

**Ozone Layer Protection Regulations 1996**  
(SR 1996/222)

**Note**

These regulations are administered in the Ministry for the Environment.

ORDER IN COUNCIL

At Wellington this 11th day of August 1996

Present:

His Excellency the Governor-General in Council

PURSUANT to Part 3 of the Ozone Layer Protection Act 1996, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council and on the recommendation of the Minister for the Environment whose recommendation has been made—

- (a) After consultation by that Minister in accordance with section 17 of that Act; and
- (b) After being satisfied that, after making the regulations, New Zealand will be able to give effect to its obligations under the Convention and the Protocol,—

hereby makes the following regulations.

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## 1 Short Title and commencement

- (1) These regulations may be cited as the Ozone Layer Protection Regulations 1996.
- (2) These regulations shall come into force on the 16th day of September 1996.

## 2 Interpretation

- In these regulations, unless the context otherwise requires,—

**Aerosol spray** and **aerosol** means any substance packed under pressure in a container with a device for releasing it directly into the atmosphere as a foam or fine spray or solid or liquid stream

**Blowing agent** means any gas or volatile liquid introduced into liquid plastic to create bubbles for the purpose of forming plastic foam

**Bromochloromethane** means the substance specified in Part 9 of Schedule 1

Bromochloromethane: this definition was inserted, as from 16 November 2000, by regulation 3(1) Ozone Layer Protection Amendment Regulations 2000 (SR 2000/211).

**Bulk**, in relation to any controlled substance,—

- (a) Means any controlled substance that is acquired in a non-processed form whether alone or in a mixture:
- (b) Includes any bulk recycled substance:
- (c) Excludes any controlled substance that is in a manufactured product other than a container used for the transportation or storage of the substance:

**Bulk recycled substance**—

- (a) Means any controlled substance that is acquired in a non-processed form, whether alone or in a mixture, and that has been recovered, cleaned, or reclaimed; but
- (b) Excludes any controlled substance that is in a manufactured product other than a container used for the transportation or storage of the substance:

**Carbon tetrachloride** means the substance specified in Part 4 of Schedule 1 to these regulations

**CFC** means any substance specified in Part 1 or Part 3 of Schedule 1 to these regulations

**Cleaned**, in relation to any bulk recycled substance, means a recovered substance that has been cleaned by filtering or drying

**complying country** means a country that has been determined, in accordance with the Montreal Protocol, to be a country that is in full compliance with Articles 2, 2A to 2I, and Article 4 of that Protocol, and any certificate given by the Minister of Foreign Affairs to the effect that any country is or is not a complying country is conclusive evidence of that fact.  
Complying Country: this definition was substituted, as from 16 November 2000, by regulation 3(2) Ozone Layer Protection Amendment Regulations 2000 (SR 2000/211).

**Consumption** means production plus imports minus exports of bulk controlled substances

**Controlled substance** means any substance specified in Schedule 1 to these regulations

**Exportation** has the same meaning as in section 2 of the Customs and Excise Act 1996, and **export** has a corresponding meaning

**Fire extinguisher** includes any permanently installed drench system in a building, ship, or aircraft

**Halon** means any substance specified in Part 2 of Schedule 1 to these regulations

**HBFC** means any substance specified in Part 6 of Schedule 1 to these regulations

**HCFC** means any substance specified in Part 7 of Schedule 1 to these regulations

**Importation** has the same meaning as in section 2 of the Customs and Excise Act 1996, and **import** has a corresponding meaning

**Manufacture**, in relation to any controlled substance, means the process of creating a controlled substance but excludes any process which cleans or reclaims a bulk controlled substance

**Methyl bromide** means the substance specified in Part 8 of Schedule 1 to these regulations

**Methyl chloroform** means the substance specified in Part 5 of Schedule 1 to these regulations

**Minister** means the Minister of Commerce

Minister: this definition was inserted, as from 4 March 1999, by regulation 2 Ozone Layer Protection Amendment Regulations 1999 (SR 1999/32).

Minister: this definition was substituted, as from 16 November 2000, by regulation 3(3) Ozone Layer Protection Amendment Regulations 2000 (SR 2000/211).

**ODP tonnage** means the mass of a substance multiplied by its ozone depletion potential  
**Ozone depletion potential** or **ODP** means the steady-state ozone reduction for each unit mass of gas emitted into the atmosphere relative to that for a unit mass emission of CFC-11, as listed in the relevant Annexes to the Protocol and as specified in Schedule 1 to these regulations

**party** means a country that is—

- (a) a party to the Montreal Protocol; and
- (b) in relation to provisions regulating the manufacture, importation, and exportation of—
  - (i) HCFCs, HBFCs, and methyl bromide, a party to the Copenhagen Amendment to the Montreal Protocol; or
  - (ii) bromochloromethane, a party to the Beijing Amendment to the Montreal Protocol.

Party: this definition was inserted, as from 16 November 2000, by regulation 3(1) Ozone Layer Protection Amendment Regulations 2000 (SR 2000/211).

**Plastic foam** means any plastics in a cellular mass which are formed by the use of blowing agents

**pre-shipment applications**—

- (a) means any treatments applied, no later than 21 days before export, to meet—
  - (i) the official requirements of the importing country; or
  - (ii) the existing official requirements of the exporting country,—  
being official requirements performed or authorised by a national plant, animal, environmental, health, or stored product authority; but
- (b) does not include quarantine applications.

Pre-shipment applications: this definition was substituted, as from 16 November 2000, by regulation 3(4) Ozone Layer Protection Amendment Regulations 2000 (SR 2000/211).

**Quarantine applications** means any treatments to prevent the introduction, establishment, or spread of quarantine pests (including diseases), or to ensure their official control, where—

- (a) Official control is that performed by, or authorised by, a national plant, animal, or environmental protection or health authority;
- (b) Quarantine pests are pests of potential importance to the areas endangered thereby and not yet present there, or present but not widely distributed and being officially controlled:

**Reclaimed**, in relation to any bulk recycled substance, means a recovered substance that has been reprocessed and upgraded by filtering, drying, distillation, or chemical treatment

**Recovered**, in relation to any bulk recycled substance, means a substance that has been collected from machinery, equipment or containment vessels during servicing or before disposal

**Sale** means every method of disposition for valuable consideration, including barter; and includes—

- (a) The disposition to an agent for sale on consignment; and
- (b) Offering or attempting to sell, or receiving or having in possession for sale, or exposing for sale, or sending or delivering for sale, or causing or permitting to be sold, offered, or exposed for sale, and
- (c) Disposal by way of raffle, lottery, or other game of chance,—

and **sell** and **sold** have corresponding meanings

**Solvent** means any aqueous or organic product designed to clean a component or assembly by dissolving the contaminants present on its surface

**Working day** means any day of the week other than—

- (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, and Waitangi Day; and

- (b) A day in the period commencing on the 25th day of December in any year and ending with the 15th day of January in the following year.

**Part 1**  
**Prohibitions on importation**

*CFCs, halons, carbon tetrachloride, methyl chloroform, HBFCs, and bromochloromethane*

- This heading was amended, as from 1 January 2002, by regulation 4(1) Ozone Layer Protection Amendment Regulations 2000 (SR 2000/211), by substituting the words “HBFCs, and Bromochloromethane” for the words “and HBFCs”.

**3 Prohibition on importation of certain bulk controlled substances**

- Subject to regulation 4 of these regulations, the importation into New Zealand of any bulk CFC, halon, carbon tetrachloride, methyl chloroform, HBFC or bromochloromethane is hereby prohibited.

Regulation 3 was amended, as from 1 January 2002, by regulation 4(2) Ozone Layer Protection Amendment Regulations 2000 (SR 2000/211), by substituting the words “HBFC, or bromochloromethane” for the words “or HBFC”.

**4 Bulk recycled substances**

- Nothing in regulation 3 of these regulations applies to bulk recycled substances.

*Methyl bromide*

**5 Conditional prohibition on importation of methyl bromide**

- (1) Subject to subclause (2) of this regulation, the importation into New Zealand of any methyl bromide is hereby prohibited.
- (2) Methyl bromide may be imported into New Zealand from a party or a complying country under the authority of either—
  - (a) A base year permit under regulation 6 of these regulations; or
  - (b) A quarantine and pre-shipment permit under regulation 7 of these regulations,—granted by the Minister.

Subclause (2) was amended, as from 10 November 2000, by regulation 5 Ozone Layer Protection Amendment Regulations 2000 (SR 2000/211), by inserting the words “from a party or a complying country”.

**6 Base year permits for methyl bromide**

- (1) Any wholesaler who consumed methyl bromide in 1991 may apply in writing to the Minister for a base year permit for methyl bromide.
- (2) The application shall specify the amount of ODP tonnage of methyl bromide that the applicant consumed during 1991, identifying the amount used for quarantine and pre-shipment applications.
- (3) The amount of methyl bromide which the applicant may import under a base year permit shall be the ODP tonnage of methyl bromide consumed by the applicant during 1991 (excluding any used for quarantine or pre-shipment applications), reduced in accordance with the following reduction timetable:

<b>Period</b>	<b>Reduction (%)</b>
1 January 1996 to 31 December 1996	0
1 January 1997 to 31 December 1997	0
1 January 1998 to 31 December 1998	25
1 January 1999 to 31 December 1999	35

Period	Reduction (%)
1 January 2000 to 31 December 2000	45
1 January 2001 to 31 December 2002	60
1 January 2003 to 31 December 2004	75
1 January 2005	100

Subclause (3) was amended, as from 1 January 1997, by regulation 2 Ozone Layer Protection Regulations 1996, Amendment No 1 (SR 1996/345) by inserting “1 January 1997 to 31 December 1997 ... .. 0”.

Subclause (3) was further amended, as from 1 January 1998, by regulation 2 Ozone Layer Protection Amendment Regulations 1997 (SR 1997/304).

#### 7 Quarantine and pre-shipment permits

- (1) Any wholesaler may apply in writing to the Minister for a permit to import methyl bromide for quarantine or pre-shipment applications.
- (2) Any such application shall specify—
  - (a) The quantity of methyl bromide that is to be imported; and
  - (b) Any other information which the Minister may require to ensure that the methyl bromide is to be used for a legitimate quarantine or pre-shipment application.
- (3) Any wholesaler may apply for a permit to import methyl bromide necessary to replace any legally imported methyl bromide which has been used for legitimate quarantine and pre-shipment applications.
- (4) Any such application shall specify—
  - (a) The amount of methyl bromide that was used for legitimate quarantine and pre-shipment applications; and
  - (b) Any other information which the Minister may require to ensure that that methyl bromide was used for those purposes; and
  - (c) The quantity of methyl bromide that is to be imported.

#### *HCFCs*

#### 8 Conditional prohibition on importation of HCFCs

- (1) Subject to subclause (2) of this regulation, the importation into New Zealand of any HCFC is hereby prohibited.
- (2) HCFCs may be imported into New Zealand from a party or a complying country under the authority of either—
  - (a) A base year permit under regulation 9 of these regulations, or
  - (aa) a special permit under regulation 9A; or
  - (b) A conversion permit under regulation 10 of these regulations; or
  - (c) A wholesaler permit under regulation 11 of these regulations,—
 granted by the Minister.

Subclause (2) was amended, as from 1 January 2004, by regulation 6 Ozone Layer Protection Amendment Regulations 2000 (SR 2000/211) by inserting the words “from a party or a complying country” after the words “New Zealand”.

Subclause (2)(aa) was inserted, as from 19 April 2001, by regulation 3 Ozone Layer Protection Amendment Regulations 2001 (SR 2001/40).

#### 9 Base year permits for HCFCs

- (1) Any person who consumed HCFCs in 1991, 1992, or 1993 may apply in writing to the Minister for a base year permit for HCFCs.
- (2) The application shall specify—
  - (a) The base year chosen by the applicant, being one of 1991, 1992, or 1993; and
  - (b) The amount of ODP tonnage of HCFCs that the applicant consumed during that base year.

