in a product other than a container used for the transportation or storage of these substances ⇐ or products and equipment, other than personal effects, containing ⇒ or relying on ⇐ those substances ~~or whose continuing function relies on supply of those substances~~ shall be prohibited.

↓ 2037/2000 Art. 11(1) 2nd sentence (adapted)
⇒ new

⊗ 2. ⊗ The ⊗ ~~This~~ prohibition ⊗ set out in paragraph 1 ⊗ shall not apply to exports of:

~~(a) controlled substances produced under Article 3(6) to satisfy the basic domestic needs of Parties pursuant to Article 5 of the Protocol;~~

~~(a)(b)~~ controlled substances produced under Article 3(7) to satisfy essential ~~or critical~~ uses ⇒ referred to in Article 10(2) ⇐ of Parties;

↓ new

(b) controlled substances to satisfy critical uses referred to in Article 13(1) of Parties;

↓ 2037/2000 Art. 11(1) (adapted)
⇒ new

~~(c)~~ controlled substances to be used for feedstock ~~and processing agent applications;~~

⊗ (d) controlled substances to be used as processing agents; ⊗

~~(e)~~ products and equipment containing ⇒ or relying on ⇐ controlled substances produced ~~under~~ ⊗ in accordance with ⊗ Article ~~3(5)~~ ⊗ 10(7) ⊗ or imported under Article ~~7(b)~~ ⊗ 15(2) point (d) and (e) ⊗;

↓ 2037/2000 Art. 11(1) (adapted)
⇒ new

~~(f)~~ recovered, recycled and reclaimed halon stored for critical uses in facilities authorised or operated by the competent authority to satisfy critical uses listed in Annex VII until 31 December 2009, and products and equipment containing ⇒ or relying on ⇐ halon to satisfy critical uses listed in Annex VI VII. By 1 January 2005, the Commission shall undertake a review of exports of such recovered, recycled and reclaimed halon for critical uses and, in accordance with the procedure referred to in

~~Article 18(2), shall take a decision, if appropriate, to prohibit such exports earlier than 31 December 2009;~~

↓ new

(g) virgin or reclaimed hydrochlorofluorocarbons for uses other than destruction.

↓ 2038/2000 Art. 1 (adapted)
[=Art. 11(1)(f)]

~~(f) metered dose inhalers and delivery mechanisms containing chlorofluorocarbons for hermetically sealed devices for implantation in the human body for delivery of measured doses of medication which, under Article 4(1), may be given a temporary authorisation in accordance with the procedure referred to in Article 18(2);~~

↓ 1804/2003 Art. 1.6(c) (adapted)
[=Art. 11(1)(g)]

~~(g) used products and equipment that contain rigid insulating foam or integral skin foam which have been produced with chlorofluorocarbons. This exemption does not apply to:~~

~~refrigeration and air conditioning equipment and products;~~

- ~~refrigeration and air conditioning equipment and products which contain chlorofluorocarbons used as refrigerants, or whose continuing function relies on the supply of chlorofluorocarbons used as refrigerants, in other equipment and products;~~

~~building insulation foam and products.~~

↓ new

3. By way of derogation from paragraph 1, the Commission may, following a request by a competent authority of a Member State and in accordance with the procedure referred to in Article 25(2), authorise the export of products and equipment containing hydrochlorofluorocarbons where it is demonstrated that in view of the economic value and the expected remaining lifetime of the specific good, the prohibition of export would impose a disproportionate burden on the exporter.

↓ 2037/2000 Art. 11 (adapted)

~~2. Exports from the Community of methyl bromide to any State not party to the Protocol shall be prohibited.~~

~~3. From 1 January 2004, exports from the Community of hydrochlorofluorocarbons to any State not party to the Protocol shall be prohibited. The Commission shall, in accordance with the procedure referred to in Article 18(2), examine the above date in the light of relevant international developments under the Protocol and modify it as appropriate.~~

↓ 1804/2003 Art. 1.7 (adapted)
[=Art. 11(4)]

~~4. From 31 December 2003, exports from the Community of halon for critical uses not from storage facilities authorised or operated by the competent authority to store halon for critical uses shall be prohibited.~~

↓ 1804/2003 Art. 1.8 (adapted)
[=Art. 12(1)]

~~4. Exports referred to in points (a) to (d) of paragraph 2 from the Community of controlled substances shall be subject to authorisation licensing. Such That export authorisation licence shall be issued by the Commission to undertakings for the period 1 January to 31 December 2001 and for each 12-month period thereafter after verification of compliance with Article 20. Provisions governing the export authorisation of halon as a controlled substance are set out in paragraph 4. The Commission shall forward a copy of each export authorisation to the competent authority of the Member State concerned.~~

↓ 1804/2003 Art. 1.9 [=Art. 12(4)] (adapted)
⇒ new

5. Exports referred to in points (e) to (g) of paragraph 2 and in paragraph 3 from the Community of halon, and products and equipment containing halon, to satisfy critical uses listed in Annex VII, shall be subject to licensing ⇒, except exports subsequently to transit or temporary storage without having been assigned another customs approved treatment or use as referred to in Regulation (EC) No 450/2008 ⇐. authorisation for the period 1 January to 31 December 2004 and each 12-month period thereafter. Such That export authorisation licence shall be issued by the Commission to the exporter after verification of compliance with Article 11(1)(d) 20 by the competent authority of the Member State concerned.

↓ new

Article 18

Licensing of imports and exports

1. The Commission shall set up and operate an electronic licensing system.

2. Applications for licences referred to in Articles 15 and 17 shall be submitted using the system referred to in paragraph 1. Before submitting application for licence undertakings shall register in that system.

↓ 2037/2000 Art. 6(3) (adapted)
⇒ new

3. An application request for a licence shall state the following:

(a) the names and the addresses of the importer and the exporter;

(b) the country of importation and exportation;

~~(c) the country of final destination if controlled substances are to be used in the customs territory of the Community under the inward processing procedure as referred to in paragraph 2;~~

~~(c)~~ in the case of imports or export of controlled substances a description of each controlled substance, including:

(i) the commercial description,

(ii) the description and the CN code as laid down in Annex IV,

(iii) ~~the nature of the substance~~ whether the substance is virgin, recovered or reclaimed),

(iv) the quantity of the substance in kilograms;

↓ 1804/2003 Art. 1.9 2nd subparagraph [=Art. 12(4)] (adapted)

~~An application for an export authorisation shall record:~~

(d) in the case of imports or exports of products and equipment containing or relying on halon or hydrochlorofluorocarbons

~~– the name and address of the exporter,~~

~~– a commercial description of the export,~~

↓ new

(i) the type and nature of the equipment,

(ii) for countable items the number of units and the quantity of the controlled substance per unit in metric kilograms,

(iii) for uncountable items the total net mass in metric kilograms,

↓ 1804/2003 Art. 1.9 2nd subparagraph [=Art. 12(4)] new

(iv) the total quantity of halon or hydrochlorofluorocarbons contained in metric kilograms ,

(v) the country/countries of final destination of the products and equipment,

↓ new

(vi) whether the controlled substance contained is virgin, reclaimed or waste,

↓ 1804/2003 Art. 1.9 2nd subparagraph [=Art. 12(4)] (adapted)

(vii) in the case of products and equipment containing or relying on halon, a declaration that the halon is they are to be exported for a specific critical use listed in Annex ~~VI~~ VII,

↓ new

(viii) in the case of products and equipment containing or relying on hydrochlorofluorocarbons, the reference to the Commission authorisation referred to in Article 17(3);

↓ 2037/2000 Art. 6(3) (adapted)
⇒ new

(e) the purpose of the proposed import ⇒ including the intended customs-approved treatment and use, where relevant specifying the intended customs procedure ⇐;

(f) ~~if known~~ the place and date of the proposed importation ⇒ or exportation and the customs office where the goods will be declared ⇐ ~~and, where relevant any changes to these data;~~

(g) any further information deemed necessary by the competent authority.

