

Proposal for a Council Decision concerning the conclusion of the fourth amendment to the Montreal Protocol on substances that deplete the ozone layer

(2001/C 213 E/12)

(Text with EEA relevance)

COM(2001) 249 final — 2001/0101(CNS)

(Submitted by the Commission on 8 May 2001)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 174(4) and 133 in conjunction with the first sentence of Article 300(2) and first subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

(1) The Community, in view of its responsibilities for the environment has, by Decision 88/540/EEC ⁽²⁾ 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, and by Decision 91/690/EEC ⁽³⁾ has approved the first amendment to the said Protocol, by Decision 94/68/EC ⁽⁴⁾ has approved the second amendment to the said Protocol and by Decision 2000/646/EC ⁽⁵⁾ has approved the third amendment to the said Protocol.

(2) Recent evidence indicates that for the adequate protection of the ozone layer a higher degree of control of trade in ozone-depleting substances is required than is provided by the Montreal Protocol as amended in 1997 and the same evidence indicates that there should be additional measures to control production of ozone-depleting substances and in particular on hydrochlorofluorocarbons and new substances.

(3) A fourth amendment to the Montreal Protocol introducing these controls has been adopted by the parties in December 1999 in Beijing.

(4) The Commission, on behalf of the Community, took part in the negotiation and adoption of this amendment.

(5) The Community has adopted measures in the area covered by the amendment, notably in Regulation EC 2037/2000 of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer ⁽⁶⁾ and, given its exclusive competence to adopt measures that regulate trade between the Community and third countries, it should, therefore, undertake any international commitments in that area.

(6) It is necessary for the Community to approve the fourth amendment to the Montreal Protocol because its provisions relate to production and trade in controlled substances between the Community and other Parties, the implementation of which is the responsibility of the Community.

HAS DECIDED AS FOLLOWS:

Article 1

The fourth amendment to the Montreal Protocol on substances that deplete the ozone layer is hereby approved on behalf of the Community.

The text of this amendment is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person or persons empowered to deposit the instrument of approval of this fourth amendment on behalf of the Community with the Secretary-General of the United Nations in accordance with Article 13 of the Vienna Convention for the Protection of the Ozone Layer as read in conjunction with Article 3 of the fourth amendment to the Montreal Protocol.

Article 3

This decision shall be published in the *Official Journal of the European Community*.

⁽¹⁾ OJ C 21 E, 25.1.2000, p. 9.

⁽²⁾ OJ L 297, 31.10.1988, p. 8.

⁽³⁾ OJ L 377, 31.12.1991, p. 28.

⁽⁴⁾ OJ L 33, 7.2.1994, p. 1.

⁽⁵⁾ OJ L 272, 25.10.2000, p. 26.

⁽⁶⁾ OJ L 244, 29.9.2000, p. 1.

ANNEX

AMENDMENT TO THE MONTREAL PROTOCOL ON SUBSTANCES THAT DEplete THE OZONE LAYER

Article 1

Amendment

A. Article 2, paragraph 5

In paragraph 5 of Article 2 of the Protocol, for the words: 'Articles 2 A to 2 E' there shall be substituted: 'Articles 2 A to 2 F'.

B. Article 2, paragraphs 8(a) and 11

In paragraphs 8(a) and 11 of Article 2 of the Protocol, for the words: 'Articles 2 A to 2 H' there shall be substituted: 'Articles 2 A to 2 I'.

C. Article 2 F, paragraph 8

The following paragraph shall be added after paragraph 7 of Article 2 F of the Protocol:

'Each Party producing one or more of these substances shall ensure that for the twelve-month period commencing on 1 January 2004, and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex C does not exceed, annually, the average of:

- (a) The sum of its calculated level of consumption in 1989 of the controlled substances in Group I of Annex C and two point eight per cent of its calculated level of consumption in 1989 of the controlled substances in Group I of Annex A; and
- (b) The sum of its calculated level of production in 1989 of the controlled substances in Group I of Annex C and two point eight per cent of its calculated level of production in 1989 of the controlled substances in Group I of Annex A.

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 up to ten per cent of its calculated level of production of the controlled substances in Group I of Annex C as defined above.'

D. Article 2 I

The following Article shall be inserted after Article 2 H of the Protocol:

'Article 2 I: Bromochloromethane

Each Party shall ensure that for the twelve-month period commencing on 1 January 2002, and in each twelve-month period thereafter, its calculated level of consumption and production of the controlled substance in Group III of Annex C does not exceed zero. This paragraph will apply save to the extent that the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be essential.'

