



**United Nations  
Environment  
Programme**



Distr  
GENERAL

UNEP/OzL.Pro/WG.1/19/4  
7 April 1999

ORIGINAL: ENGLISH

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OPEN-ENDED WORKING GROUP OF THE PARTIES TO  
THE MONTREAL PROTOCOL ON SUBSTANCES THAT  
DEplete THE OZONE LAYER

Nineteenth meeting

Geneva, 15-18 June 1999

Item 5 of the provisional agenda\*

CONSIDERATION OF PROPOSED ADJUSTMENTS AND AMENDMENTS TO THE  
MONTREAL PROTOCOL AND ESTABLISHMENT OF THE LEGAL DRAFTING  
GROUP TO CONSOLIDATE THE ADJUSTMENTS AND AMENDMENTS  
PROPOSED AND TO CONSIDER THE OPTIONS AVAILABLE  
UNDER THE MONTREAL PROTOCOL TO INTRODUCE  
CONTROLS ON NEW OZONE-DEPLETING SUBSTANCES

Note by the Secretariat

Proposal by the European Community

The Secretariat is circulating, in the annex to the present note, adjustments and amendments, as appropriate, to the Montreal Protocol on Substances that Deplete the Ozone Layer, proposed by the European Community. The text of the annex is circulated as received from the European Community and has not been formally edited.

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\* UNEP/OzL.Pro/WG.1/19/1.

## Annex

### Proposals for adjustments and amendments to the Montreal Protocol

#### SECTION A        HCFCs

The European Community believes that the current controls on HCFCs need to be strengthened in order to maximise the protection Parties give to the Earth's fragile ozone layer and to take account of recent progress in finding non-ozone-depleting alternatives. The Community also believes that tighter HCFC controls are necessary to ensure that, as written in Article 2F, paragraph 7 of the Protocol, the use of HCFCs is limited to those applications where other more environmentally suitable alternative substances or technologies are not available. The Community is also concerned that HCFCs are the only ozone-depleting substances listed in the Montreal Protocol whose production remains entirely uncontrolled and is increasing and for which trade with non-parties is still permitted.

The Community therefore proposes:

#### PROPOSED AMENDMENT A1

1. New controls on **HCFC production** in non-Article 5 Parties via an amendment to Article 2F to achieve:

- (a) A freeze on HCFC production from [the date of entry into force of the amendment for the Party in question] at the 1997 level of production; measured in ODP tonnes
- (b) Production in 2008 does not exceed 35% of the freeze level
- (c) Production in 2014 does not exceed 20% of the freeze level
- (d) Production in 2020 does not exceed 15% of the freeze level
- (e) Production in 2025 does not exceed zero

2. HCFC Production in Article 5 Parties: The Community also proposes that HCFC production controls should apply to Article 5 Parties, with levels and dates identical to the existing consumption controls. We therefore propose an amendment to Article 5, paragraph 8 *ter* to add the words "production and" before the word "consumption" in subparagraphs (a) and (b).

### PROPOSED ADJUSTMENT A2

3. Tighter controls on **HCFC consumption** in non-Article 5 Parties via
- (a) An adjustment to Article 2F, paragraph 1(a) to reduce the HCFC cap from 2.8% to 2%, with effect from 1 January 2001,
- (b) An adjustment to Article 2F paragraphs 2 and 3 to accelerate phasedown schedule as follows:
- |                     |             |                               |
|---------------------|-------------|-------------------------------|
| Paragraph 2         | 2004        | Maximum of 50% instead of 65% |
| Paragraph 3         | 2010        | Maximum of 30% instead of 35% |
| <i>[Paragraph 4</i> | <i>2015</i> | <i>unchanged from 90%]</i>    |
| <i>[Paragraph 5</i> | <i>2020</i> | <i>unchanged from 99.5%]</i>  |
| <i>[Paragraph 6</i> | <i>2030</i> | <i>unchanged from zero]</i>   |

### PROPOSED AMENDMENT A3

4. To introduce a **ban on trade in HCFCs with non-parties** via amendments to Article 4 paragraph 1 *ter* and paragraph 2 *ter* to delete the words "Group II of" from each paragraph. Further amendments to Article 4, paragraphs 5, 6 and 7 also to remove the words "Group II of" in each case.