↓ 2037/2000 Art. 12(3) (adapted)
⇒ new

~~43.~~ Each ⇒ importer or ⇐ exporter shall notify the Commission of any changes which might occur during the period of validity of the licence authorisation in relation to the data notified under paragraph 2. ~~Each exporter shall report to the Commission in accordance with Article 19.~~

↓ 2037/2000 Art. 6(2) (adapted)
⇒ new

52. The Commission may require a certificate attesting the nature or composition of substances to be imported ⇒ or exported and may request a copy of the licence issued by the country to which the import or from which the export takes place ⇐.

↓ new

6. The Commission may share the submitted data so far as necessary in specific cases with competent authorities of the Parties concerned and may do either of the following:

- (a) reject the request for an import licence where it is established based on information from the competent authorities of the country concerned that the exporter is not an undertaking authorised to trade in the respective substance in that country,
- (b) reject the application for an export licence where the competent authorities of the importing country have informed the Commission that the import of the controlled substance would constitute a case of illegal trade, or would adversely impact the implementation of control measures of the importing country in place to comply with the obligations under the Protocol or would lead to an excess of the quantitative limits under the Protocol for that country.

↓ 1804/2003 Art. 1.8 last sentence (adapted) [=Art. 12(1) last sentence]

~~74.~~ The Commission shall forward a copy of each licence ~~export authorisation~~ to the competent authority of the Member State concerned.

↓ Omnibus [COM(2008) 71 final = COD 2008/0032] 2.3(5) (adapted)

~~85.~~ The Commission may amend the list of items mentioned in paragraph 3 ~~4~~ and Annex IV.

Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article ~~1825~~ 1825(3).

↓ 2037/2000 (adapted)

~~Article 12~~

~~Export authorisation~~

↓ 1804/2003 Art. 1.8 (adapted) [=Art. 12(1)]

~~1. Exports from the Community of controlled substances shall be subject to authorisation. Such export authorisation shall be issued by the Commission to undertakings for the period 1 January to 31 December 2001 and for each 12-month period thereafter after verification of compliance with Article 11. Provisions governing the export authorisation of halon as a controlled substance are set out in paragraph 4. The Commission shall forward a copy of each export authorisation to the competent authority of the Member State concerned.~~

↓ 2037/2000 Art. 12(2) (adapted)

~~2. An application for an export authorisation shall state:~~

- ~~(a) the name and address of the exporter and of the producer, where it is not the same;~~
- ~~(b) a description of the controlled substance(s) intended for export, including:~~
- ~~– the commercial description,~~
 - ~~– the description and the CN code as laid down in Annex IV,~~
 - ~~– the nature of the substance (virgin, recovered or reclaimed);~~
- ~~(c) the total quantity of each substance to be exported;~~
- ~~(d) the country/countries of final destination of the controlled substance(s);~~
- ~~(e) the purpose of the exports.~~
-

↓ 2037/2000 Art. 12(3) (adapted)

~~3. Each exporter shall notify the Commission of any changes which might occur during the period of validity of the authorisation in relation to the data notified under paragraph 2. Each exporter shall report to the Commission in accordance with Article 19.~~

↓ 1804/2003 Art. 1.9 [=Art. 12(4)] (adapted)

~~4. Exports from the Community of halon, and products and equipment containing halon, to satisfy critical uses listed in Annex VII shall be subject to authorisation for the period 1 January to 31 December 2004 and each 12-month period thereafter. Such export authorisation shall be issued by the Commission to the exporter after verification of compliance with Article 11(1)(d) by the competent authority of the Member State concerned.~~

~~An application for an export authorisation shall record:~~

- ~~– the name and address of the exporter,~~
- ~~– a commercial description of the export,~~
- ~~– the total quantity of halon,~~
- ~~– the country/countries of final destination of the products and equipment,~~
- ~~– a declaration that the halon is they are to be exported for a specific critical use listed in Annex VII,~~
- ~~– any further information deemed necessary by the competent authority.~~

↓ new

Article 19

Measures for monitoring or control

The Commission may adopt additional measures for the monitoring or control of controlled substances or new substances and of products and equipment containing or relying on controlled substances placed under temporary storage, including transshipment, in transit through and re-exported from the customs territory of the Community, on the basis of an evaluation of the potential risks of illegal trade linked to such movements, taking into account the socio-economic impacts of such measures.

Those measures, designed to amend non-essential elements of this Regulation, *inter alia* by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

↓ 2037/2000 Art.13 (adapted)

Article ~~13~~20

~~Exceptional authorisation to~~ Trade with a State not party to the Protocol ☒ and a territory not covered by the Protocol ☒

↓ 2037/2000 Art. 8 (adapted)
⇒ new

1. ~~The release for free circulation in the Community~~ ⇒ import and export ⇐ ~~or inward processing~~ of controlled substances ⇒ and of products and equipment containing or relying on controlled substances ⇐ ~~imported from~~ ⇒ and to ⇐ any State not party to the Protocol shall be prohibited.

↓ 2037/2000 Art. 10 (adapted)
⇒ new

2. ~~In the light of the decision of the Parties, the Council shall, on a proposal from the Commission~~ ⇒ may ⇐ adopt rules applicable to the release for free circulation in the Community of products ☒ and equipment ☒ which were produced using controlled substances but do not contain substances which can be positively identified as controlled substances, imported from any State not party to the Protocol. The identification of such products ☒ and equipment ☒ shall comply with periodical technical advice given to the Parties. ~~The Council shall act by a qualified majority~~

⇒ Those measures, designed to amend non-essential elements of this Regulation, *inter alia* by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3). ⇐

↓ 2037/2000 Art. 13 (adapted)

3. By way of derogation from paragraph 1 ~~Articles 8, 9(1), 10, 11(2) and (3)~~, trade with any State not party to the Protocol in controlled substances and products and equipment ~~which contain~~ containing or relying on such substances or which are produced by means of one or more such substances may be authorised by the Commission, to the extent that the State not party to the Protocol is determined by a meeting of the Parties pursuant Article 4(8) of the Protocol to be in full compliance with the Protocol and has submitted data to that effect as specified in Article 7 of the Protocol. The Commission shall act in accordance with the procedure referred to in Article ~~18~~25(2) of this Regulation.

↓ 2037/2000 Art. 14 (adapted)

~~Article 14~~

~~Trade with a territory not covered by the Protocol~~

~~41.~~ Subject to any decision taken under the second subparagraph ~~2~~, paragraph 1 ~~Articles 8, 9, 11(2) and (3)~~ shall apply to any territory not covered by the Protocol as they apply to any State not party to the Protocol.

~~2.~~ Where the authorities of a territory not covered by the Protocol are in full compliance with the Protocol and have submitted data to that effect as specified in Article 7 of the Protocol, the Commission may decide that some or all of the provisions of paragraph 1 ~~Articles 8, 9 and 11 of this Regulation~~ shall not apply in respect of that territory.

The Commission shall act ~~take its decision~~ in accordance with the procedure referred to in Article ~~25~~18(2).