(3) The amount of HCFCs which the applicant may import under a base year permit shall be the ODP tonnage of HCFCs determined by the Minister to be the ODP tonnage of HCFCs consumed by the applicant during that base year, reduced in accordance with the following reduction timetable:

<b>Period</b>	<b>Reduction (%)</b>
1 January 1996 to 31 December 1999	0
1 January 2000 to 31 December 2009	33
1 January 2010 to 31 December 2014	75
1 January 2015	100

#### 9A Base year permits for HCFCs

- (1) Any person may apply in writing to the Minister for a special permit for HCFCs.
- (2) The application must specify the following information:
  - (a) the extent to which the applicant's entitlement (if any) to import HCFCs has been fully used or accounted for; and
  - (b) evidence of the applicant's commitment to use, in a timely manner, cost-effective alternatives to HCFCs; and
  - (c) evidence of the applicant's commitment to obtain, under regulation 14, a transfer of entitlement to a permit for HCFCs; and
  - (d) evidence of energy efficiency or other environmental advantages (if any) from granting a special permit for HCFCs to the applicant; and
  - (e) evidence of adverse economic or social impacts (if any) if the Minister does not grant a special permit for HCFCs to the applicant.
- (3) The amount of HCFCs that an applicant may import under a special permit is the ODP tonnage of HCFCs specified in the permit, reduced in accordance with the following reduction timetable:

<b>Period</b>	<b>Reduction %</b>
1 January 2001 to 31 December 2009	0
1 January 2010 to 31 December 2014	75
1 January 2015	100

Regulations 9A and 9B were inserted, as from 19 April 2001, by regulation 4 Ozone Layer Protection Amendment Regulations 2001 (SR 2001/40).

#### 9B Base year permits for HCFCs

- The total ODP tonnage of HCFCs allocated each year under regulations 9 and 9A must not exceed the consumption limits under the Protocol, as modified by the reduction timetables set out in regulations 9(3) and 9A(3).

Regulations 9A and 9B were inserted, as from 19 April 2001, by regulation 4 Ozone Layer Protection Amendment Regulations 2001 (SR 2001/40).

#### 10 Conversion permits for HCFCs

- (1) Any person who was entitled to import CFCs into New Zealand during 1995 under an import permit issued under the Ozone Layer Protection Act 1990 may apply in writing to the Minister for a conversion permit for HCFCs.
- (2) The application shall specify—
  - (a) The amount of ODP tonnage of CFCs that the applicant was entitled to import into New Zealand during 1995 under that permit (referred to as the **1995 quota**), and
  - (b) The amount of that 1995 quota which the applicant wishes to convert into HCFC import quota; and
  - (c) The applicant's industry group.

(3) The amount of HCFCs which the applicant may import under a conversion permit shall be determined by—

- (a) Multiplying the 1995 quota which the applicant wishes to convert by the appropriate industry group figure according to the following table:
- 

<b>Industry Group</b>	<b>Conversion value (%)</b>
Refrigeration.....	10
Foam blowing.....	2
Solvents.....	5
Dry cleaning solvents.....	5

- ; and
- (b) Reducing that figure in accordance with the following reduction timetable:

<b>Period</b>	<b>Reduction (%)</b>
1 January 1996 to 31 December 1999.....	0
1 January 2000 to 31 December 2005.....	33
1 January 2006.....	100

#### 11 Wholesaler permits

- (1) Any wholesaler who distributes HCFCs nationwide may, no later than the 1st day of December in any year, apply in writing to the Minister for a wholesaler permit for the next year.
- (2) The Minister may issue wholesaler permits not exceeding in total 2.5 ODP tonnes of HCFC in any year, divided as far as practicable as the Minister considers equitable between applicants for those permits.
- (3) The Minister shall publish, in the annual report required under the Act, the names of the persons to whom wholesaler permits were granted, and the amount of HCFCs that may be imported in accordance with each permit.

#### *Bulk recycled substances*

#### 12 Conditional prohibition on importation of bulk recycled substances

- (1) The importation into New Zealand of any bulk recycled substance is hereby prohibited unless—
  - (a) On importation, the person provides such of the following documents as may be required by an officer:
    - (i) A document from the person or company that recovered, cleaned, or reclaimed the substance stating that the substance is a bulk recycled substance; and
    - (ii) A statutory declaration signed by the person importing the substance declaring that the substance is a bulk recycled substance; and
    - (iii) Such other documentation as an officer may reasonably require in order to ascertain that the substance is a bulk recycled substance; and
  - (b) The officer is satisfied that the substance is a bulk recycled substance.
- (2) Every person who imports any bulk recycled substance shall, within 10 working days after the date of importation, notify the Minister, in writing, of the substance imported and the date and amount of the import.

#### *Provisions relating to permits*

#### 13 Provisions relating to permits

- (1) Any permit under these regulations may be granted by the Minister upon or subject to such terms and conditions (if any) as may be imposed by the Minister.
- (2) The Minister may revoke any permit if satisfied that the permit holder has been convicted of any offence against the Act or any other offence involving ozone depleting substances.

(2A) The Minister may revoke any special permit granted under regulation 9A if the Minister is satisfied that the information specified in the application is no longer correct.

(3) The Minister may modify any permit for the purpose of correcting any clerical error.

(4) The Minister may require any applicant for a permit, by notice in writing given to the applicant within 40 working days after the application is made,—

- (a) To verify any statement by statutory declaration:
- (b) To supply such further information relating to the application as is specified in the notice.

Subclause (2A) was inserted, as from 19 April 2001, by regulation 5 Ozone Layer Protection Amendment Regulations 2001 (SR 2001/40).

#### 14 Transfer of entitlement

- (1) Any person who qualifies for an entitlement to a permit under these regulations (other than under regulation 7) may transfer all or any part of the entitlement to any other person.
- (2) In order to effect a transfer, the entitlement holder should advise the Minister in writing of—
  - (a) The ODP tonnage to be transferred; and
  - (b) Who this is to be transferred to.
- (3) The Minister may, by notice in writing, require the transferor to supply such further information relating to the transfer as is required.
- (4) The reduction and phase out timetables shall apply to any entitlement that is transferred.

#### 15 Temporary transfer of entitlement

- (1) Any person who has been granted an import permit in respect of any year may temporarily transfer this entitlement, or any part of this entitlement, to any other person.
- (2) Such a transfer can be effected by any officer.
- (3) The officer may require the transferor to supply such further information relating to the transfer as is required.

#### 16 No transfers between substances

- Notwithstanding regulations 14 and 15 of these regulations, no person may transfer any entitlement to import HCFCs into any entitlement to import methyl bromide, or the reverse.

#### 17 Reduction of entitlement for non-usage

- (1) The Minister may, in his or her discretion, cancel any person's entitlement to a permit if satisfied that the person—
  - (a) Has not applied for an import permit within the last 2 years, or
  - (b) Has not, within the last 2 years, imported any bulk controlled substance and has not transferred or attempted to transfer any of that person's entitlement to any other person.
- (2) The Minister may, in his or her discretion, reduce any person's entitlement to a permit if satisfied that the person has not, within the last 2 years, imported all of that person's entitlement and has not transferred or attempted to transfer the balance of the entitlement to any other person.

#### 18 Re-allocation of entitlement

- (1) Where any person's entitlement to a permit is cancelled or reduced pursuant to regulation 17 of these regulations, the Minister may, in his or her discretion, reallocate the entitlement to any other person in such manner and on such terms and conditions as the Minister thinks fit.
- (2) Any person who would like to be considered for the reallocation of entitlement may notify the Minister accordingly.

#### 19 Prohibition on importation of certain goods containing ozone depleting substances

- The importation into New Zealand of any of the following goods is hereby prohibited:
  - (a) Any aerosol spray that contains any controlled substance other than methyl bromide:
  - (b) Any plastic foam, or any goods that contain any plastic foam, specified in Schedule 2 to these regulations that is or are manufactured using any CFC:
  - (c) Any dry-cleaning machine that contains or is designed to use any controlled substance as a solvent:
  - (d) Any fire extinguisher that contains any controlled substance:
  - (e) Any goods specified in Schedule 3 to these regulations that contain any controlled substance (other than HCFC or methyl bromide) from another country, unless the other country is a party or a complying country.
  - (f) Any dehumidifiers, refrigerators, freezers, air-conditioners, supermarket display cases, heat pumps, and water coolers that contain any CFC (except those that are part of or belong to any other product, equipment, or thing).

Paragraph (f) was inserted, as from 4 March 1999, by regulation 3 Ozone Layer Protection Amendment Regulations 1999 (SR 1999/32).

Subclause (e) was amended, as from 16 November 2000, by regulation 7 Ozone Layer Protection Amendment Regulations 2000 (SR 2000/211), by substituting the words “another country, unless the other country is a party or a complying country” for the words “a non-complying country”.

#### 20 Prohibition not to apply to packaging

- Nothing in regulation 19 of these regulations shall make it unlawful for any person to import any controlled substance, or any goods containing any controlled substance, that is or are used only as packaging of any other imported goods or as part of the packaging of any other imported goods.

#### 21 Prohibition not to apply to certain personal effects

- Nothing in regulation 19 of these regulations shall make it unlawful for any person to import any goods that are personal or household effects in respect of which an officer is satisfied that they are not intended for any other person or for gift, sale, or exchange.

## **Part 2 Prohibitions on exportation**

#### 22 Prohibition on certain exports of bulk controlled substances

- The exportation of any bulk CFC, halon, carbon tetrachloride, methyl bromide, HBFC, or bromochloromethane from New Zealand to another country is prohibited, unless the other country is a party or a complying country.

Regulation 22 was substituted, as from 1 January 2002, by regulation 8 Ozone Layer Protection Amendment Regulations 2000 (SR 2000/211).

#### 23 Restriction on other exports of bulk controlled substances

- (1) The exportation of any bulk controlled substance is prohibited except under the authority of an export permit.  
(2) No export permit may be granted for an export that is prohibited under regulation 22.  
(3) Any person may apply in writing to the Minister for an export permit for the exportation of a bulk controlled substance.  
(4) The application must specify—
  - (a) The name and address of the exporter:
  - (b) The substance to be exported:
  - (c) The quantity to be exported:

- (d) The purpose of exportation:
  - (e) The date and destination of the export.
- (5) An export permit may be granted by the Minister or by an officer upon receiving an application.
- (6) An application for an export permit may be declined only if—
- (a) The Minister or the officer is not satisfied as to the completeness or truthfulness of the information required to be specified in the application; or
  - (b) The application relates to an export that is prohibited under regulation 22.
- (7) Regulation 13(2), (3), and (4)(a) applies to export permits granted under this regulation; regulations 13(1), 13(4)(b), and 14 to 18 do not apply.

Regulation 23 was substituted, as from 10 February 2000, by regulation 2 Ozone Layer Protection Amendment Regulations (No 2) 1999 (SR 1999/358).

#### 23A Prohibition on exportation of methyl bromide

- The exportation of any methyl bromide from New Zealand to another country is prohibited, unless the other country is a party or a complying country.

Regulation 23A was inserted, as from 10 November 2000, by regulation 9 Ozone Layer Protection Amendment Regulations 2000 (SR 2000/211).

#### 23B Prohibition on exportation of HCFC

- The exportation of any HCFC from New Zealand to another country is prohibited, unless the other country is a party or a complying country.

Regulation 23B was inserted, as from 1 January 2004, by regulation 10 Ozone Layer Protection Amendment Regulations 2000 (SR 2000/211).

### **Part 3 Prohibitions on manufacture**

#### 24 Prohibition on manufacture of controlled substances and certain goods

- The manufacture in New Zealand of the following substances and goods is hereby prohibited:
  - (a) Any controlled substance:
  - (b) Any aerosol spray that contains any controlled substance other than methyl bromide:
  - (c) Any plastic foam, or any goods that contain any plastic foam, specified in Schedule 2 to these regulations that is or are manufactured using any CFC:
  - (d) Any dry-cleaning machine that contains or is designed to use any controlled substance as a solvent:
  - (e) Any fire extinguisher that contains any controlled substance.