## SECTION B METHYTL BROMIDE Quarantine and Pre-Shipment Uses

The European Community is concerned that over 20% of the current global use of methyl bromide is for quarantine and pre-shipment applications, entirely outside the Protocol's control measures. This level of uncontrolled use and emissions could delay the recovery of the ozone layer. There is also evidence that the definitions of quarantine and pre-shipment agreed by the Parties in Decisions VI/11 and VII/5 are not widely understood or consistently applied. Methyl bromide supplied under the exemption for quarantine and pre-shipment may be used for non-exempt purposes. As a result, the blanket exemption for quarantine and pre-shipment represents a potential loophole in the Protocol's control measures. The European Community recognises the genuine need for methyl bromide for quarantine and pre-shipment where no better alternative exists. We nevertheless believe that a limitless exemption is not the best way to ensure the continued availability of methyl bromide for quarantine and pre-shipment uses or to protect the ozone layer. We therefore propose:

### PROPOSED AMENDMENT B1

A mandatory **reporting requirement** for QPS use, via an amendment to Article 7, paragraph 2, second tiret, adding text as follows: “in Annex E, for the year 1991 separately identifying any quantities for quarantine and pre-shipment applications”. There would be a second amendment to Article 7, paragraph 3 to introduce a new tiret to read: “Amounts used for quarantine and pre-shipment”

### PROPOSED ADJUSTMENT B2

A **freeze** from 2001 for non-Article 5 Parties on the quantities of MBr produced and consumed for QPS. This would require an adjustment to Article 2H to add words “paragraphs 1 to 5 of” after the word “under” in paragraph 6. A further adjustment would add a new paragraph 7 with the following text.

Each Party shall ensure that, for the twelve-month period commencing on 1 January [2001] and for each twelve-month period thereafter, the calculated levels of production and consumption of controlled substances in Annex E for quarantine and pre-shipment applications do not exceed the average of its annual calculated levels of production and consumption, respectively, for quarantine and pre-shipment applications for the period 1996 to 1998 inclusive.

This paragraph will apply save to the extent that a Party shall be permitted, upon notification to the Secretariat, to use, in response to an emergency event, consumption of quantities not exceeding 20 tonnes of methyl bromide, in accordance with the terms of Decision IX/7 of the Parties.

Note: There would need to be similar adjustments to Article 5, paragraph 8 ter (d) to introduce a freeze in 2002 for QPS in Article 5 Parties.

## **SECTION C            NEW OZONE DEPLETING SUBSTANCES**

The Community remains concerned that the addition of any new ozone-depleting substance to the Montreal Protocol requires an amendment to the Protocol. This means that bringing a new substance under control is very slow and requires that each Party ratify a new amendment. The Community believes that, by ratifying the Montreal Protocol, each Party has declared its intent to phase out the production and consumption of ozone-depleting substances. A full amendment and ratification procedure should therefore not be necessary to extend existing controls to new substances, provided Parties have agreed that they pose a threat to the ozone layer. The Community would like to see a “lighter” procedure, involving a decision of the Parties and/or adjustment of the Protocol, by which control measures necessary to protect the ozone layer could, by consensus, quickly be extended to new substances. Subject to the advice to be received from the Legal Drafting Group under Decision X/8 paragraph 6, the Community proposes an amendment to Article 2 along the following lines:

### **PROPOSED AMENDMENT C**

1. The Parties shall list in Group II of Annex E to the Protocol, substances not listed in Annexes A, B, C and Group 1 of Annex E but which, in light of advice from the Scientific Assessment Panel, the Technology and Economic Assessment Panel or any other relevant information, the Parties have decided pose a threat to the stratospheric ozone layer.
2. The Parties shall, as necessary, decide [by consensus] on any control measures, including control measures on production and consumption, which should apply to the substances in Group II of Annex E, taking account of the special situation of Parties operating under paragraph 1 of Article 5.

3. The Ozone Secretariat shall notify all Parties in writing of any substance listed in Group II of Annex E and of the control measures applicable to that substance, following any decision of the Parties under paragraphs 1 and 2 above. Such notification shall be provided within three months of the data on which the relevant decision was adopted by the Meeting of the Parties.