↓ new

Article 21

List of products and equipment containing or relying on controlled substances

↓ Omnibus [COM(2008) 71 final
= COD 2008/0032] 2.3(6)
(adapted)
⇒ new

~~2.~~ ⇒ The Commission shall make available a ~~A~~ list of products and equipment which might contain ~~containing~~ or rely on controlled substances and of Combined Nomenclature codes ~~is given in Annex V~~ for guidance of the Member States' customs authorities. ~~The Commission may add to, delete items from or amend that list in the light of the lists established by the Parties.~~

~~Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3).~~

↓ 2037/2000 (adapted)
⇒ new

~~Article 15~~

~~Notification of Member States~~

~~The Commission shall immediately notify the Member States of any measures it adopts pursuant to Articles 6, 7, 9, 12, 13 and 14.~~

CHAPTER IV

EMISSION CONTROL

↓ 2037/2000 (adapted)
⇒ new

~~Article 22~~16

~~Recovery~~ ⇒ **and destruction** ⇐ ~~of used controlled substances~~

1. Controlled substances contained in ~~refrigeration, air-conditioning and heat pump equipment, except domestic refrigerators and freezers,~~ equipment containing solvents, ~~or~~ fire protection systems and fire extinguishers, shall, during the servicing and maintenance of equipment or before the dismantling or disposal of equipment, be recovered for destruction by technologies approved by the Parties, ~~listed in Annex VII, or by any other environmentally acceptable destruction technology~~ or be recovered for recycling or reclamation during the servicing and maintenance of equipment or before the dismantling or disposal of equipment

↓ new

2. The Commission may amend Annex VII in order to take new technological developments into account.

Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

↓ 2037/2000 Art. 16(2) (adapted)

~~2. Controlled substances contained in domestic refrigerators and freezers shall be recovered and dealt with as provided for in paragraph 1 after 31 December 2001.~~

↓ 2037/2000 Art. 16(3) (adapted)
⇒ new

3. Controlled substances contained in products, ~~installations~~ and equipment other than those mentioned in paragraphs 1 ~~and 2~~ shall ⇒ , if technically and economically feasible, ⇐ be recovered ☒ for destruction ⇐ or destroyed without prior recovery, applying the technologies referred to in paragraph 1 ⇐, ~~if practicable, and dealt with as provided in paragraph 1.~~

↓ new

The Commission shall establish an Annex to this Regulation with a list of products and equipment for which the recovery or destruction without prior recovery shall be considered technically and economically feasible, specifying, if appropriate, the technologies to be applied.

Those measures, designed to amend non-essential elements of this Regulation, *inter alia* by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

↓ 2037/2000 Art. 16(4) (adapted)

4. Controlled substances shall not be placed on the market in disposable containers, except for essential ☒ laboratory and analytical ☒ uses ☒ referred to in Article 10 ☒.

↓ 2037/2000 Art. 16(5) (adapted)
⇒ new

5. Member States shall take steps to promote the recovery, recycling, reclamation and destruction of controlled substances and shall ~~assign to users, refrigeration technicians or other appropriate bodies responsibility for ensuring compliance with the provisions of paragraph 1. Member States shall define the minimum qualification requirements for the personnel involved. By 31 December 2001 at the latest, Member States shall report to the Commission on the programmes related to the above qualification requirements.~~

The Commission shall evaluate the measures taken by the Member States= ⇒ and may ⇐ in the light of this evaluation and of technical and other relevant information, ~~the Commission,~~ as appropriate, ⇒ adopt ⇐ ~~shall propose~~ measures regarding those minimum qualification requirements.

⇒ Those measures, designed to amend non-essential elements of this Regulation, *inter alia* by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3). ⇐

↓ 1804/2003 Art. 1.10
[=Art.16(6)] (adapted)
⇒ new

~~6. Member States shall report to the Commission by 31 December 2001, and for each 12-month period thereafter, on the systems established to promote the recovery of used controlled substances, including the facilities available and the quantities of used controlled substances recovered, recycled, reclaimed or destroyed.~~

↓ 2037/2000 Art.16(7) (adapted)

~~7. This Article shall be without prejudice to Council Directive 75/442/EEC of 15 July 1975 on waste²³ or to measures adopted following Article 2(2) of that Directive.~~

↓ 2037/2000 Art. 17 (adapted)
⇒ new

Article ~~23~~17

Leakages ⇒ and emissions ⇐ of controlled substances

1. Undertakings shall take ~~a~~All precautionary measures practicable ~~shall be taken~~ to prevent and minimise any leakages of controlled substances. In particular, fixed equipment with a refrigerating fluid charge of more than 3 kg shall be checked for leakages annually.

Member States shall define the minimum qualification requirements for the personnel involved. ~~By 31 December 2001 at the latest, Member States shall report to the Commission on the programmes related to the above qualification requirements. The Commission shall evaluate the measures taken by the Member States.~~ In the light of this an evaluation of these measures taken by the Member States and of technical and other relevant information, the Commission, as appropriate, ~~shall propose~~ ⇒ may adopt ⇐ measures ⇒ regarding the harmonisation of ⇐ those minimum qualification requirements.

⇒ Those measures, designed to amend non-essential elements of this Regulation, inter alia by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3). ⇐

~~The Commission shall promote the preparation of European standards relating to the control of leakages and to the recovery of substances leaking from commercial and industrial air-conditioning and refrigeration equipment, from fire protection systems and from equipment containing solvents as well as, as appropriate, to technical requirements with respect to the leakproofness of refrigeration systems.~~

²³ OJ L 194, 25.7.1975, p. 39. Directive as last amended by Commission Decision 96/350/EC (OJ L 135, 6.6.1996, p. 32).

↓ 2037/2000 Art. 17(2) (adapted)

2. ~~⊗~~ Undertakings shall take ~~⊗~~ ~~a~~All precautionary measures practicable ~~shall be taken~~ to prevent and minimise ~~⊗~~ any ~~⊗~~ leakages of methyl bromide from fumigation installations and ~~⊗~~ other ~~⊗~~ operations in which methyl bromide is used. ~~Whenever methyl bromide is used in soil fumigation, the use of virtually impermeable films for a sufficient time, or other techniques ensuring at least the same level of environmental protection shall be mandatory.~~ Member States shall define the minimum qualification requirements for the personnel involved.

↓ 2037/2000 Art. 17(3) (adapted)
⇒ new

3. ~~⊗~~ Undertakings shall take ~~⊗~~ ~~a~~All precautionary measures practicable ~~shall be taken~~ to prevent and minimise ~~⊗~~ any ~~⊗~~ leakages ~~⇒ and emissions ⇐~~ of controlled substances used as feedstock and as processing agents.

↓ 2037/2000 Art. 17(4) (adapted)
⇒ new

4. ~~⊗~~ Undertakings shall take ~~⊗~~ ~~a~~All precautionary measures practicable ~~shall be taken~~ to prevent and minimise any leakage ~~⇒ and emissions ⇐~~ of controlled substances inadvertently produced in the course of the manufacture of other chemicals.

↓ 2037/2000 Art. 17(5) (adapted)
⇒ new

5. ~~The Commission shall develop as appropriate and ensure the dissemination of notes describing best available technologies and best environmental practices concerning the prevention and minimisation of leakages and emissions of controlled substances.~~

⇒ The Commission may establish the technologies or practices to be used by undertakings to prevent and minimise any leakage and emissions of controlled substances.

Those measures, designed to amend non-essential elements of this Regulation, *inter alia* by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3). ⇐

↓ 2037/2000

CHAPTER VI

NEW SUBSTANCES

Article ~~2224~~

New substances

↓ 2037/2000 Art. 22 (adapted)
⇒ new

1. The production, ⇒ import ⇐ ~~release for free circulation in the Community and inward processing~~, placing on the market, and use ⇒ and export ⇐ of new substances in ⇒ Part A of ⇐ Annex II are prohibited. This prohibition does not apply to new substances if they are used as feedstock ⇒ , for laboratory and analytical uses, to imports for temporary storage including transshipment, and to exports subsequently to transit or temporary storage without having been assigned another customs approved treatment or use as referred to in Regulation (EC) No 450/2008 ⇐.

2. The Commission ~~shall~~ ⇒ may ⇐ , ~~as appropriate, make proposals to~~ include in ⇒ Part A of ⇐ Annex II any substances that are not controlled substances but that are found by the Scientific Assessment Panel under the Protocol to have a significant ozone-depleting potential, ~~including on~~ ☒ and determine ☒ possible exemptions from paragraph 1. ⇒ Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3) ⇐.