### **Part 4 Prohibitions on sale**

#### 25 Prohibition on sale of certain goods

- The sale in New Zealand of any of the following goods is hereby prohibited:
  - (a) Any dry-cleaning machine that contains or is designed to use any controlled substance as a solvent:
  - (b) Any aerosol spray that contains any controlled substance other than methyl bromide:
  - (c) Any plastic foam, or any goods that contain any plastic foam, specified in Schedule 2 to these regulations that is or are manufactured using any CFC:

- (d) Any fire extinguisher that contains any CFC, halon, carbon tetrachloride, methyl chloroform, or HBFC.

26 Prohibition not to apply to second-hand goods

- Nothing in regulation 23 of these regulations shall make it unlawful for any person to sell any second-hand goods.

27 Prohibition not to apply to goods exempted under Part 5

- Nothing in regulation 25 of these regulations shall make it unlawful for any person to sell any goods in respect of the importation or manufacture of which an exemption has been granted under Part 5 of these regulations.

## **Part 5 Exemptions**

28 Prohibited substances and goods may be exempted

- (1) The prohibitions in Parts 1 to 4 of these regulations do not apply to anything in respect of which the Minister has granted an exemption.  
(2) However, no exemption entitles any person to import into New Zealand any bulk CFC, halon, carbon tetrachloride, methyl bromide, HBFC, or bromochloromethane from another country, unless the other country is a party or a complying country.

Subclause (2) was substituted, as from 1 January 2002, by regulation 11 Ozone Layer Protection Amendment Regulations 2000 (SR 2000/211).

29 Exemptions for imports of bulk controlled substances

- The only exemptions that may be granted by the Minister in respect of the importation of bulk controlled substances are as follows:
  - (a) For bulk recycled halon-1301 that is to be used only for refrigeration purposes and only in circumstances where the use of halon-1301 for refrigeration purposes is necessary for human health or safety and halon-1301 cannot be obtained from supplies in New Zealand:
  - (b) For bulk CFC, halon, carbon tetrachloride, methyl chloroform, or HBFC that is to be used in the manufacture of aerosols or fire extinguishers for a use determined by the Parties to the Montreal Protocol to be an essential use and that use is necessary for human health or safety:
  - (c) For HCFC that is to be used in the manufacture of aerosols that are to be used only for a use that is necessary for human health or safety:
  - (d) For any bulk recycled substance, or any bulk controlled substance that is not a halon, that is to be used only in the servicing of fire extinguishers in circumstances where the substance cannot be obtained from supplies in New Zealand and where the servicing is required either because the fire extinguisher was used in a fire or as a result of a loss of halon that was outside the control of the applicant:
  - (e) Any bulk controlled substance that is to be used only for a use determined by the Parties to the Montreal Protocol to be an essential use or a critical use.

Paragraph (e) was amended, as from 14 January 2005, by regulation 3 Ozone Layer Protection Amendment Regulations 2004 (SR 2004/434) by inserting the words “or a critical use”.

30 Exemptions for manufacture of bulk controlled substances

- The only exemptions that may be granted by the Minister in respect of the manufacture of any bulk controlled substance are for small quantities of less than 1 kilogram necessary for laboratory and analytical use and where this use is determined by the Parties to the Montreal Protocol to be a legitimate laboratory and analytical use.

### 31 Exemptions for goods

- (1) The only exemptions that may be granted by the Minister in respect of the importation of any aerosol or fire extinguisher are for those that are to be used only for a use that is necessary for human health or safety.
- (2) No exemption shall be granted by the Minister in respect of the importation or manufacture of any dry-cleaning machine which contains or is designed to use a bulk controlled substance as a solvent.
- (3) No exemption shall be granted by the Minister in respect of the importation from another country (unless it is a party or a complying country) of any goods specified in Schedule 3 to these regulations that contain any controlled substance other than HCFC or methyl bromide.

Subclause (3) was amended, as from 16 November 2000, by regulation 12 Ozone Layer Protection Amendment Regulations 2000 (SR 2000/211), by substituting the words “another country (unless it is a party or a complying country)” for the words “a non-complying country”.

### 32 Exemptions for transshipments

- Nothing in this Part of these regulations shall prevent an exemption being granted in respect of the importation or exportation of any substances or goods that are imported into New Zealand only for the purpose of being transhipped into another ship or aircraft for carriage to a destination that is outside the territorial limits of New Zealand.

### 33 Application for exemption

- (1) Every application for an exemption shall be made in writing to the Minister and shall—
  - (a) Specify the substance or goods in respect of which an exemption is sought; and
  - (b) Specify the amount of the substance or goods proposed to be imported, exported, manufactured, or sold in accordance with the exemption; and
  - (c) Specify the reasons why the exemption is necessary; and
  - (d) State or be accompanied by such other information as the Minister may require for the purpose of determining whether or not to grant the exemption.
- (2) The Minister may require any applicant for an exemption, by notice in writing given to the applicant within 40 working days after the applications is made,—
  - (a) To verify any statement by statutory declaration;
  - (b) To supply such further information relating to the application as is specified in the notice.

### 34 Time at which application may be made

- (1) An application for an exemption may be made under regulation 33 of these regulations—
  - (a) At any time before the substance is, or the goods are, imported; or
  - (b) No later than 10 working days after the date on which the substance is, or the goods are, imported.
- (2) In any case where a substance is, or goods are, imported into New Zealand before an exemption has been applied for or granted, the New Zealand Customs Service may retain, at the expense of the importer, the substance or goods—
  - (a) Pending the Minister's decision whether to grant an exemption or to decline the application; and
  - (b) If there is an appeal against any refusal to grant the exemption, pending a final decision on appeal.

### 35 Grant, renewal, revocation, etc of exemptions

- (1) Any exemption granted in accordance with these regulations—
  - (a) Shall, except in any case to which paragraph (c) of this subclause applies, be valid for a period of 12 months and may be renewed from time to time;
  - (b) May be granted with or without conditions as to the use of the substance or goods in New Zealand or as to the export of the substance or goods:

- (c) Shall, in any case where the exemption states that it is granted in relation to the construction of buildings or plant, be valid until the completion of the construction.
- (2) The Minister may, at any time, revoke any exemption granted under this Part of these regulations.

### 36 Publication of exemptions

- The Minister shall publish, in the annual report required under the Act, a list specifying—
  - (a) The number of exemptions granted during the year under this Part of these regulations; and
  - (b) In respect of each exemption granted—
    - (i) The person to whom it was granted; and
    - (ii) The substance or goods in respect of which it was granted; and
    - (iii) The amount of that substance or goods that may be imported, exported, manufactured, or sold in accordance with the exemption, and
    - (iv) The reason or reasons for granting the exemption, and
    - (v) The period for which the exemption is to be valid, and
    - (vi) Any conditions to which the exemption is subject.

## **Part 6**

### **Miscellaneous provisions**

#### *Provisions relating to offences*

### 37 Offence to fail to notify importation or exportation of bulk recycled substance

- Every person commits an offence, and is liable on summary conviction to a fine not exceeding \$5,000 who knowingly or without lawful justification or excuse fails to notify the Minister of the importation or exportation of any bulk recycled substance.

### 38 Circumstances in which Court may discharge without conviction

- (1) Where a person is charged with an offence against the Act, the Court may discharge the defendant without conviction if the Court is satisfied,—
  - (a) In any case where the controlled substance or the goods to which the charge relates have been imported from a complying country that is a party or a complying country,—
    - (i) That, within 10 working days after the date of importation of the substance or goods, the defendant made, under Part 5 of these regulations, an application for an exemption in respect of the importation of the substance or goods and that, as a result of that application, an exemption was granted in respect of the importation of the substance or goods; or
    - (ii) That, within 30 working days after the relevant date (within the meaning of subclause (3) of this regulation), the defendant either exported the substance or goods or, after taking all reasonable steps to export the substance or goods, surrendered the substance or goods to the Crown; or
  - (b) In any other case, that the defendant, within 30 working days after the importation of the substance or goods, surrendered the substance or goods to the Crown.

(2) A Court discharging a defendant under subclause (1) of this regulation may make any order for payment of costs or for the restitution of any property that it could have made under any enactment applicable to the offence with which the defendant was charged if it had convicted and sentenced the defendant, and the provisions of every such enactment shall apply accordingly.

(3) For the purposes of subclause (1)(a)(ii) of this regulation, the relevant date is whichever is the later of the following dates:

- (a) The date of importation; or

- (b) Where an application for an exemption is made under Part 5 of these regulations within 10 working days after the date of importation, the date on which the application is declined by the Minister; or
  - (c) Where there is an appeal against any refusal to grant such an exemption, the date on which the appeal is declined.
- (4) Nothing in subclause (1) of this regulation limits any other power of a Court to discharge a defendant, with or without conviction.

Subclause (1)(a) was amended, as from 1 January 2002, by regulation 13 Ozone Layer Protection Amendment Regulations 2000 (SR 2000/211), by substituting the words “country that is a party or a complying country” for the words “complying country”.

### 39 Forfeiture to Crown

- Where any person has been convicted of an offence against paragraph (a) or paragraph (b) or paragraph (c) or paragraph (d) of section 13 of the Act, the Court may, if it thinks fit, order that any substance or goods in relation to which the offence was committed shall be forfeited to the Crown and disposed of as the Minister for the Environment directs.

### *Procedure in respect of decision-making and appeals*

### 40 Rights of persons affected by proposed adverse decisions

- (1) In this regulation, unless the context otherwise requires, **adverse decision** means any decision under the Act or these regulations in respect of which there is a right of appeal pursuant to regulation 41 of these regulations.
- (2) Where the Minister proposes to make an adverse decision in respect of any person, that Minister shall, by notice in writing,—
  - (a) Notify the person directly affected of the proposed decision; and
  - (b) Subject to subclause (4) of this regulation, inform that person of the grounds for the proposed decision; and
  - (c) Specify a date by which submissions may be made to the Minister in respect of the proposed decision (which date shall not be less than 15 working days after the date on which the notice is given); and
  - (d) Where appropriate, specify the date on which the proposed decision will, unless that Minister otherwise determines, take effect, being a date not earlier than 20 working days after the date the notice is given; and
  - (e) Notify the person of the person's right of appeal under regulation 41 of these regulations, in the event of the proposed decision being proceeded with.
- (3) Where any notice is given to any person under this regulation,—
  - (a) It shall be the responsibility of that person to ensure that all information that the person wishes to have considered in relation to the proposed adverse decision is received by the Minister within the period specified in the notice pursuant to subclause (2)(c) of this regulation, or within such further period as the Minister may allow in any case;
  - (b) The Minister shall consider any submissions made in accordance with paragraph (a) of this subclause;
  - (c) The Minister may, but shall not be obliged to, consider any other information supplied by the person;
  - (d) The Minister shall not be obliged to hear any person on the matter.
- (4) After considering the matter in accordance with this section, the Minister shall—
  - (a) Finally determine whether or not to make the proposed adverse decision; and
  - (b) As soon as practicable thereafter, notify in writing the person directly affected of—
    - (i) The Minister's decision; and

- (ii) Where appropriate, the date on which the decision will take effect; and
- (iii) Where appropriate, the right of appeal under regulation 41 of these regulations.

#### 41 Appeals

- (1) In any case where the Minister—
  - (a) Issues a permit that the applicant considers unsatisfactory for any reason; or
  - (b) Declines any application for a permit; or
  - (c) Revokes any permit; or
  - (d) Cancels or reduces any entitlement to a permit or reallocates any entitlement; or
  - (e) Refuses to allow the importation of any substances or goods; or
  - (f) Refuses to grant an exemption pursuant to Part 5 of these regulations,—
 the person directly affected may appeal against that decision to the High Court.
- (2) In any case where any substance or goods are seized pursuant to the Act or these regulations, any person directly affected may appeal against that decision to the High Court.
- (3) Applications shall be taken to have been declined or refused if they are not agreed to within—
  - (a) 40 working days after the making of the application; or
  - (b) If relevant, 40 working days after any requirement under regulation 13(4) or regulation 33(2) of these regulations is satisfied.