E. Article 3

In Article 3 of the Protocol, for the words: 'Articles 2, 2 A to 2 H' there shall be substituted: 'Articles 2, 2 A to 2 I.'

F. Article 4, paragraphs 1 *quin.* and 1 *sex.*

The following paragraphs shall be added to Article 4 of the Protocol after paragraph 1 *qua*:

'1 quin. As of 1 January 2004, each Party shall ban the import of the controlled substances in Group I of Annex C from any State not party to this Protocol.

1 sex. Within one year of the date of entry into force of this paragraph, each Party shall ban the import of the controlled substance in Group III of Annex C from any State not party to this Protocol.'

G. Article 4, paragraphs 2 *quin.* and 2 *sex.*

The following paragraphs shall be added to Article 4 of the Protocol after paragraph 2 *qua*:

2 *quin.* As of 1 January 2004, each Party shall ban the export of the controlled substances in Group I of Annex C to any State not party to this Protocol.

2 *sex.* Within one year of the date of entry into force of this paragraph, each Party shall ban the export of the controlled substance in Group III of Annex C to any State not party to this Protocol.

H. Article 4, paragraphs 5 to 7

In paragraphs 5 to 7 of Article 4 of the Protocol, for the words: 'Annexes A and B, Group II of Annex C and Annex E' there shall be substituted: 'Annexes A, B, C and E.'

I. Article 4, paragraph 8

In paragraph 8 of Article 4 of the Protocol, for the words: 'Articles 2 A to 2 E, Articles 2 G and 2 H' there shall be substituted: 'Articles 2 A to 2 I.'

J. Article 5, paragraph 4

In paragraph 4 of Article 5 of the Protocol, for the words: 'Articles 2 A to 2 H' there shall be substituted: 'Articles 2 A to 2 I.'

K. Article 5, paragraphs 5 and 6

In paragraphs 5 and 6 of Article 5 of the Protocol, for the words: 'Articles 2 A to 2 E' there shall be substituted: 'Articles 2 A to 2 E and Article 2 I.'

L. Article 5, paragraph 8 *ter* (a)

The following sentence shall be added at the end of subparagraph 8 *ter* (a) of Article 5 of the Protocol:

'As of 1 January 2016 each Party operating under paragraph 1 of this Article shall comply with the control measures set out in paragraph 8 of Article 2 F and, as the basis for its compliance with these control measures, it shall use the average of its calculated levels of production and consumption in 2015.'

M. Article 6

In Article 6 of the Protocol, for the words: 'Articles 2 A to 2 H' there shall be substituted: 'Articles 2 A to 2 I.'

N. Article 7, paragraph 2

In paragraph 2 of Article 7 of the Protocol, for the words: 'Annexes B and C' there shall be substituted: 'Annex B and Groups I and II of Annex C.'

O. Article 7, paragraph 3

The following sentence shall be added after the first sentence of paragraph 3 of Article 7 of the Protocol:

'Each Party shall provide to the Secretariat statistical data on the annual amount of the controlled substance listed in Annex E used for quarantine and pre-shipment applications.'

P. Article 10

In paragraph 1 of Article 10 of the Protocol, for the words: 'Articles 2 A to 2 E' there shall be substituted: 'Articles 2 A to 2 E and Article 2 I.'

Q. Article 17

In Article 17 of the Protocol, for the words: 'Articles 2 A to 2 H' there shall be substituted: 'Articles 2 A to 2 I.'

R. Annex C

The following group shall be added to Annex C to the Protocol:

'Group, Substance, Number of Isomers, Ozone-Depleting Potential

Group III

CH₂BrCl bromochloromethane 1 0,12.'

Article 2

Relationship to the 1997 Amendment

No State or regional economic integration organisation may deposit an instrument of ratification, acceptance or approval of or accession to this Amendment unless it has previously, or simultaneously, deposited such an instrument to the Amendment adopted at the Ninth Meeting of the Parties in Montreal, 17 September 1997.

Article 3

Entry into force

1. This Amendment shall enter into force on 1 January 2001, provided that at least twenty instruments of ratification, acceptance or approval of the Amendment have been deposited by States or regional economic integration organisations that are Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer. In the event that this condition has not been fulfilled by that date, the Amendment shall enter into force on the ninetieth day following the date on which it has been fulfilled.
 2. For the purposes of paragraph 1, any such instrument deposited by a regional economic integration organisation shall not be counted as additional to those deposited by member States of such organisation.
 3. After the entry into force of this Amendment, as provided under paragraph 1, it shall enter into force for any other Party to the Protocol on the ninetieth day following the date of deposit of its instrument of ratification, acceptance or approval.
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