↓ new

3. In the light of relevant scientific information, the Commission may include in Part B of Annex II any substances that are not controlled substances but that are found to have an ozone-depleting potential. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

↓ 2037/2000

CHAPTER VII

COMMITTEE, REPORTING, INSPECTION AND PENALTIES

Article ~~25~~¹⁸

Committee

1. The Commission shall be assisted by a Committee.
2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

↓ Omnibus [COM(2008) 71 final
= COD 2008/0032] 2.3(8)

3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

↓ new

Article 26

Reporting by the Member States

1. Each year by 30 June Member States shall report the following information in an electronic format to the Commission, for the previous calendar year,

↓ 2037/2000 Art. 4(2)(iii) 2nd
subparagraph (adapted)

(a) ~~Each year Member States shall report to the Commission~~ the quantities of methyl bromide authorised ☒, pursuant to Article 12(2) and (5), ☒ for ☒ different treatments for ☒ quarantine and ~~pre-shipment~~ pre-shipment ☒ purposes ☒ used in their territory, specifying the purposes for which methyl bromide was used, and the progress in evaluating and using alternatives;

↓ 2037/2000 Art. 4(4)(iv) 2nd
sentence (adapted)

(b) ~~Each year the competent authorities of the Member States shall notify to the Commission~~ the quantities of halons used for critical uses ☒, pursuant to Article 13 ☒, the measures taken to reduce their emissions and an estimate of such emissions, and the current activities to identify and use adequate alternatives;

↓ new

(c) on cases of illegal trade, in particular those detected during the inspections carried out pursuant to Article 28.

↓ 2037/2000 Art 19(2)

~~2. Every year before 31 December, Member States' customs authorities shall return to the Commission the stamped used licence documents.~~

↓ new

2. The Commission may, in accordance with the procedure referred to in Article 25(2), determine the format for the submission of the information referred to in paragraph 1.

3. The Commission may amend paragraphs 1 and 2.

Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

↓ 2037/2000 Art. 19 (adapted)
⇒ new

Article ~~27~~¹⁹

Reporting ~~(a)~~ by undertakings ~~(a)~~

1. Every year before 31 March, each ~~producer, importer and exporter of controlled substances~~ ~~(a)~~ undertaking ~~(a)~~ shall communicate to the Commission, sending a copy to the competent authority of the Member State concerned, ~~(a)~~ the ~~(a)~~ data ~~(a)~~ listed in paragraphs 2 to 5 ~~(a)~~ ~~as specified below~~ for each controlled substance ~~(a)~~ and each new substance listed in Annex II ~~(a)~~ in respect of the period 1 January to 31 December of the preceding year.

~~2. The format of this report shall be established in accordance with the procedure referred to in Article 18 (2).~~ (a) Each producer shall communicate ~~(a)~~ the following data ~~(a)~~:

(a) its total production of each ~~controlled~~ substance ~~(a)~~ referred to in paragraph 1 ~~(a)~~,

(b) any production placed on the market or used for the producer's own account within the Community, separately identifying production for feedstock, processing agent, quarantine and ~~pre-shipment~~ ~~pre-shipment~~ and other uses,

(c) any production to meet the essential ~~(a)~~ laboratory and analytical ~~(a)~~ uses in the Community, licensed in accordance with Article ~~(a)~~ 10(5) ~~(a)~~ ~~3(4)~~,

~~any production authorised under Article 3(6) to satisfy basic domestic needs of Parties pursuant to Article 5 of the Protocol,~~

(d) any production authorised under Article ~~(a)~~ 10(7) ~~(a)~~ ~~3(7)~~ to satisfy essential, ~~or critical,~~ uses of Parties,

(e) any increase in production authorised under Article ~~(a)~~ 14 ~~(a)~~ ~~3(2)~~ ~~(a)~~, ~~(a)~~ 3 ~~(a)~~ and ~~(a)~~ 4 ~~(a)~~ in connection with industrial rationalisation,

(f) any quantities recycled, reclaimed or destroyed,

(g) any stocks.

~~3. (b)~~ Each importer, ~~including any producers who also import,~~ shall communicate ~~(a)~~ the following data ~~(a)~~:

(a) any quantities released for free circulation in the Community, separately identifying imports for feedstock and processing-agent uses, for essential ~~(a)~~ laboratory and analytical ~~(a)~~ ~~or critical~~ uses licensed in accordance with Article ~~(a)~~ 10(5) ~~(a)~~ ~~3(4)~~, for use in quarantine and ~~pre-shipment~~ ~~pre-shipment~~ applications and for destruction,

~~any quantities of controlled substances entering the Community under the inward-processing procedure,~~

(b) any quantities of used ~~controlled~~ substances ☒ referred to in paragraph 1 ☒ imported for recycling or reclamation,

(c) any stocks.

4. ~~(e) Each exporter, including any producers who also export,~~ shall communicate ☒ the following data ☒:

(a) any quantities of ~~controlled~~ substances ☒ referred to in paragraph 1 ☒ exported from the Community, ~~including substances which are re-exported under the inward-processing procedure,~~ separately identifying quantities exported to each country of destination and quantities exported for feedstock and processing agent uses, essential ☒ laboratory and analytical ☒ uses, critical uses, ☒ and for ☒ quarantine and ~~pre-shipment~~ pre-shipment uses ☒ applications ☒, ~~to meet the basic domestic needs of Parties pursuant to Article 5 of the Protocol and for destruction,~~

~~any quantities of used controlled substances exported for recycling or reclamation,~~

(b) any stocks.

↓ new

5. Each undertaking destroying controlled substances referred to in paragraph 1 and not covered by paragraph 2, shall communicate the following data:

(a) any quantities of such substances destroyed, including quantities contained in products or equipment,

(b) any stocks of such substances waiting to be destroyed, including quantities contained in products or equipment,

(c) technology used for the destruction.

↓ 2037/2000 Art. 19(3) (adapted)
⇒ new

63. Every year before 31 March, each user who ~~has been~~ ☒ is ☒ authorised to take advantage of an essential ☒ laboratory and analytical ☒ use exemption under Article 10 ☒ 3(1) shall, for each substance for which an authorisation has been received, report to the Commission, sending a copy to the competent authority of the Member State concerned, the nature of the use, the quantities used during the previous year, the quantities held in stock, any quantities recycled or destroyed, and the quantity of products ☒ and equipment ☒ containing ⇒ or relying on ⇐ those substances placed on the Community market and/or exported.

↓ 2037/2000 Art. 19(4)

74. Every year before 31 March, each undertaking which has been authorised to use controlled substances as a processing agent shall report to the Commission the quantities used during the previous year, and an estimate of the emissions which occurred during such use.

↓ 1804/2003 Art. 1.11(a)
[=Art. 19(4a)] (adapted)

84a. Every year before 31 March, the exporter shall communicate to the Commission, sending a copy of the data to the competent authority of the Member State concerned, the records provided by each applicant in accordance with Article 18(2)(vii) ~~12(4)~~, in respect of the period 1 January to 31 December of the preceding year.

↓ 2037/2000 Art. 19(5)

95. The Commission shall take appropriate steps to protect the confidentiality of the information submitted to it.

↓ 2037/2000 Art. 19(1) second
subparagraph (adapted)

10. The format of ~~this report~~ the reports referred to in paragraphs 1 to 8 shall be established in accordance with the procedure referred to in Article 2518(2).

↓ Omnibus [COM(2008) 71 final
= COD 2008/0032] 2.3(9)
(adapted)

116. The Commission may amend the reporting requirements laid down in paragraphs 1 to 84 ~~to meet commitments under the Protocol or to improve the practical application of those reporting requirements.~~

Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 2518(3).