#### 42 Procedure in respect of appeals

- (1) Every appeal under regulation 41 of these regulations shall be brought, by way of originating application, not later than 20 working days after the date on which the appellant was notified of the decision appealed against, or within such further period as the Court may allow.
- (2) In dealing with an appeal under these regulations, the Court may—
  - (a) Confirm, reverse, or modify the decision appealed against, and make such orders and give such directions to the Minister or officer concerned as may be necessary to give effect to the Court's decision; or
  - (b) Refer the matter back to the Minister or officer concerned with directions to reconsider the whole or any specified part of the matter.
- (3) Subject to regulation 44 of these regulations, the decision of the Court on any appeal under this Act shall be final.

#### 43 Decision of Minister to continue in force pending appeal, etc

- (1) Every decision of the Minister appealed against under regulation 41 of these regulations shall continue in force pending the determination of the appeal, and no person shall be excused from complying with any of the provisions of Parts 1 to 5 of these regulations on the ground that any appeal is pending.
- (2) The Court may, in its discretion, suspend the effect of the revocation of any permit pending the outcome of the appeal.

#### 44 Appeal to Court of Appeal on question of law

- Any party to an appeal under regulation 41 of these regulations may appeal to the Court of Appeal on a question of law.

### *Miscellaneous provisions*

#### 45 Regulations not to apply to foreign ships and aircraft

- (1) Nothing in these regulations shall apply to any substances or goods that are on board, or form part of, any foreign ship or aircraft unless they are, while in New Zealand, removed from that ship or aircraft.

(2) For the purposes of this regulation, a foreign ship or aircraft is any ship or aircraft except—

- (a) A New Zealand ship within the meaning of section 2(1) of the Maritime Transport Act 1994; or
- (b) A New Zealand registered aircraft within the meaning of section 2 of the Civil Aviation Act 1990; or
- (c) A ship or aircraft fully owned by New Zealanders.

(3) **Fully owned by New Zealanders** means that all of the legal and equitable interests (except interests by way of security only for any advance made by that person to the owner) are held by New Zealand citizens.

#### 46 Search warrant

- Every search warrant issued under section 23 of the Act shall be in the form prescribed in Schedule 4 to these regulations.

#### 47 Protocol

- A copy of the English text of the Montreal Protocol on Substances that Deplete the Ozone Layer is set out in Schedule 5 to these regulations.

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**Schedule 1**  
**Controlled substances**

Reg 2

1		
CFCs (chlorofluorocarbons)		
Chemical Formula	Substance	Ozone Depleting Potential*
CFCl <sub>3</sub>	CFC-11	1.0
CF <sub>2</sub> Cl <sub>2</sub>	CFC-12	1.0
C <sub>2</sub> F <sub>3</sub> Cl <sub>3</sub>	CFC-113	0.8
C <sub>2</sub> F <sub>4</sub> Cl <sub>2</sub>	CFC-114	1.0
C <sub>2</sub> F <sub>5</sub> Cl	CFC-115	0.6
2		
Halons		
Chemical Formula	Substance	Ozone Depleting Potential*
CF <sub>2</sub> BrCl	halon-1211	3.0
CF <sub>3</sub> Br	halon-1301	10.0
C <sub>2</sub> F <sub>4</sub> Br <sub>2</sub>	halon-2402	6.0
3		
Other CFCs (chlorofluorocarbons)		
Chemical Formula	Substance	Ozone Depleting Potential*
CF <sub>3</sub> Cl	CFC-13	1.0
C <sub>2</sub> FCl <sub>5</sub>	CFC-111	1.0
C <sub>2</sub> F <sub>2</sub> Cl <sub>4</sub>	CFC-112	1.0
C <sub>3</sub> FCl <sub>7</sub>	CFC-211	1.0
C <sub>3</sub> F <sub>2</sub> Cl <sub>6</sub>	CFC-212	1.0
C <sub>3</sub> F <sub>3</sub> Cl <sub>5</sub>	CFC-213	1.0
C <sub>3</sub> F <sub>4</sub> Cl <sub>4</sub>	CFC-214	1.0

<b>Chemical Formula</b>	<b>Substance</b>	<b>Ozone Depleting Potential*</b>
C3F5Cl3	CFC-215	1.0
C3F6Cl2	CFC-216	1.0
C3F7Cl	CFC-217	1.0

4

<b>Chemical Formula</b>	<b>Substance</b>	<b>Ozone Depleting Potential*</b>
CCl4	Carbon tetrachloride	1.1

5

<b>Chemical Formula</b>	<b>Substance</b>	<b>Ozone Depleting Potential*</b>
C2H3Cl3	1,1,1-trichloroethane	
This formula does not refer to 1,1,2-trichloroethane.		

6

HBFCs (hydrobromofluorocarbons)			
<b>Chemical Formula</b>	<b>Substance</b>	<b>Number of Isomers</b>	<b>Ozone Depleting Potential*</b>
CHBr2		1	1.00
CHF2Br	(HBFC-22B1)	1	0.74
CH2FBr		1	0.73
C2HFBr4		2	0.3-0.8
C2HF2Br3		3	0.5-1.8
C2HF3Br2		3	0.4-1.6
C2HF4Br		2	0.7-1.2
C2H2FBr3		3	0.1-1.1
C2H2F2Br2		4	0.2-1.5
C2H2F3Br		3	0.7-1.6
C2H3FBr2		3	0.1-1.7
C2H3F2Br		3	0.2-1.1
C2H4FBr		2	0.07-0.1
C3HFBr6		5	0.3-1.5
C3HF2Br5		9	0.2-1.9
C3HF3Br4		12	0.3-1.8
C3HF4Br3		12	0.5-2.2
C3HF5Br2		9	0.9-2.0
C3HF6Br		5	0.7-3.3
C3H2FBr5		9	0.1-1.9
C3H2F2Br4		16	0.2-2.1
C3H2F3Br3		18	0.2-5.6
C3H2F4Br2		16	0.3-7.5
C3H2F5Br		8	0.9-1.4
C3H3FBr4		12	0.08-1.9
C3H3F2Br3		18	0.1-3.1
C3H3F3Br2		18	0.1-2.5
C3H3F4Br		12	0.3-4.4
C3H4FBr3		12	0.03-0.3

<b>Chemical Formula</b>	<b>Substance</b>	<b>Number of Isomers</b>	<b>Ozone Depleting Potential*</b>
C3H4F2Br2		16	0.1-1.0
C3H4F3Br		12	0.07-0.8
C3H5FBr2		9	0.04-0.4
C3H5F2Br		9	0.07-0.8
C3H6FBr		5	0.02-0.7

7

HCFCs (hydrochlorofluorocarbons)

<b>Chemical formula</b>	<b>Substance</b>	<b>Number of Isomers</b>	<b>Ozone Depleting Potential*</b>
CHFCl2	HCFC-21	1	0.04
CHF2Cl	HCFC-22	1	0.055
CH2FC1	HCFC-31	1	0.02
C2HFC14	HCFC-121	2	0.01-0.04
C2HF2Cl3	HCFC-122	3	0.02-0.08
C2HF3Cl2	HCFC-123	3	0.02-0.06
CHCl2CF3	HCFC-123	-	0.02
C2HF4Cl	HCFC-124	2	0.02-0.04
CHFC1CF3	HCFC-124	-	0.022
C2H2FC13	HCFC-131	3	0.007-0.05
C2H2F2Cl2	HCFC-132	4	0.008-0.05
C2H2F3Cl	HCFC-133	3	0.02-0.06
C2H3FC12	HCFC-141	3	0.005-0.07
CH3CFCl2	HCFC-141b	-	0.11
C2H3F2Cl	HCFC-142	3	0.008-0.07
CH3CF2Cl	HCFC-142b	-	0.065
C2H4FC1	HCFC-151	2	0.003-0.005
C3HFC16	HCFC-221	5	0.015-0.07
C3HF2Cl5	HCFC-222	9	0.01-0.09
C3HF3Cl4	HCFC-223	12	0.01-0.08
C3HF4Cl3	HCFC-224	12	0.01-0.09
C3HF5Cl2	HCFC-225	9	0.02-0.07
CF3CF2CHCl2	HCFC-225ca	-	0.025
CF2ClCF2CHClF	HCFC-225cb	-	0.033
C3HF6Cl	HCFC-226	5	0.02-0.010
C3H2FC15	HCFC-231	9	0.05-0.09
C3H2F2Cl4	HCFC-232	16	0.008-0.10
C3H2F3Cl3	HCFC-233	18	0.007-0.23
C3H2F4Cl2	HCFC-234	16	0.01-0.28
C3H2F5Cl	HCFC-235	9	0.03-0.52
C3H3FC14	HCFC-241	12	0.004-0.09
C3H3F2Cl3	HCFC-242	18	0.005-0.13
C3H3F3Cl2	HCFC-243	18	0.007-0.12
C3H3F4Cl	HCFC-244	12	0.009-0.14
C3H4FC13	HCFC-251	12	0.001-0.01
C3H4F2Cl2	HCFC-252	16	0.005-0.04
C3H4F5Cl	HCFC-253	12	0.003-0.03
C3H5FC12	HCFC-261	9	0.002-0.02

Chemical formula	Substance	Number of Isomers	Ozone Depleting Potential*
C3H5F2Cl	HCFC-262	9	0.002-0.02
C3H6FC1	HCFC-271	5	0.001-0.03

Chemical Formula	Substance	Ozone Depleting Potential
CH3Br	(Mono)bromomethane	0.6

- 8  
Methyl bromide
- 9  
Bromochloromethane
- Schedule 1 was amended, as from 16 November 2000, by regulation 14 Ozone Layer Protection Amendment Regulations 2000 (SR 2000/211), by inserting Part 9.

Substance	Number of isomers	Ozone-depleting potential*
CH2BrCl	1	0.12.

\*Notes:

Ozone depleting potential is determined in accordance with the relevant Annexes to the Montreal Protocol.

Where a range of ODPs is indicated, the highest ODP value in that range shall be used for the purposes of the Protocol and for the purpose of calculating ODP tonnage under these regulations. The ODPs listed as a single value have been determined from calculations based on laboratory measurements. Those listed as a range are based on estimates and are less certain. The range pertains to an isomeric group. The upper value is the estimate of the ODP of the isomer with the highest ODP, and the lower value is the estimate of the ODP of the isomer with the lowest ODP.

### Schedule 2 Plastic goods manufactured with chlorofluorocarbons

Reg  
19(b),  
24(c),  
25(c)

- 1
  - Extruded Polystyrene Foam.
- 2
  - Thermoformed Plastic Packaging (including, without limiting the generality of that term:
    - supermarket meat/produce trays
    - egg cartons
    - fast-food containers
    - disposable plates
    - disposable cups
    - horticultural packaging trays
    - packaging netting).
- 3
  - Polystyrene Boardstock.
  -

### Schedule 3 Prohibited imports from countries other than parties or complying countries

Reg  
19(e),  
31(3)

- The heading to Schedule 3 was amended, as from 16 November 2000, by regulation 15 Ozone Layer Protection Amendment Regulations 2000, by substituting the words “countries other than parties or complying countries” for the words “non-complying countries”.
- 1
    - Automobile and truck air conditioning units (whether incorporated in vehicles or not).
  - 2

- 3 • Refrigerators.
- 4 • Freezers.
- 5 • Dehumidifiers.
- 6 • Water coolers.
- 7 • Ice machines.
- 8 • Air conditioning and heat pump units.
- 9 • Other domestic and commercial refrigeration and air conditioning or heat pump equipment.
- 10 • Aerosol products (other than medical aerosols).
- 11 • Portable fire extinguishers.
- 12 • Insulation boards, panels, and pipe covers.
- Pre-polymers (a reactive mixture of isocyanate and polyoll to which CFCs are added to manufacture rigid plastic foams).
- 

**Schedule 4**  
**Search warrant**

Reg 46

**(Issued pursuant to section 23 of the Ozone Layer Protection Act 1996)**

TO: (Name of member of Police) or every member of the Police or (Name of officer).