The European Community proposes that Group II of Annex E should contain the substance 'bromochloromethane', with a ban on its production and consumption from the date of entry into force of the amendment.

A consequential amendment would be to rename methyl bromide as Annex E, Group I.

#### SECTION D: CONTINUED PRODUCTION FOR BASIC DOMESTIC NEEDS

The Community wishes to do what it can to assist Article 5 Parties to meet their freeze and phasedown obligations under the Protocol. The Community notes that, while Article 5 Parties must freeze their CFC production in 1999 and reduce by 50% in 2005, non-Article 5 Parties can continue indefinitely to produce and export up to 15% of their 1986 CFC baseline to meet the basic domestic needs of Article 5 Parties. The same is true for all controlled substances. This might lead to the phaseout efforts of Article 5 Parties being undermined by the continued and unrestricted availability of CFCs and other controlled substances on the world market. The Community therefore proposes:

#### PROPOSED ADJUSTMENT D

A freeze and gradual phaseout of production of ozone-depleting substances in non-Article 5 parties for basic domestic needs in line with the phase down schedules for producers in Article 5 countries.

In the case of CFCs, this could be achieved by an adjustment to Article 2A, paragraph 4, third sentence, as follows:

However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by a quantity equal to the average of its production of substances in Group 1 of Annex A for basic domestic needs in the years 1995 – 1997 inclusive.

Further adjustments as additional paragraphs would be necessary as follows:

1. Each Party shall ensure that for the twelve month period commencing on 1 January 2005 and in each twelve month period thereafter, its level of production of substances in Group 1 of Annex A for basic domestic needs shall not exceed 50% of the average of its production of substances in Group 1 of Annex A for basic domestic needs in the years 1995 – 1997 inclusive
2. Each Party shall ensure that for the twelve month period commencing on 1 January 2007 and in each twelve month period thereafter, its level of production of substances in Group 1 of Annex A for basic domestic needs shall not exceed 15% of the average of its production of substances in Group 1 of Annex A for basic domestic needs in the years 1995 – 1997 inclusive
3. Each Party shall ensure that for the twelve month period commencing on 1 January 2010 and in each twelve month period thereafter, its level of production of substances in Group 1 of Annex A for basic domestic needs shall not exceed zero.

The European Community also proposes a consequential adjustment to remove the exemption for producers in Article 5 Parties to continue to produce 15% of their baseline for basic domestic needs after CFC phaseout in 2010. After phaseout, by definition, there will be no “basic domestic needs”.

The European Community would also like to take this opportunity to propose similar provisions for the production of halons (Annex A, Group II), other fully halogenated CFCs (Annex B, Group I), carbon tetrachloride (Annex B, Group II), 1,1,1 trichloroethane (Annex B, Group III) and methyl bromide (Annex E, [Group I]). In each case, the controls on production in non-Article 5 Parties for the basic domestic needs of Article 5 Parties should replicate existing production controls for Article 5 Parties. Accordingly, the Community would propose the following controls on production for basic domestic needs in non-Article 5 Parties:

Substance	Baseline	Phasedown and phaseout controls
Halon	Average 1995 - 1997	Freeze in 2002 50% cut in 2005 100% cut in 2010
Other fully halogenated CFCs	Average 1998 - 2000	20% cut in 2003 85% cut in 2007 100% cut in 2010
Carbon tetrachloride	Average 1998 - 2000	[Freeze in 2002]* 85% cut in 2005 100% cut in 2010
1,1,1 trichloroethane	Average 1998 - 2000	Freeze in 2003 30% cut in 2005 70% cut in 2010 100% cut in 2015
MBr	Average 1995 - 1998	Freeze in 2002 20% cut in 2005 100% cut in 2015

\* No CTC freeze for Article 5 Parties in current Protocol. Nevertheless, the Community believes that a freeze in 2002 at the latest is a necessary step to achieve a reduction of 85% in 2005 .

The European Community also proposes consequential adjustments to remove the exemption for producers in Article 5 Parties to continue to produce for basic domestic needs after phaseout of the substances in the table above. After phaseout, any production which continues should be limited to feedstock, process agents, essential uses or critical uses.

The Community looks forward to negotiations during 1999 on these proposals with other Parties and hopes that agreement can be found on measures to improve the protection we provide to the stratospheric ozone layer.

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