↓ 2037/2000 Art. 20

Article 2820

Inspection

↓ 2037/2000 Art. 20(3) (adapted)
⇒ new

~~13. The competent authorities of the Member States shall carry out the investigations which the Commission considers necessary under this Regulation.~~ Member States shall also conduct ~~random checks~~ ⇒ inspections on the compliance of undertakings with this Regulation, following a documented, risk-based approach, including inspections ⇐ on imports ⇒ and exports ⇐ of controlled substances ⇒ as well as of products and equipment containing or relying on those substances ⇐, ~~and communicate the schedules and results of those checks to the Commission.~~ The competent authorities of the Member States shall carry out the investigations which the Commission considers necessary under this Regulation.

↓ 2037/2000 Art. 20(4)

~~24.~~ Subject to the agreement of the Commission and of the competent authority of the Member State within the territory of which the investigations are to be made, the officials of the Commission shall assist the officials of that authority in the performance of their duties.

↓ 2037/2000 Art. 20(1) (adapted)

~~31.~~ In carrying out the tasks assigned to it by this Regulation, the Commission may obtain all the information from the governments and competent authorities of the Member States and from undertakings. ~~2.~~ When requesting information from an undertaking the Commission shall at the same time forward a copy of the request to the competent authority of the Member State within the territory of which the undertaking's seat is situated, ~~together with a statement of the reasons why that information is required.~~

↓ 2037/2000 Art. 20(5)

~~45.~~ The Commission shall take appropriate action to promote adequate exchange of information and cooperation between national authorities and between national authorities and the Commission.

The Commission shall take appropriate steps to protect the confidentiality of information obtained under this Article.

↓ 2037/2000 Art. 21 (adapted)

Article ~~29~~

Penalties

Member States shall ~~determine the necessary~~ ☒ lay down the rules on ☒ penalties applicable to ~~breaches~~ ☒ infringements of the provisions ☒ of this Regulation ☒ and shall take all measures necessary to ensure that they are implemented ☒. The penalties ~~shall~~ ☒ provided for must ☒ be effective, proportionate and dissuasive. Member States shall notify ~~the~~ ☒ those ☒ provisions ~~regarding penalties~~ to the Commission by 31 December ☒ 2010 ☒ ~~2000~~ at the latest and shall also notify it without delay of any subsequent amendment affecting ☒ them ☒ ~~such provisions~~.

↓ 2037/2000

CHAPTER VIII

FINAL PROVISIONS

↓ 2037/2000 (adapted)

Article ~~3023~~

Repeal

Regulation (EC) No ~~3093/04~~ 2037/2000 shall be repealed as from 1 ~~October 2000~~ January 2010 .

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex VIII .

Article ~~3124~~

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European* *Union* ~~Communities~~.

It shall apply from ~~1 October 2000~~ 1 January 2010 .

This Regulation shall be binding in its entirety and directly applicable in all Member States.

↓ 2037/2000 (adapted)
 →₁ 1804/2003 Art. 1.12

ANNEX I
Controlled substances covered

Group	Substance			Ozone-depleting potential ²⁴
Group I	CFCl ₃	(CFC-11)	☒ Trichlorofluoromethane ☒	1,0
	CF ₂ Cl ₂	(CFC-12)	☒ Dichlorodifluoromethane ☒	1,0
	C ₂ F ₃ Cl ₃	(CFC-113)	☒ Trichlorotrifluoroethanes ☒	0,8
	C ₂ F ₄ Cl ₂	(CFC-114)	☒ Dichlorotetrafluoroethanes ☒	1,0
	C ₂ F ₅ Cl	(CFC-115)	☒ Chloropentafluoroethane ☒	0,6
Group II	CF ₃ Cl	(CFC-13)	☒ Chlorotrifluoromethane ☒	1,0
	C ₂ FCl ₅	(CFC-111)	☒ Pentachlorofluoroethane ☒	1,0
	C ₂ F ₂ Cl ₄	(CFC-112)	☒ Tetrachlorodifluoroethanes ☒	1,0
	C ₃ FCl ₇	(CFC-211)	☒ Heptachlorofluoropropanes ☒	1,0
	C ₃ F ₂ Cl ₆	(CFC-212)	☒ Hexachlorodifluoropropanes ☒	1,0
	C ₃ F ₃ Cl ₅	(CFC-213)	☒ Pentachlorotrifluoropropanes ☒	1,0
	C ₃ F ₄ Cl ₄	(CFC-214)	☒ Tetrachlorotetrafluoropropanes ☒	1,0
	C ₃ F ₅ Cl ₃	(CFC-215)	☒ Trichloropentafluoropropanes ☒	1,0
	C ₃ F ₆ Cl ₂	(CFC-216)	☒ Dichlorohexafluoropropanes ☒	1,0
	C ₃ F ₇ Cl	(CFC-217)	☒ Chloroheptafluoropropanes ☒	1,0
Group III	CF ₂ BrCl	(halon-1211)	☒ Bromochlorodifluoromethane ☒	3,0
	CF ₃ Br	(halon-1301)	☒ Bromotrifluoromethane ☒	10,0
	C ₂ F ₄ Br ₂	(halon-2402)	☒ Dibromotetrafluoroethanes ☒	6,0

²⁴ These ozone-depleting potentials are estimates based on existing knowledge and will be reviewed and revised periodically in the light of decisions taken by the Parties.

Group IV	CCl ₄	(carbon tetrachloride) ☒ CTC ☒	☒ Carbon tetrachloride ☒	1,1
Group V	C ₂ H ₃ Cl ₃ ²⁵	(1,1,1-trichloroethane)	☒ 1,1,1-Trichloroethane (methylchloroform) ☒	0,1
Group VI	CH ₃ Br	(methyl bromide)	☒ Bromomethane ☒	0,6
Group VII	CH ₂ FBr ₂	☒ HBFCs ☒	☒ Hydrobromofluoromethanes, ethanes or -propanes ☒	- 1,00
	CHF ₂ Br			0,74
	CH ₂ FBr			0,73
	C ₂ HFBr ₄			0,8
	C ₂ HF ₂ Br ₃			1,8
	C ₂ HF ₃ Br ₂			1,6
	C ₂ HF ₄ Br			1,2
	C ₂ H ₂ FBr ₃			1,1
	C ₂ H ₂ F ₂ Br ₂			1,5
	C ₂ H ₂ F ₃ Br			1,6
	C ₂ H ₃ FBr ₂			1,7
	C ₂ H ₃ F ₂ Br			1,1
	C ₂ H ₄ FBr			0,1
	C ₃ HFBr ₆			1,5
	C ₃ HF ₂ Br ₅			1,9
	C ₃ HF ₃ Br ₄			1,8
C ₃ HF ₄ Br ₃	2,2			
C ₃ HF ₅ Br ₂	2,0			
C ₃ HF ₆ Br	3,3			
C ₃ H ₂ FBr ₅	1,9			

²⁵ This formula does not refer to 1,1,2-trichloroethane.

	C ₃ H ₂ F ₂ Br ₄			2,1
	C ₃ H ₂ F ₃ Br ₃			5,6
	C ₃ H ₂ F ₄ Br ₂			7,5
	C ₃ H ₂ F ₅ Br			1,4
	C ₃ H ₃ FBr ₄			1,9
	C ₃ H ₃ F ₂ Br ₃			3,1
	C ₃ H ₃ F ₃ Br ₂			2,5
	C ₃ H ₃ F ₄ Br			4,4
	C ₃ H ₄ FBr ₃			0,3
	C ₃ H ₄ F ₂ Br ₂			1,0
	C ₃ H ₄ F ₃ Br			0,8
	C ₃ H ₅ FBr ₂			0,4
	C ₃ H ₅ F ₂ Br			0,8
	C ₃ H ₆ FBr			0,7
Group VIII	CHFC ₂	(HCFC-21) ²⁶	☒ Hydrochlorofluoromethanes, ethanes or -propanes ☒	- 0,040
	CHF ₂ Cl	(HCFC-22) ²⁷		0,055
	CH ₂ FC ₂	(HCFC-31)		0,020
	C ₂ HFCl ₄	(HCFC-121)		0,040
	C ₂ HF ₂ Cl ₃	(HCFC-122)		0,080
	C ₂ HF ₃ Cl ₂	(HCFC-123) ²⁸		0,020
	C ₂ HF ₄ Cl	(HCFC-124) ²⁹		0,022
	C ₂ H ₂ FC ₃	(HCFC-131)		0,050
	C ₂ H ₂ F ₂ Cl ₂	(HCFC-132)		0,050
	C ₂ H ₂ F ₃ Cl	(HCFC-133)		0,060

²⁶

Identifies the most commercially viable substance as prescribed in the Protocol.