- 1 This warrant is issued following an application in writing made on oath by (Name of applicant) in respect of (Specify premises).
- 2 I, (Name of Judge or Justice or Registrar), am satisfied that there are reasonable grounds for believing that there is in or on (Specify premises)—
  - (a) Substances or goods that have been imported or manufactured or are being sold in contravention of the Act;
  - (b) Books, documents, or other records which there are reasonable grounds to believe may be evidence of the commission of any such offence.
- 3 This warrant authorises you, and any person called by you to assist,—
  - (a) To enter (Specify premises) on one occasion within 14 days of the date of the issue of this warrant at any time that is reasonable in the circumstances; and
  - (b) To use such force, both for making entry (either by breaking open doors or otherwise) and for breaking open anything on the premises, as is reasonable in the circumstances, and
  - (c) To search for and seize—
    - (i) Any substances or goods found on the premises and believed on reasonable grounds to have been imported or manufactured or to be available for sale in contravention of the Act; or
    - (ii) Any books, documents, or other records which there are reasonable grounds to believe may be evidence of the commission of any such offence.
- 4 This warrant is subject to the following conditions:  
(Specify any conditions imposed).

Dated at..... this..... day of..... 19...

..... Judge (or Justice or Registrar).

\*Delete if inapplicable

- Schedule 5 was substituted, as from 16 November 2000, by regulation 16 Ozone Layer Protection Amendment Regulations 2000 (SR 2000/211).

**Montreal Protocol on Substances that Deplete the Ozone Layer**

**As adjusted and amended by the Second Meeting of the Parties, London, 27-29 June 1990; the Fourth Meeting of the Parties, Copenhagen, 23-25 November 1992; the Seventh Meeting of the Parties, Vienna, 5-7 December 1995; the Ninth Meeting of the Parties, Montreal, 15-17 September 1997; and the Eleventh Meeting of the Parties, Beijing, December 1999.**

- **Preamble**

The Parties to this Protocol,  
 Being Parties to the Vienna Convention for the Protection of the Ozone Layer,  
 Mindful of their obligation under that Convention to take appropriate measures to protect human health and the environment against adverse effects resulting or likely to result from human activities which modify or are likely to modify the ozone layer,  
 Recognizing that world-wide emissions of certain substances can significantly deplete and otherwise modify the ozone layer in a manner that is likely to result in adverse effects on human health and the environment,  
 Conscious of the potential climatic effects of emissions of these substances,  
 Aware that measures taken to protect the ozone layer from depletion should be based on relevant scientific knowledge, taking into account technical and economic considerations,  
 Determined to protect the ozone layer by taking precautionary measures to control equitably total global emissions of substances that deplete it, with the ultimate objective of their elimination on the basis of developments in scientific knowledge, taking into account technical and economic considerations and bearing in mind the developmental needs of developing countries,  
 Acknowledging that special provision is required to meet the needs of developing countries, including the provision of additional financial resources and access to relevant technologies, bearing in mind that the magnitude of funds necessary is predictable, and the funds can be expected to make a substantial difference in the world's ability to address the scientifically established problem of ozone depletion and its harmful effects,  
 Noting the precautionary measures for controlling emissions of certain chlorofluorocarbons that have already been taken at national and regional levels,  
 Considering the importance of promoting international co-operation in the research, development and transfer of alternative technologies relating to the control and reduction of emissions of substances that deplete the ozone layer, bearing in mind in particular the needs of developing countries,  
 HAVE AGREED AS FOLLOWS:

Article 1 Definitions

- For the purposes of this Protocol:
  1. **Convention** means the Vienna Convention for the Protection of the Ozone Layer, adopted on 22 March 1985.
  2. **Parties** means, unless the text otherwise indicates, Parties to this Protocol.
  3. **Secretariat** means the Secretariat of the Convention.
  4. **Controlled substance** means a substance in Annex A, Annex B, Annex C or Annex E to this Protocol, whether existing alone or in a mixture. It includes the isomers of any such substance, except as specified in the relevant Annex, but excludes any controlled substance or mixture which is in a manufactured product other than a container used for the transportation or storage of that substance.
  5. **Production** means the amount of controlled substances produced, minus the amount destroyed by technologies to be approved by the Parties and minus the amount entirely used as

feedstock in the manufacture of other chemicals. The amount recycled and reused is not to be considered as **production**.

6. **Consumption** means production plus imports minus exports of controlled substances.

7. **Calculated levels** of production, imports, exports and consumption means levels determined in accordance with Article 3.

8. **Industrial rationalization** means the transfer of all or a portion of the calculated level of production of one Party to another, for the purpose of achieving economic efficiencies or responding to anticipated shortfalls in supply as a result of plant closures.

#### Article 2 Control Measures

- 1. Incorporated in Article 2A.
- 2. Replaced by Article 2B.
- 3. Replaced by Article 2A.
- 4. Replaced by Article 2A.
- 5. Any Party may, for one or more control periods, transfer to another Party any portion of its calculated level of production set out in Articles 2A to 2F, and Article 2H, provided that the total combined calculated levels of production of the Parties concerned for any group of controlled substances do not exceed the production limits set out in those Articles for that group. Such transfer of production shall be notified to the Secretariat by each of the Parties concerned, stating the terms of such transfer and the period for which it is to apply.
- 5 bis Any Party not operating under paragraph 1 of Article 5 may, for one or more control periods, transfer to another such Party any portion of its calculated level of consumption set out in Article 2F, provided that the calculated level of consumption of controlled substances in Group I of Annex A of the Party transferring the portion of its calculated level of consumption did not exceed 0.25 kilograms per capita in 1989 and that the total combined calculated levels of consumption of the Parties concerned do not exceed the consumption limits set out in Article 2F. Such transfer of consumption shall be notified to the Secretariat by each of the Parties concerned, stating the terms of such transfer and the period for which it is to apply.
- 6. Any Party not operating under Article 5, that has facilities for the production of Annex A or Annex B controlled substances under construction, or contracted for, prior to 16 September 1987, and provided for in national legislation prior to 1 January 1987, may add the production from such facilities to its 1986 production of such substances for the purposes of determining its calculated level of production for 1986, provided that such facilities are completed by 31 December 1990 and that such production does not raise that Party's annual calculated level of consumption of the controlled substances above 0.5 kilograms per capita.
- 7. Any transfer of production pursuant to paragraph 5 or any addition of production pursuant to paragraph 6 shall be notified to the Secretariat, no later than the time of the transfer or addition.
- 8.
  - (a) Any Parties which are Member States of a regional economic integration organization as defined in Article 1(6) of the Convention may agree that they shall jointly fulfil their obligations respecting consumption under this Article and Articles 2A to 2I provided that their total combined calculated level of consumption does not exceed the levels required by this Article and Articles 2A to 2I.
  - (b) The Parties to any such agreement shall inform the Secretariat of the terms of the agreement before the date of the reduction in consumption with which the agreement is concerned.
  - (c) Such agreement will become operative only if all Member States of the regional economic integration organization and the organization concerned are Parties to the Protocol and have notified the Secretariat of their manner of implementation.
- 9.
  - (a) Based on the assessments made pursuant to Article 6, the Parties may decide whether:

- (i) Adjustments to the ozone depleting potentials specified in Annex A, Annex B, Annex C and/or Annex E should be made and, if so, what the adjustments should be; and
      - (ii) Further adjustments and reductions of production or consumption of the controlled substances should be undertaken and, if so, what the scope, amount and timing of any such adjustments and reductions should be;
    - (b) Proposals for such adjustments shall be communicated to the Parties by the Secretariat at least six months before the meeting of the Parties at which they are proposed for adoption;
    - (c) In taking such decisions, the Parties shall make every effort to reach agreement by consensus. If all efforts at consensus have been exhausted, and no agreement reached, such decisions shall, as a last resort, be adopted by a two-thirds majority vote of the Parties present and voting representing a majority of the Parties operating under Paragraph 1 of Article 5 present and voting and a majority of the Parties not so operating present and voting;
    - (d) The decisions, which shall be binding on all Parties, shall forthwith be communicated to the Parties by the Depositary. Unless otherwise provided in the decisions, they shall enter into force on the expiry of six months from the date of the circulation of the communication by the Depositary.
10. Based on the assessments made pursuant to Article 6 of this Protocol and in accordance with the procedure set out in Article 9 of the Convention, the Parties may decide:
- (a) whether any substances, and if so which, should be added to or removed from any annex to this Protocol, and
  - (b) the mechanism, scope and timing of the control measures that should apply to those substances;
11. Notwithstanding the provisions contained in this Article and Articles 2A to 2I Parties may take more stringent measures than those required by this Article and Articles 2A to 2I.

#### Article 2A CFCs

- 1. Each Party shall ensure that for the twelve-month period commencing on the first day of the seventh month following the date of entry into force of this Protocol, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex A does not exceed its calculated level of consumption in 1986. By the end of the same period, each Party producing one or more of these substances shall ensure that its calculated level of production of the substances does not exceed its calculated level of production in 1986, except that such level may have increased by no more than ten per cent based on the 1986 level. Such increase shall be permitted only so as to satisfy the basic domestic needs of the Parties operating under Article 5 and for the purposes of industrial rationalization between Parties.
- 2. Each Party shall ensure that for the period from 1 July 1991 to 31 December 1992 its calculated levels of consumption and production of the controlled substances in Group I of Annex A do not exceed 150 per cent of its calculated levels of production and consumption of those substances in 1986; with effect from 1 January 1993, the twelve-month control period for these controlled substances shall run from 1 January to 31 December each year.
- 3. Each Party shall ensure that for the twelve-month period commencing on 1 January 1994, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex A does not exceed, annually, twenty-five per cent of its calculated level of consumption in 1986. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the substances does not exceed, annually, twenty-five per cent of its calculated level of production in 1986. 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 in 1986.
- 4. Each Party shall ensure that for the twelve-month period commencing on 1 January 1996, and in each twelve-month period thereafter, its calculated level of consumption of the

controlled substances in Group I of Annex A does not exceed zero. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the substances does not exceed zero. 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 annual average of its production of the controlled substances in Group I of Annex A for basic domestic needs for the period 1995 to 1997 inclusive. 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.

5. Each party shall ensure that for the twelve-month period commencing on 1 January 2003 and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex A for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed eighty per cent of the annual average of its production of those substances for basic domestic needs for the period 1995 to 1997 inclusive.

6. Each Party shall ensure that for the twelve-month period commencing on 1 January 2005 and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex A for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed fifty per cent of the annual average of its production of those substances for basic domestic needs for the period 1995 to 1997 inclusive.

7. Each Party shall ensure that for the twelve-month period commencing on 1 January 2007 and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex A for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed fifteen per cent of the annual average of its production of those substances for basic domestic needs for the period 1995 to 1997 inclusive.

8. Each Party shall ensure that for the twelve-month period commencing on 1 January 2010 and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex A for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed zero.

9. For the purposes of calculating basic domestic needs under paragraphs 4 to 8 of this Article, the calculation of the annual average of production by a Party includes any production entitlements that it has transferred in accordance with paragraph 5 of Article 2, and excludes any production entitlements that it has acquired in accordance with paragraph 5 of Article 2.

#### Article 2B Halons

- 1. Each Party shall ensure that for the twelve-month period commencing on 1 January 1992, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group II of Annex A does not exceed, annually, its calculated level of consumption in 1986. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the substances does not exceed, annually, its calculated level of production in 1986. 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 in 1986.
- 2. Each Party shall ensure that for the twelve-month period commencing on 1 January 1994, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group II of Annex A does not exceed zero. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the substances does not exceed zero. 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, until 1 January 2002 exceed that limit by up to fifteen per cent of its calculated level of production in 1986; thereafter, it may exceed that limit by a quantity equal to the annual average of its production of the controlled substances in Group II of Annex A for basic domestic needs for the period 1995 to 1997 inclusive. 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.

3. Each Party shall ensure that for the twelve-month period commencing on 1 January 2005 and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group II of Annex A for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed fifty per cent of the annual average of its production of those substances for basic domestic needs for the period 1995 to 1997 inclusive.

4. Each Party shall ensure that for the twelve-month period commencing on 1 January 2010 and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group II of Annex A for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed zero.

#### Article 2C Other fully halogenated CFCs

- 1. Each Party shall ensure that for the twelve-month period commencing on 1 January 1993, its calculated level of consumption of the controlled substances in Group I of Annex B does not exceed, annually, eighty per cent of its calculated level of consumption in 1989. Each Party producing one or more of these substances shall, for the same period, ensure that its calculated level of production of the substances does not exceed, annually, eighty per cent of its calculated level of production in 1989. 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 in 1989.
- 2. Each Party shall ensure that for the twelve-month period commencing on 1 January 1994, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex B does not exceed, annually, twenty-five per cent of its calculated level of consumption in 1989. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the substances does not exceed, annually, twenty-five per cent of its calculated level of production in 1989. 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 in 1989.
- 3. Each Party shall ensure that for the twelve-month period commencing on 1 January 1996, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex B does not exceed zero. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the substances does not exceed zero. 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, until 1 January 2003 exceed that limit by up to fifteen per cent of its calculated level of production in 1989; thereafter, it may exceed that limit by a quantity equal to eighty per cent of the annual average of its production of the controlled substances in Group I of Annex B for basic domestic needs for the period 1998 to 2000 inclusive. 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.
- 4. Each Party shall ensure that for the twelve-month period commencing on 1 January 2007 and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex B for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed fifteen per cent of the annual average of its production of those substances for basic domestic needs for the period 1998 to 2000 inclusive.
- 5. Each party shall ensure that for the twelve-month period commencing on 1 January 2010 and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex B for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed zero.

#### Article 2D Carbon tetrachloride

- 1. Each Party shall ensure that for the twelve-month period commencing on 1 January 1995, its calculated level of consumption of the controlled substance in Group II of Annex B does not exceed, annually, fifteen per cent of its calculated level of consumption in 1989. Each Party producing the substance shall, for the same period, ensure that its calculated level of

production of the substance does not exceed, annually, fifteen per cent of its calculated level of production in 1989. 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 in 1989.

2. Each Party shall ensure that for the twelve-month period commencing on 1 January 1996, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substance in Group II of Annex B does not exceed zero. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed zero. 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 fifteen per cent of its calculated level of production in 1989. 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.

#### Article 2E 1,1,1-Trichloroethane (Methyl chloroform)

- 1. Each Party shall ensure that for the twelve-month period commencing on 1 January 1993, its calculated level of consumption of the controlled substance in Group III of Annex B does not exceed, annually, its calculated level of consumption in 1989. Each Party producing the substance shall, for the same period, ensure that its calculated level of production of the substance does not exceed, annually, its calculated level of production in 1989. 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 in 1989.
- 2. Each Party shall ensure that for the twelve-month period commencing on 1 January 1994, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substance in Group III of Annex B does not exceed, annually, fifty per cent of its calculated level of consumption in 1989. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed, annually, fifty per cent of its calculated level of production in 1989. 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 in 1989.
- 3. Each Party shall ensure that for the twelve-month period commencing on 1 January 1996, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substance in Group III of Annex B does not exceed zero. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed zero. 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 fifteen per cent of its calculated level of production for 1989. 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.

#### Article 2F Hydrochlorofluorocarbons

- 1. Each Party shall ensure that for the twelve-month period commencing on 1 January 1996, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed, annually, the sum of:
  - (a) 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) Its calculated level of consumption in 1989 of the controlled substances in Group I of Annex C.
- 2. Each Party shall ensure that for the twelve month period commencing on 1 January 2004, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed, annually, sixty-five per cent of the sum referred to in paragraph 1 of this Article.

3. Each Party shall ensure that for the twelve-month period commencing on 1 January 2010, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed, annually, thirty-five per cent of the sum referred to in paragraph 1 of this Article.

4. Each Party shall ensure that for the twelve-month period commencing on 1 January 2015, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed, annually, ten per cent of the sum referred to in paragraph 1 of this Article.

5. Each Party shall ensure that for the twelve-month period commencing on 1 January 2020, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed, annually, zero point five per cent of the sum referred to in paragraph 1 of this Article. Such consumption shall, however, be restricted to the servicing of refrigeration and air conditioning equipment existing at that date.

6. Each Party shall ensure that for the twelve-month period commencing on 1 January 2030, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed zero.

7. As of 1 January 1996, each Party shall endeavour to ensure that:

- (a) The use of controlled substances in Group I of Annex C is limited to those applications where other more environmentally suitable alternative substances or technologies are not available;
- (b) The use of controlled substances in Group I of Annex C is not outside the areas of application currently met by controlled substances in Annexes A, B and C, except in rare cases for the protection of human life or human health; and
- (c) Controlled substances in Group I of Annex C are selected for use in a manner that minimizes ozone depletion, in addition to meeting other environmental, safety and economic considerations.

8. 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 fifteen per cent of its calculated level of production of the controlled substances in Group I of Annex C as defined above.

#### Article 2G Hydrobromofluorocarbons

- Each Party shall ensure that for the twelve-month period commencing on 1 January 1996, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group II of Annex C does not exceed zero. Each Party producing the substances shall, for the same periods, ensure that its calculated level of production of the substances 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.

#### Article 2H Methyl bromide

- 1. Each Party shall ensure that for the twelve-month period commencing on 1 January 1995, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substance in Annex E does not exceed, annually, its calculated level of consumption in 1991. Each Party producing the substance shall, for the same period, ensure

that its calculated level of production of the substance does not exceed, annually, its calculated level of production in 1991. 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 in 1991.

2. Each Party shall ensure that for the twelve-month period commencing on 1 January 1999, and in the twelve-month period thereafter, its calculated level of consumption of the controlled substance in Annex E does not exceed, annually, seventy-five per cent of its calculated level of consumption in 1991. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed, annually, seventy-five per cent of its calculated level of production in 1991. 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 in 1991.

3. Each Party shall ensure that for the twelve-month period commencing on 1 January 2001, and in the twelve-month period thereafter, its calculated level of consumption of the controlled substance in Annex E does not exceed, annually, fifty per cent of its calculated level of consumption in 1991. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed, annually, fifty per cent of its calculated level of production in 1991. 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 in 1991.

4. Each Party shall ensure that for the twelve-month period commencing on 1 January 2003, and in the twelve-month period thereafter, its calculated level of consumption of the controlled substance in Annex E does not exceed, annually, thirty per cent of its calculated level of consumption in 1991. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed, annually, thirty per cent of its calculated level of production in 1991. 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 in 1991.

5. Each Party shall ensure that for the twelve-month period commencing on 1 January 2005, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substance in Annex E does not exceed zero. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed zero. 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, until 1 January 2002 exceed that limit by up to fifteen per cent of its calculated level of production in 1991; thereafter, it may exceed that limit by a quantity equal to the annual average of its production of the controlled substance in Annex E for basic domestic needs for the period 1995 to 1998 inclusive. 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 critical uses.

5 bis Each Party shall ensure that for the twelve-month period commencing on 1 January 2005 and in each twelve-month period thereafter, its calculated level of production of the controlled substance in Annex E for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed eighty per cent of the annual average of its production of the substance for basic domestic needs for the period 1995 to 1998 inclusive.

5 ter Each Party shall ensure that for the twelve-month period commencing on 1 January 2015 and in each twelve-month period thereafter, its calculated level of production of the controlled substance in Annex E for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed zero.

6. The calculated levels of consumption and production under this Article shall not include the amounts used by the Party for quarantine and pre-shipment applications.

- 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.

#### Article 3 Calculation of control levels

- For the purposes of Articles 2, 2A to 2I and 5, each Party shall, for each group of substances in Annex A, Annex B, Annex C or Annex E determine its calculated levels of:
  - (a) Production by:
    - (i) multiplying its annual production of each controlled substance by the ozone depleting potential specified in respect of it in Annex A, Annex B, Annex C or Annex E;
    - (ii) adding together, for each such Group, the resulting figures;
  - (b) Imports and exports, respectively, by following, mutatis mutandis, the procedure set out in subparagraph (a); and
  - (c) Consumption by adding together its calculated levels of production and imports and subtracting its calculated level of exports as determined in accordance with subparagraphs (a) and (b). However, beginning on 1 January 1993, any export of controlled substances to non-Parties shall not be subtracted in calculating the consumption level of the exporting Party.

#### Article 4 Control of trade with non-Parties

- 1. As of 1 January 1990, each party shall ban the import of the controlled substances in Annex A from any State not party to this Protocol.
  - 1 bis Within one year of the date of the entry into force of this paragraph, each Party shall ban the import of the controlled substances in Annex B from any State not party to this Protocol.
  - 1 ter Within one year of the date of entry into force of this paragraph, each Party shall ban the import of any controlled substances in Group II of Annex C from any State not party to this Protocol.
  - 1 qua Within one year of the date of entry into force of this paragraph, each Party shall ban the import of the controlled substance in Annex E from any State not party to this Protocol.
  - 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.
- 2. As of 1 January 1993, each Party shall ban the export of any controlled substances in Annex A to any State not party to this Protocol.
  - 2 bis Commencing one year after the date of entry into force of this paragraph, each Party shall ban the export of any controlled substances in Annex B to any State not party to this Protocol.
  - 2 ter Commencing one year after the date of entry into force of this paragraph, each Party shall ban the export of any controlled substances in Group II of Annex C to any State not party to this Protocol.
  - 2 qua Commencing one year of the date of entry into force of this paragraph, each Party shall ban the export of the controlled substance in Annex E to any State not party to this Protocol.
  - 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.
- 3. By 1 January 1992, the Parties shall, following the procedures in Article 10 of the Convention, elaborate in an annex a list of products containing controlled substances in Annex A. Parties that have not objected to the annex in accordance with those procedures shall ban,

within one year of the annex having become effective, the import of those products from any State not party to this Protocol.

3 bis Within three years of the date of the entry into force of this paragraph, the Parties shall, following the procedures in Article 10 of the Convention, elaborate in an annex a list of products containing controlled substances in Annex B. Parties that have not objected to the annex in accordance with those procedures shall ban, within one year of the annex having become effective, the import of those products from any State not party to this Protocol.

3 ter Within three years of the date of entry into force of this paragraph, the Parties shall, following the procedures in Article 10 of the Convention, elaborate in an annex a list of products containing controlled substances in Group II of Annex C. Parties that have not objected to the annex in accordance with those procedures shall ban, within one year of the annex having become effective, the import of those products from any State not party to this Protocol.

4. By 1 January 1994, the Parties shall determine the feasibility of banning or restricting, from States not party to this Protocol, the import of products produced with, but not containing, controlled substances in Annex A. If determined feasible, the Parties shall, following the procedures in Article 10 of the Convention, elaborate in an annex a list of such products. Parties that have not objected to the annex in accordance with those procedures shall ban, within one year of the annex having become effective, the import of those products from any State not party to this Protocol.

4 bis Within five years of the date of the entry into force of this paragraph, the Parties shall determine the feasibility of banning or restricting, from States not party to this Protocol, the import of products produced with, but not containing, controlled substances in Annex B. If determined feasible, the Parties shall, following the procedures in Article 10 of the Convention, elaborate in an annex a list of such products. Parties that have not objected to the annex in accordance with those procedures shall ban or restrict, within one year of the annex having become effective, the import of those products from any State not party to this Protocol.

4 ter Within five years of the date of entry into force of this paragraph, the Parties shall determine the feasibility of banning or restricting, from States not party to this Protocol, the import of products produced with, but not containing, controlled substances in Group II of Annex C. If determined feasible, the Parties shall, following the procedures in Article 10 of the Convention, elaborate in an annex a list of such products. Parties that have not objected to the annex in accordance with those procedures shall ban or restrict, within one year of the annex having become effective, the import of those products from any State not party to this Protocol.