²⁷

Identifies the most commercially viable substance as prescribed in the Protocol.

²⁸

Identifies the most commercially viable substance as prescribed in the Protocol.

²⁹

Identifies the most commercially viable substance as prescribed in the Protocol.

	C ₂ H ₃ FCl ₂	(HCFC-141)	0,070
	CH ₃ CFCl ₂	(HCFC-141b) ³⁰	0,110
	C ₂ H ₃ F ₂ Cl	(HCFC-142)	0,070
	CH ₃ CF ₂ Cl	(HCFC-142b) ³¹	0,065
	C ₂ H ₄ FCI	(HCFC-151)	0,005
	C ₃ HFCl ₆	(HCFC-221)	0,070
	C ₃ HF ₂ Cl ₅	(HCFC-222)	0,090
	C ₃ HF ₃ Cl ₄	(HCFC-223)	0,080
	C ₃ HF ₄ Cl ₃	(HCFC-224)	0,090
	C ₃ HF ₅ Cl ₂	(HCFC-225)	0,070
	CF ₃ CF ₂ C HCl ₂	(HCFC-225ca) ³²	0,025
	CF ₂ ClCF ₂ CHClF	(HCFC- 225cb) ³³	0,033
	C ₃ HF ₆ Cl	(HCFC-226)	0,100
	C ₃ H ₂ FCl ₅	(HCFC-231)	0,090
	C ₃ H ₂ F ₂ Cl ₄	(HCFC-232)	0,100
	C ₃ H ₂ F ₃ Cl ₃	(HCFC-233)	0,230
	C ₃ H ₂ F ₄ Cl ₂	(HCFC-234)	0,280
	C ₃ H ₂ F ₅ Cl	(HCFC-235)	0,520
	C ₃ H ₃ FCl ₄	(HCFC-241)	0,090
	C ₃ H ₃ F ₂ Cl ₃	(HCFC-242)	0,130
	C ₃ H ₃ F ₃ Cl ₂	(HCFC-243)	0,120
	C ₃ H ₃ F ₄ Cl	(HCFC-244)	0,140
	C ₃ H ₄ FCI ₃	(HCFC-251)	0,010

³⁰

Identifies the most commercially viable substance as prescribed in the Protocol.

³¹

Identifies the most commercially viable substance as prescribed in the Protocol.

³²

Identifies the most commercially viable substance as prescribed in the Protocol.

³³

Identifies the most commercially viable substance as prescribed in the Protocol.

	$C_3H_4F_2Cl_2$	(HCFC-252)		0,040
	$C_3H_4F_3Cl$	(HCFC-253)		0,030
	$C_3H_5FCl_2$	(HCFC-261)		0,020
	$C_3H_5F_2Cl$	(HCFC-262)		0,020
	C_3H_6FCl	(HCFC-271)		0,030
\rightarrow_1 Group IX \leftarrow	\rightarrow_1 CH ₂ Br \leftarrow	\rightarrow_1 (halon 1011 <u>bromochloromet</u> <u>hane</u>) \leftarrow	\boxtimes Bromochloromethane \boxtimes	\rightarrow_1 0,1 2 \leftarrow

↓ new

ANNEX II

New substances

Part A: Substances restricted under Article 24(1)

Substance		Ozone-depleting potential
CBr₂F₂	Dibromodifluoromethane (halon-1202)	1,25

Part B: Substances to be reported on under Article 26

Substance		Ozone-depleting potential ³⁴
C₃H₇Br	1-Bromopropane (n-propyl bromide)	0,02 – 0,10
C₂H₅Br	Bromoethane (ethyl bromide)	0,1 – 0,2
CF₃I	Trifluoroiodomethane (trifluoromethyl iodide)	0,01 – 0,02

³⁴ These ozone-depleting potentials are estimates based on existing knowledge and will be reviewed and revised periodically in the light of decisions taken by the Parties.

ANNEX III VI

Processes in which controlled substances are used as processing agents as referred to in ~~the sixteenth indent of Article 2~~ point (8)

- (a) use of carbon tetrachloride for the elimination of nitrogen trichloride in the production of chlorine and caustic soda;
- (b) use of carbon tetrachloride in the recovery of chlorine in tail gas from production of chlorine;
- (c) use of carbon tetrachloride in the manufacture of chlorinated rubber;
- (d) use of carbon tetrachloride in the manufacture of isobutyl acetophenone (ibuprofen-analgesic);
- (e) use of carbon tetrachloride in the manufacture of poly-phenylene-terephthalamide;
- (f) use of carbon tetrachloride for the production of radio-labelled cyanocobalamin;
- (g) use of CFC-11 in manufacture of fine synthetic polyolefin fibre sheet;
- (h) use of CFC-12 in the photochemical synthesis of perfluoropolyetherpolyperoxide precursors of Z-perfluoropolyethers and difunctional derivatives;
- (i) use of CFC-113 in the reduction of perfluoropolyetherpolyperoxide intermediate for production of perfluoropolyether diesters;
- (j) use of CFC-113 in the preparation of perfluoropolyether diols with high functionality;
- (k) use of carbon tetrachloride in production of Cyclodime;
- (l) use of HCFCs in the processes set out in points (a) to (k) when used to replace CFC or carbon tetrachloride.

↓ Act concerning the conditions of accession, Art. 20 and Annex II, p. 710 (adapted)

~~ANNEX III~~

~~Total quantitative limits on producers and importers placing controlled substances on the market and using them for their own account in the Community~~

~~(1999-2003 — EU-15; 2004-2015 EU-25)~~

↓ 1791/2006 Art. 1.1 (adapted)

~~(calculated levels expressed in ODP tonnes)~~

Substance	Group I	Group II	Group III	Group IV	Group V	Group VI³⁵	Group VI³⁶	Group VII	Group VIII
For 12-month periods from 1 January to 31 December						For uses other than quarantine and pre-shipment applications	For quarantine and pre-shipment applications		
1999 (EU-15)	0	0	0	0	0	8665		0	8079
2000 (EU-15)						8665			8079
2001 (EU-15)						4621	607		6678
2002 (EU-15)						4621	607		5676

~~35 Calculated on the basis of ODP = 0,6.~~

~~36 Calculated on the basis of ODP = 0,6.~~

2003 (EU15)						2888	607		3005
2004 (EU-25)						2945	607		2209
2005 (EU-25)						0	607		2209
2006 (EU-25)							607		2209
2007 (EU-27)							607		2250
2008 (EU-27)							607		1874
2009 (EU-27)							607		1874
2010 (EU-27)							607		0
2011 (EU-27)							607		0
2012 (EU-27)							607		0
2013 (EU-27)							607		0
2014 (EU-27)							607		0
2015 (EU-27)							607		0

↓ 473/2008 Art. 1 and Annex
(adapted)

ANNEX IV
Groups, Combined Nomenclature codes³⁷ and descriptions for the substances referred to in Annexes I and III

Group	CN code	Description
Group I	29034100	Trichlorofluoromethane
	29034200	Dichlorodifluoromethane
	29034300	Trichlorotrifluoroethanes
	29034410	Dichlorotetrafluoroethanes
	29034490	Chloropentafluoroethane
Group II	29034510	Chlorotrifluoromethane
	29034515	Pentachlorofluoroethane
	29034520	Tetrachlorodifluoroethanes
	29034525	Heptachlorofluoropropanes
	29034530	Hexachlorodifluoropropanes
	29034535	Pentachlorotrifluoropropanes
	29034540	Tetrachlorotetrafluoropropanes
	29034545	Trichloropentafluoropropanes
	29034550	Dichlorohexafluoropropanes
	29034555	Chloroheptafluoropropanes
Group III	29034610	Bromochlorodifluoromethane
	29034620	Bromotrifluoromethane
	29034690	Dibromotetrafluoroethanes
Group IV	29031400	Carbon tetrachloride
Group V	29031910	1,1,1-Trichloroethane (methyl chloroform)

³⁷ An “ex” before a code implies that also other substances than those referred to in the column “Description” may fall under that subheading.’