5. Each Party undertakes to the fullest practicable extent to discourage the export to any State not party to this Protocol of technology for producing and for utilizing controlled substances in Annexes A, B, C and E.

6. Each Party shall refrain from providing new subsidies, aid, credits, guarantees or insurance programmes for the export to States not party to this Protocol of products, equipment, plants or technology that would facilitate the production of controlled substances in Annexes A, B, C and E.

7. Paragraphs 5 and 6 shall not apply to products, equipment, plants or technology that improve the containment, recovery, recycling or destruction of controlled substances, promote the development of alternative substances, or otherwise contribute to the reduction of emissions of controlled substances in Annexes A, B, C and E.

8. Notwithstanding the provisions of this Article, imports and exports referred to in paragraphs 1 to 4ter of this Article may be permitted from, or to, any State not party to this Protocol, if that State is determined, by a meeting of the Parties, to be in full compliance with Article 2, Articles 2A to 2I and this Article, and have submitted data to that effect as specified in Article 7.

9. For the purposes of this Article, the term **State not party to this Protocol** shall include, with respect to a particular controlled substance, a State or regional economic integration

organization that has not agreed to be bound by the control measures in effect for that substance.

10. By 1 January 1996, the Parties shall consider whether to amend this Protocol in order to extend the measures in this Article to trade in controlled substances in Group I of Annex C and in Annex E with States not party to the Protocol.

#### Article 4A Control of trade with Parties

- 1. Where, after the phase-out date applicable to it for a controlled substance, a Party is unable, despite having taken all practicable steps to comply with its obligation under the Protocol, to cease production of that substance for domestic consumption, other than for uses agreed by the Parties to be essential, it shall ban the export of used, recycled and reclaimed quantities of that substance, other than for the purpose of destruction.
- 2. Paragraph 1 of this Article shall apply without prejudice to the operation of Article 11 of the Convention and the non-compliance procedure developed under Article 8 of the Protocol.

#### Article 4B Licensing

- 1. Each Party shall, by 1 January 2000 or within three months of the date of entry into force of this Article for it, whichever is the later, establish and implement a system for licensing the import and export of new, used, recycled and reclaimed controlled substances in Annexes A, B, C and E.
- 2. Notwithstanding paragraph 1 of this Article, any Party operating under paragraph 1 of Article 5 which decides it is not in a position to establish and implement a system for licensing the import and export of controlled substances in Annexes C and E, may delay taking those actions until 1 January 2005 and 1 January 2002, respectively.
- 3. Each Party shall, within three months of the date of introducing its licensing system, report to the Secretariat on the establishment and operation of that system.
- 4. The Secretariat shall periodically prepare and circulate to all Parties a list of the Parties that have reported to it on their licensing systems and shall forward this information to the Implementation Committee for consideration and appropriate recommendations to the Parties.

#### Article 5 Special situation of developing countries

- 1. Any Party that is a developing country and whose annual calculated level of consumption of the controlled substances in Annex A is less than 0.3 kilograms per capita on the date of the entry into force of the Protocol for it, or any time thereafter until 1 January 1999, shall, in order to meet its basic domestic needs, be entitled to delay for ten years its compliance with the control measures set out in Articles 2A to 2E, provided that any further amendments to the adjustments or Amendment adopted at the Second Meeting of the Parties in London, 29 June 1990, shall apply to the Parties operating under this paragraph after the review provided for in paragraph 8 of this Article has taken place and shall be based on the conclusions of that review.  
1 bis The Parties shall, taking into account the review referred to in paragraph 8 of this Article, the assessments made pursuant to Article 6 and any other relevant information, decide by 1 January 1996, through the procedure set forth in paragraph 9 of Article 2:
  - (a) With respect to paragraphs 1 to 6 of Article 2F, what base year, initial levels, control schedules and phase-out date for consumption of the controlled substances in Group I of Annex C will apply to Parties operating under paragraph 1 of this Article;
  - (b) With respect to Article 2G, what phase-out date for production and consumption of the controlled substances in Group II of Annex C will apply to Parties operating under paragraph 1 of this Article; and
  - (c) With respect to Article 2H, what base year, initial levels and control schedules for consumption and production of the controlled substance in Annex E will apply to Parties operating under paragraph 1 of this Article.
- 2. However, any Party operating under paragraph 1 of this Article shall exceed neither an annual calculated level of consumption of the controlled substances in Annex A of 0.3

kilograms per capita nor an annual calculated level of consumption of controlled substances of Annex B of 0.2 kilograms per capita.

3. When implementing the control measures set out in Articles 2A to 2E, any Party operating under paragraph 1 of this Article shall be entitled to use:

- (a) For controlled substances under Annex A, either the average of its annual calculated level of consumption for the period 1995 to 1997 inclusive or a calculated level of consumption of 0.3 kilograms per capita, whichever is the lower, as the basis for determining its compliance with the control measures relating to consumption.
- (b) For controlled substances under Annex B, the average of its annual calculated level of consumption for the period 1998 to 2000 inclusive or a calculated level of consumption of 0.2 kilograms per capita, whichever is the lower, as the basis for determining its compliance with the control measures relating to consumption.
- (c) For controlled substances under Annex A, either the average of its annual calculated level of production for the period 1995 to 1997 inclusive or a calculated level of production of 0.3 kilograms per capita, whichever is the lower, as the basis for determining its compliance with the control measures relating to production.
- (d) For controlled substances under Annex B, either the average of its annual calculated level of production for the period 1998 to 2000 inclusive or a calculated level of production of 0.2 kilograms per capita, whichever is the lower, as the basis for determining its compliance with the control measures relating to production.

4. If a Party operating under paragraph 1 of this Article, at any time before the control measures obligations in Articles 2A to 2I become applicable to it, finds itself unable to obtain an adequate supply of controlled substances, it may notify this to the Secretariat. The Secretariat shall forthwith transmit a copy of such notification to the Parties, which shall consider the matter at their next Meeting, and decide upon appropriate action to be taken.

5. Developing the capacity to fulfil the obligations of the Parties operating under paragraph 1 of this Article to comply with the control measures set out in Articles 2A to 2E and Article 2I, and any control measures in Articles 2F to 2H that are decided pursuant to paragraph 1bis of this Article, and their implementation by those same Parties will depend upon the effective implementation of the financial co-operation as provided by Article 10 and the transfer of technology as provided by Article 10A.

6. Any Party operating under paragraph 1 of this Article may, at any time, notify the Secretariat in writing that, having taken all practicable steps it is unable to implement any or all of the obligations laid down in Articles 2A to 2E and Article 2I, or any or all obligations in Articles 2F to 2H that are decided pursuant to paragraph 1bis of this Article, due to the inadequate implementation of Articles 10 and 10A. The Secretariat shall forthwith transmit a copy of the notification to the Parties, which shall consider the matter at their next Meeting, giving due recognition to paragraph 5 of this Article and shall decide upon appropriate action to be taken.

7. During the period between notification and the Meeting of the Parties at which the appropriate action referred to in paragraph 6 above is to be decided, or for a further period if the Meeting of the Parties so decides, the non-compliance procedures referred to in Article 8 shall not be invoked against the notifying Party.

8. A Meeting of the Parties shall review, not later than 1995, the situation of the Parties operating under paragraph 1 of this Article, including the effective implementation of financial co-operation and transfer of technology to them, and adopt such revisions that may be deemed necessary regarding the schedule of control measures applicable to those Parties.

8 bis Based on the conclusions of the review referred to in paragraph 8 above:

- (a) With respect to the controlled substances in Annex A, a Party operating under paragraph 1 of this Article shall, in order to meet its basic domestic needs, be entitled to delay for ten years its compliance with the control measures adopted by the Second Meeting of the Parties in London, 29 June 1990, and reference by the Protocol to Articles 2A and 2B shall be read accordingly;
- (b) With respect to the controlled substances in Annex B, a Party operating under paragraph 1 of this Article shall, in order to meet its basic domestic needs, be entitled

to delay for ten years its compliance with the control measures adopted by the Second Meeting of the Parties in London, 29 June 1990, and reference by the Protocol to Articles 2C to 2E shall be read accordingly.

8 ter Pursuant to paragraph 1 bis above:

- (a) Each Party operating under paragraph 1 of this Article shall ensure that for the twelve-month period commencing on 1 January 2016, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed, annually, its calculated level of consumption in 2015. 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 2F 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;
- (b) Each Party operating under paragraph 1 of this Article shall ensure that for the twelve-month period commencing on 1 January 2040, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed zero;
- (c) Each Party operating under paragraph 1 of this Article shall comply with Article 2G;
- (d) With regard to the controlled substance contained in Annex E:
  - (i) As of 1 January 2002 each Party operating under paragraph 1 of this Article shall comply with the control measures set out in paragraph 1 of Article 2H and, as the basis for its compliance with these control measures, it shall use the average of its annual calculated level of consumption and production, respectively, for the period of 1995 to 1998 inclusive;
  - (ii) Each Party operating under paragraph 1 of this Article shall ensure that for the twelve-month period commencing on 1 January 2005, and in each twelve-month period thereafter, its calculated levels of consumption and production of the controlled substance in Annex E do not exceed, annually, eighty per cent of the average of its annual calculated levels of consumption and production, respectively, for the period of 1995 to 1998 inclusive;
  - (iii) Each Party operating under paragraph 1 of this Article shall ensure that for the twelve-month period commencing on 1 January 2015 and in each twelve-month period thereafter, its calculated levels of consumption and production of the controlled substance in Annex E do 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 critical uses;
  - (iv) The calculated levels of consumption and production under this subparagraph shall not include the amounts used by the Party for quarantine and pre-shipment applications.

9. Decisions of the Parties referred to in paragraph 4, 6 and 7 of this Article shall be taken according to the same procedure applied to decision-making under Article 10.

#### Article 6 Assessment and review of control measures

- Beginning in 1990, and at least every four years thereafter, the Parties shall assess the control measures provided for in Article 2 and Articles 2A to 2I on the basis of available scientific, environmental, technical and economic information. At least one year before each assessment, the Parties shall convene appropriate panels of experts qualified in the fields mentioned and determine the composition and terms of reference of any such panels. Within one year of being convened, the panels will report their conclusions, through the Secretariat, to the Parties.

#### Article 7 Reporting of data

- 1. Each Party shall provide to the Secretariat, within three months of becoming a Party, statistical data on its production, imports and exports of each of the controlled substances in

Annex A for the year 1986, or the best possible estimates of such data where actual data are not available.

2. Each Party shall provide to the Secretariat statistical data on its production, imports and exports of each of the controlled substances

- -in Annex B and Groups I and II of Annex C, for the year 1989;
- -in Annex E, for the year 1991,

or the best possible estimates of such data where actual data are not available, not later than three months after the date when the provisions set out in the Protocol with regard to the substances in Annexes B, C and E respectively enter into force for that Party.

3. Each Party shall provide to the Secretariat statistical data on its annual production (as defined in paragraph 5 of Article 1) of each of the controlled substances listed in Annexes A, B, C and E and, separately, for each substance,

- -Amounts used for feedstocks,
- -Amounts destroyed by technologies approved by the Parties, and
- -Imports from and exports to Parties and non-Parties respectively,

for the year during which provisions concerning the substances in Annexes A, B, C and E respectively entered into force for that Party and for each year thereafter. 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. Data shall be forwarded not later than nine months after the end of the year to which the data relate.

3 bis Each Party shall provide to the Secretariat separate statistical data of its annual imports and exports of each of the controlled substances listed in Group II of Annex A and Group I of Annex C that have been recycled.

4. For Parties operating under the provisions of paragraph 8(a) of Article 2, the requirements in paragraphs 1, 2, 3 and 3 bis of this Article in respect of statistical data on imports and exports shall be satisfied if the regional economic integration organization concerned provides data on imports and exports between the organization and States that are not members of that organization.

#### Article 8 Non-compliance

- The Parties, at their first meeting, shall consider and approve procedures and institutional mechanisms for determining non-compliance with the provisions of this Protocol and for treatment of Parties found to be in non-compliance.