Group VI	29033911	Bromomethane (methyl bromide)
Group VII	29034930	Hydrobromofluoromethanes, -ethanes or -propanes
Group VIII	29034911	Chlorodifluoromethane (HCFC-22)
	29034915	1,1-Dichloro-1-fluoroethane (HCFC-141b)
	29034919	Other Hydrochlorofluoromethanes, -ethanes or -propanes (HCFCs)
Group IX	ex29034980	Bromochloromethane
Mixtures	38247100	Mixtures containing chlorofluorocarbons (CFCs), whether or not containing hydrochlorofluorocarbons (HCFCs), perfluorocarbons (PFCs) or hydrofluorocarbons (HFCs)
	38247200	Mixtures containing bromochlorodifluoromethane, bromotrifluoromethane or dibromotetrafluoroethanes
	38247300	Mixtures containing hydrobromofluorocarbons (HBFCs)
	38247400	Mixtures containing hydrochlorofluorocarbons (HCFCs), whether or not containing perfluorocarbons (PFCs) or hydrofluorocarbons (HFCs), but not containing chlorofluorocarbons (CFCs)
	38247500	Mixtures containing carbon tetrachloride
	38247600	Mixtures containing 1,1,1-trichloroethane (methyl chloroform)
	38247700	Mixtures containing bromomethane (methyl bromide) or bromochloromethane

ANNEX V

~~Combined Nomenclature (CN) codes for products containing controlled substances³⁸~~

~~1. AUTOMOBILES AND TRUCKS EQUIPPED WITH AIR-CONDITIONING UNITS~~

~~CN codes~~

~~87012010 – 87019090~~

~~87021011 – 87029090~~

~~87031011 – 87039090~~

~~87041011 – 87049000~~

~~87051000 – 87059090~~

~~87060011 – 87060099~~

~~2. DOMESTIC AND COMMERCIAL REFRIGERATION AND AIR-CONDITIONING/HEAT PUMP
EQUIPMENT~~

~~Refrigerators:~~

~~CN codes~~

~~84181010 – 84182900~~

~~84185011 – 84185099~~

~~84186110 – 84186999~~

~~Freezers:~~

~~CN codes~~

~~84181010 – 84182900~~

~~84183010 – 84183099~~

~~84184010 – 84184099~~

~~84185011 – 84185099~~

~~84186110 – 84186190~~

³⁸ These customs codes are given for the guidance of the Member States' customs authorities

~~84186910 — 84186999~~

~~Dehumidifiers:~~

~~CN codes~~

~~84151000 — 84158390~~

~~84796000~~

~~84798910~~

~~84798998~~

~~Water coolers and gas liquefying units:~~

~~CN codes~~

~~84196000~~

~~84198998~~

~~Ice machines:~~

~~CN codes~~

~~84181010 — 84182900~~

~~84183010 — 84183099~~

~~84184010 — 84184099~~

~~84185011 — 84185099~~

~~84186110 — 84186190~~

~~84186910 — 84186999~~

~~Air conditioning and heat pump units:~~

~~CN codes~~

~~84151000 — 84158390~~

~~84186110 — 84186190~~

~~84186910 — 84186999~~

~~84189910 — 84189990~~

~~3. AEROSOL PRODUCTS, EXCEPT MEDICAL AEROSOLS~~

~~Food products:~~

~~CN codes~~

~~04049021 — 04049089~~

~~15179010 — 15179099~~

~~21069092~~

~~21069098~~

~~Paints and varnishes, prepared water pigments and dyes:~~

~~CN codes~~

~~32081010 — 32081090~~

~~32082010 — 32082090~~

~~32089011 — 32089099~~

~~32091000 — 32099000~~

~~32100010 — 32100090~~

~~32129090~~

~~Perfumery, cosmetic or toilet preparations:~~

~~CN codes~~

~~33030010 — 33030090~~

~~33043000~~

~~33049900~~

~~33051000 — 33059090~~

~~33061000 — 33069000~~

~~33071000 — 33073000~~

~~33074900~~

~~33079000~~

~~Surface active preparations:~~

~~CN codes~~

~~34022010 — 34022090~~

~~Lubricating preparations:~~

~~CN codes~~

~~27100081~~

~~27100097~~

~~34031100~~

~~34031910 — 34031999~~

~~34039100~~

~~34039910 — 34039990~~

~~Household preparations:~~

~~CN codes~~

~~34051000~~

~~34052000~~

~~34053000~~

~~34054000~~

~~34059010 — 34059090~~

~~Articles of combustible materials:~~

~~CN codes~~

~~36061000~~

~~Insecticides, rodenticides, fungicides, herbicides, etc.:~~

~~CN codes~~

~~38081010 — 38081090~~

~~38082010 — 38082080~~

~~38083011 — 38083090~~

~~38084010 — 38084090~~

~~38089010 — 38089090~~

~~Finishing agents, etc.:~~

~~CN codes~~

~~38091010 — 38091090~~

~~38099100 — 38099300~~

~~Preparations and charges for fire extinguishers; charged fire extinguishing grenades:~~

~~CN codes~~

~~38130000~~

~~Organic composite solvents, etc.:~~

~~CN codes~~

~~38140010 — 38140090~~

~~Prepared de-icing fluids:~~

~~CN codes~~

~~38200000~~

~~Products of the chemical or allied industries:~~

~~CN codes~~

~~38249010~~

~~38249035~~

~~38249040~~

~~38249045 — 38249095~~

~~SILICONES IN PRIMARY FORMS:~~

~~CN codes~~

~~39100000~~

~~ARMS:~~

~~CN codes~~

~~93040000~~

~~4. PORTABLE FIRE EXTINGUISHERS~~

~~CN codes~~

~~84241010 — 84241099~~

~~5. INSULATION BOARDS, PANELS AND PIPE COVERS~~

~~CN codes~~

~~39172110 — 39174090~~

~~39201023 — 39209990~~

~~39211100 — 39219090~~

~~39251000 — 39259080~~

~~39269010 — 39269099~~

~~6. PRE-POLYMERS~~

~~CN codes~~

~~39011010 — 39119099~~

ANNEX V

Conditions for the placing on the market and further distribution of controlled substances for essential laboratory and analytical uses referred to in Article 10(8)

1. Controlled substances for essential laboratory and analytical uses shall contain only controlled substances manufactured to the following purities:

Substance	%
CTC (reagent grade)	99.5
1,1,1-trichloroethane	99.0
CFC 11	99.5
CFC 13	99.5
CFC 12	99.5
CFC 113	99.5
CFC 114	99.5
Other controlled substances with a boiling point >20° C	99.5
Other controlled substances with a boiling point <20° C	99.0

These pure controlled substances may be subsequently mixed by manufacturers, agents, or distributors with other chemicals controlled or not controlled by the Protocol as is customary for laboratory and analytical uses.

2. These high purity substances and mixtures containing controlled substances shall be supplied only in re-closable containers or high pressure cylinders smaller than three litres or in 10 millilitre or smaller glass ampoules, marked clearly as substances that deplete the ozone layer, restricted to laboratory use and analytical purposes and specifying that used or surplus substances should be collected and recycled, if practical. The material should be destroyed if recycling is not practical.

ANNEX VI

Critical uses of halon

Use of halon 1301:

- in aircraft for the protection of crew compartments, engine nacelles, cargo bays and dry bays, and fuel tank inerting,
- in military land vehicles and naval vessels for the protection of spaces occupied by personnel and engine compartments,
- for the making inert of occupied spaces where flammable liquid and/or gas release could occur in the military and oil, gas and petrochemical sector, and in existing cargo ships,
- for the making inert of existing manned communication and command centres of the armed forces or others, essential for national security,
- for the making inert of spaces where there may be a risk of dispersion of radioactive matter,
- in the Channel Tunnel and associated installations and rolling stock.

Use of halon 1211:

- in military land vehicles and naval vessels for the protection of spaces occupied by personnel and engine compartments,
- in hand-held fire extinguishers and fixed extinguisher equipment for engines for use on board aircraft,
- in aircraft for the protection of crew compartments, engine nacelles, cargo bays and dry bays,
- in fire extinguishers essential to personal safety used for initial extinguishing by fire brigades,
- in military and police fire extinguishers for use on persons.

Use of halon 2402 only in Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia:

- in aircraft for the protection of crew compartments, engine nacelles, cargo bays and dry bays and fuel tank inerting,
- in military land vehicles and naval vessels for the protection of spaces occupied by personnel and engine compartments,

- for the making inert of occupied spaces where flammable liquid and/or gas release could occur in the military and oil, gas and petrochemical sectors, and in existing cargo ships,
 - for the making inert of existing manned communication and command centres of the armed forces or others, essential for national security,
 - for the making inert of spaces where there may be a risk of dispersion of radioactive matter,
 - in hand-held fire extinguishers and fixed extinguisher equipment for engines for use on board aircraft,
 - in fire extinguishers essential to personal safety used for initial extinguishing by fire brigades,
 - in military and police fire extinguishers for use on persons.
-

↓ 2007/540/EC Art. 1 and Annex

Use of halon 2402 only in Bulgaria:

- in aircraft for the protection of crew compartments, engine nacelles, cargo bays and dry bays, and fuel tank inerting,
- in military land vehicles and naval vessels for the protection of spaces occupied by personnel and engine compartments.

↓ new

ANNEX VII

Destruction technologies referred to in Article 22(1)

Applicability			
Technology	Concentrated sources		Dilute sources
	Annex A, Gp. I Annex B Annex C, Gp. I	Halon (Annex A, Gp. II)	Foam
Destruction and removal efficiency (DRE)	99.99%	99.99%	95%
Cement kilns	Approved	Not Approved	
Liquid injection incineration	Approved	Approved	
Gaseous/fume oxidation	Approved	Approved	
Municipal solid waste incineration			Approved
Reactor cracking	Approved	Not Approved	
Rotary kiln incineration	Approved	Approved	Approved
Argon plasma arc	Approved	Approved	
Inductively coupled radio frequency plasma	Approved	Approved	
Microwave plasma	Approved		
Nitrogen plasma arc	Approved		
Gas phase catalytic dehalogenation	Approved		
Superheated steam reactor	Approved		

Notes:

- (1) The DRE criterion presents technology capability on which approval of the technology is based. It does not always reflect the day-to-day performance achieved, which in itself will be controlled by national minimum standards.
- (2) Concentrated sources refer to virgin, recovered and reclaimed ozone-depleting substances.
- (3) Dilute sources refer to ozone-depleting substances contained in a matrix of a solid, for example foam.

ANNEX VIII

Correlation table

Regulation (EC) No 2037/2000	New
Art. 1	Art. 1 and 2
Art. 2	Art. 3
Art. 3(1) 1st subparagraph	Art. 4(1)
Art. 3(1) 2nd subparagraph	Art. 10(2) and (4)
Art. 3(2)(i)	Art. 4(1)
Art. 3(2)(ii) 1st subparagraph	---
Art. 3(2)(ii) 2nd subparagraph	Art. 12(5)
Art. 3(3)	Art. 4(2)
Art. 3(4)	Art. 10(6) 1st sentence
Art. 3(5)	Art. 10(7)
Art. 3(6)	---
Art. 3(7)	Art. 10(8)
Art. 3(8)	Art. 14(2)
Art. 3(9)	Art. 14(3)
Art. 3(10)	Art. 14(4)
Art. 4(1)	Art. 5(1)
Art. 4(2)(i)	Art. 5(1)
Art. 4(2)(ii)	---
Art. 4(2)(iii) 1st subparagraph	Art. 12(1) and (2)
Art. 4(2)(iii) 2nd subparagraph	Art. 26(1) point (a)
Art. 4(2)(iii) 3rd subparagraph	Art. 12(2)
Art. 4(2)(iv)	Art. 12(4)

Art. 4(3)(i)	Art. 5(1)
Art. 4(3)(ii)	---
Art. 4(3)(iii)	---
Art. 4(3)(iv)	---
Art. 4(4)(i)(a)	Art. 9
Art. 4(4)(i)(b) 1st indent	Art. 7(1) and Art. 8(1)
Art. 4(4)(i)(b) 2nd indent	Art. 10(1) and Art. 12 (5)
Art. 4(4)(ii)	---
Art. 4(4)(iii)	---
Art. 4(4)(iv) 1st sentence	Art. 13(1)
Art. 4(4)(iv) 2nd sentence	Art. 27(1) point (b)
Art. 4(4)(v)	Art. 5(2)
Art. 4(5)	Art. 14(1)
Art. 4(6)	Art. 6
Art. 4(6)	---
Art. 5(1)	Art. 5(1)
Art. 5(2) point (a)	Art. 11(1)
Art. 5(2) point (b)	Art. 7(1)
Art. 5(2) point (c)	Art. 8(1)
Art. 5(3)	---
Art. 5(4) 1st sentence	Art. 11(4)
Art. 5(4) 2nd sentence	---
Art. 5(5)	---
Art. 5(6)	---
Art. 5(7)	Art. 11(4)
Art. 6(1) 1st sentence	Art. 15(3)

Art. 6(1) 2nd sentence	---
Art. 6(2)	---
Art. 6(3)	Art. 18(3)
Art. 6(4)	Art. 18(5)
Art. 6(5)	Art. 18(8)
Art. 7	Art. 16(1)
Art. 8	Art. 20(1)
Art. 9(1)	Art. 20(1)
Art. 9(2)	Art. 21
Art. 10	Art. 20(2)
Art. 11(1)	Art. 17(1) and (2)
Art. 11(2)	Art. 20(1)
Art. 11(3)	Art. 20(1)
Art. 11(4)	---
Art. 12(1)	Art. 17(4)
Art. 12(2)	Art. 18(4)
Art. 12(3)	Art. 18(5)
Art. 12(4)	Art. 18(3) and (4)
Art. 13	Art. 20(3)
Art. 14	Art. 20(4)
Art. 15	---
Art. 16(1)	Art. 22(1)
Art. 16(2)	---
Art. 16(3)	Art. 22(2)
Art. 16(4)	Art. 22(4)
Art. 16(5)	Art. 22(5)

Art. 16(6)	---
Art. 16(7)	---
Art. 17	Art. 23
Art. 18	Art. 25
Art. 19	Art. 25
Art. 20(1)	Art. 28(3)
Art. 20(2)	Art. 28(3)
Art. 20(3)	Art. 28(1)
Art. 20(4)	Art. 28(2)
Art. 20(5)	Art. 28(4)
Art. 21	Art. 29
Art. 22	Art. 24
Art. 23	Art. 30
Art. 24	Art. 31
Annex I	Annex I
Annex III	---
Annex IV	Annex IV
Annex V	---
Annex VI	Annex III
Annex VII	Annex VI