#### Article 9 Research, development, public awareness and exchange of information

- 1. The Parties shall co-operate, consistent with their national laws, regulations and practices and taking into account in particular the needs of developing countries, in promoting, directly or through competent international bodies, research, development and exchange of information on:
  - (a) best technologies for improving the containment, recovery, recycling, or destruction of controlled substances or otherwise reducing their emissions;
  - (b) possible alternatives to controlled substances, to products containing such substances, and to products manufactured with them; and
  - (c) costs and benefits of relevant control strategies.
- 2. The Parties, individually, jointly or through competent international bodies, shall co-operate in promoting public awareness of the environmental effects of the emissions of controlled substances and other substances that deplete the ozone layer.
- 3. Within two years of the entry into force of this Protocol and every two years thereafter, each Party shall submit to the Secretariat a summary of the activities it has conducted pursuant to this Article.

#### Article 10 Financial mechanism

- 1. The Parties shall establish a mechanism for the purposes of providing financial and technical co-operation, including the transfer of technologies, to Parties operating under paragraph 1 of Article 5 of this Protocol to enable their compliance with the control measures

set out in Articles 2A to 2E and Article 2I, and any control measures in Articles 2F to 2H that are decided pursuant to paragraph 1 bis of Article 5 of the Protocol. The mechanism, contributions to which shall be additional to other financial transfers to Parties operating under that paragraph, shall meet all agreed incremental costs of such Parties in order to enable their compliance with the control measures of the Protocol. An indicative list of the categories of incremental costs shall be decided by the meeting of the Parties.

2. The mechanism established under paragraph 1 shall include a Multilateral Fund. It may also include other means of multilateral, regional and bilateral co-operation.

3. The Multilateral Fund shall:

- (a) Meet, on a grant or concessional basis as appropriate, and according to criteria to be decided upon by the Parties, the agreed incremental costs;
- (b) Finance clearing-house functions to:
  - (i) Assist Parties operating under paragraph 1 of Article 5, through country specific studies and other technical co-operation, to identify their needs for co-operation;
  - (ii) Facilitate technical co-operation to meet these identified needs;
  - (iii) Distribute, as provided for in Article 9, information and relevant materials, and hold workshops, training sessions, and other related activities, for the benefit of Parties that are developing countries; and
  - (iv) Facilitate and monitor other multilateral, regional and bilateral co-operation available to Parties that are developing countries;
- (c) Finance the secretarial services of the Multilateral Fund and related support costs.

4. The Multilateral Fund shall operate under the authority of the Parties who shall decide on its overall policies.

5. The Parties shall establish an Executive Committee to develop and monitor the implementation of specific operational policies, guidelines and administrative arrangements, including the disbursement of resources, for the purpose of achieving the objectives of the Multilateral Fund. The Executive Committee shall discharge its tasks and responsibilities, specified in its terms of reference as agreed by the Parties, with the co-operation and assistance of the International Bank for Reconstruction and Development (World Bank), the United Nations Environment Programme, the United Nations Development Programme or other appropriate agencies depending on their respective areas of expertise. The members of the Executive Committee, which shall be selected on the basis of a balanced representation of the Parties operating under paragraph 1 of Article 5 and of the Parties not so operating, shall be endorsed by the Parties.

6. The Multilateral Fund shall be financed by contributions from Parties not operating under paragraph 1 of Article 5 in convertible currency or, in certain circumstances, in kind and/or in national currency, on the basis of the United Nations scale of assessments. Contributions by other Parties shall be encouraged. Bilateral and, in particular cases agreed by a decision of the Parties, regional co-operation may, up to a percentage and consistent with any criteria to be specified by decision of the Parties, be considered as a contribution to the Multilateral Fund, provided that such co-operation, as a minimum:

- (a) Strictly relates to compliance with the provisions of this Protocol;
- (b) Provides additional resources; and
- (c) Meets agreed incremental costs.

7. The Parties shall decide upon the programme budget of the Multilateral Fund for each fiscal period and upon the percentage of contributions of the individual Parties thereto.

8. Resources under the Multilateral Fund shall be disbursed with the concurrence of the beneficiary Party.

9. Decisions by the Parties under this Article shall be taken by consensus whenever possible. If all efforts at consensus have been exhausted and no agreement reached, decisions shall be adopted by a two-thirds majority vote of the Parties present and voting, representing a majority of the Parties operating under paragraph 1 of Article 5 present and voting and a majority of the Parties not so operating present and voting.

10. The financial mechanism set out in this Article is without prejudice to any future arrangements that may be developed with respect to other environmental issues.

#### Article 10A Transfer of technology

- Each Party shall take every practicable step, consistent with the programmes supported by the financial mechanism, to ensure:
  - (a) that the best available, environmentally safe substitutes and related technologies are expeditiously transferred to Parties operating under paragraph 1 of Article 5; and
  - (b) that the transfers referred to in subparagraph (a) occur under fair and most favourable conditions.

#### Article 11 Meetings of the parties

- 1. The Parties shall hold meetings at regular intervals. The Secretariat shall convene the first meeting of the Parties not later than one year after the date of the entry into force of this Protocol and in conjunction with a meeting of the Conference of the Parties to the Convention, if a meeting of the latter is scheduled within that period.  
2. Subsequent ordinary meetings of the parties shall be held, unless the Parties otherwise decide, in conjunction with meetings of the Conference of the Parties to the Convention. Extraordinary meetings of the Parties shall be held at such other times as may be deemed necessary by a meeting of the Parties, or at the written request of any Party, provided that within six months of such a request being communicated to them by the Secretariat, it is supported by at least one third of the Parties.  
3. The Parties, at their first meeting, shall:
  - (a) adopt by consensus rules of procedure for their meetings;
  - (b) adopt by consensus the financial rules referred to in paragraph 2 of Article 13;
  - (c) establish the panels and determine the terms of reference referred to in Article 6;
  - (d) consider and approve the procedures and institutional mechanisms specified in Article 8; and
  - (e) begin preparation of workplans pursuant to paragraph 3 of Article 10.  
4. The functions of the meetings of the Parties shall be to:
  - (a) review the implementation of this Protocol;
  - (b) decide on any adjustments or reductions referred to in paragraph 9 of Article 2;
  - (c) decide on any addition to, insertion in or removal from any annex of substances and on related control measures in accordance with paragraph 10 of Article 2;
  - (d) establish, where necessary, guidelines or procedures for reporting of information as provided for in Article 7 and paragraph 3 of Article 9;
  - (e) review requests for technical assistance submitted pursuant to paragraph 2 of Article 10;
  - (f) review reports prepared by the secretariat pursuant to subparagraph (c) of Article 12;
  - (g) assess, in accordance with Article 6, the control measures;
  - (h) consider and adopt, as required, proposals for amendment of this Protocol or any annex and for any new annex;
  - (i) consider and adopt the budget for implementing this Protocol; and
  - (j) consider and undertake any additional action that may be required for the achievement of the purposes of this Protocol.  
5. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not party to this Protocol, may be represented at meetings of the Parties as observers. Any body or agency, whether national or international, governmental or non-governmental, qualified in fields relating to the protection of the ozone layer which has informed the secretariat of its wish to be represented at a meeting of the Parties as an observer may be admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Parties.

#### Article 12 Secretariat

- For the purposes of this Protocol, the Secretariat shall:
  - (a) arrange for and service meetings of the Parties as provided for in Article 11;
  - (b) receive and make available, upon request by a Party, data provided pursuant to Article 7;
  - (c) prepare and distribute regularly to the Parties reports based on information received pursuant to Articles 7 and 9;
  - (d) notify the Parties of any request for technical assistance received pursuant to Article 10 so as to facilitate the provision of such assistance;
  - (e) encourage non-Parties to attend the meetings of the Parties as observers and to act in accordance with the provisions of this Protocol;
  - (f) provide, as appropriate, the information and requests referred to in subparagraphs (c) and (d) to such non-party observers; and
  - (g) perform such other functions for the achievement of the purposes of this Protocol as may be assigned to it by the Parties.

#### Article 13 Financial provisions

- 1. The funds required for the operation of this Protocol, including those for the functioning of the Secretariat related to this Protocol, shall be charged exclusively against contributions from the Parties.
- 2. The Parties, at their first meeting, shall adopt by consensus financial rules for the operation of this Protocol.

#### Article 14 Relationship of this Protocol to the Convention

- Except as otherwise provided in this Protocol, the provisions of the Convention relating to its protocols shall apply to this Protocol.

#### Article 15 Signature

- This Protocol shall be open for signature by States and by regional economic integration organizations in Montreal on 16 September 1987, in Ottawa from 17 September 1987 to 16 January 1988, and at United Nations Headquarters in New York from 17 January 1988 to 15 September 1988.

#### Article 16 Entry into force

- 1. This Protocol shall enter into force on 1 January 1989, provided that at least eleven instruments of ratification, acceptance, approval of the Protocol or accession thereto have been deposited by States or regional economic integration organizations representing at least two-thirds of 1986 estimated global consumption of the controlled substances, and the provisions of paragraph 1 of Article 17 of the Convention have been fulfilled. In the event that these conditions have not been fulfilled by that date, the Protocol shall enter into force on the ninetieth day following the date on which the conditions have been fulfilled.
- 2. For the purposes of paragraph 1, any such instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.
- 3. After the entry into force of this Protocol, any State or regional economic integration organization shall become a Party to it on the ninetieth day following the date of deposit of its instrument of ratification, acceptance, approval or accession.

#### Article 17 Parties joining after entry into force

- Subject to Article 5, any State or regional economic integration organization which becomes a Party to this Protocol after the date of its entry into force, shall fulfil forthwith the sum of the obligations under Article 2, as well as under Articles 2A to 2I and Article 4, that apply at that date to the States and regional economic integration organizations that became Parties on the date the Protocol entered into force.

#### Article 18 Reservations

- No reservations may be made to this Protocol.

#### Article 19 Withdrawal

- Any Party may withdraw from this Protocol by giving written notification to the Depository at any time after four years of assuming the obligations specified in paragraph 1 of Article 2A. Any such withdrawal shall take effect upon expiry of one year after the date of its receipt by the Depository, or on such later date as may be specified in the notification of the withdrawal.

#### Article 20 Authentic texts

- The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF THE UNDERSIGNED, BEING DULY AUTHORIZED TO THAT EFFECT, HAVE SIGNED THIS PROTOCOL.

DONE AT MONTREAL THIS SIXTEENTH DAY OF SEPTEMBER, ONE THOUSAND NINE HUNDRED AND EIGHTY SEVEN.

### Schedule A Controlled substances

Group	Substance	Ozone-Depleting Potential*
Group I		
CFC13	(CFC-11)	1.0
CF2Cl2	(CFC-12)	1.0
C2F3Cl3	(CFC-113)	0.8
C2F4Cl2	(CFC-114)	1.0
C2F5Cl	(CFC-115)	0.6
Group II		
CF2BrCl	(halon-1211)	3.0
CF3Br	(halon-1301)	10.0
C2F4Br2	(halon-2402)	6.0

\* These ozone depleting potentials are estimates based on existing knowledge and will be reviewed and revised periodically.

### Schedule B Controlled substances

Group	Substance	Ozone-Depleting Potential
Group I		
CF3Cl	(CFC-13)	1.0
C2FC15	(CFC-111)	1.0
C2F2Cl4	(CFC-112)	1.0
C3FC17	(CFC-211)	1.0
C3F2Cl6	(CFC-212)	1.0
C3F3Cl5	(CFC-213)	1.0
C3F4Cl4	(CFC-214)	1.0

Group	Substance	Ozone-Depleting Potential
C3F5Cl3	(CFC-215)	1.0
C3F6Cl2	(CFC-216)	1.0
C3F7Cl	(CFC-217)	1.0
Group II		
CCl4	carbon tetrachloride	1.1
Group III		
C2H3Cl3*	1,1,1-trichloroethane* (methyl chloroform)	0.1

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

**Schedule C**  
**Controlled substances**

Group	Substance	Number of isomers	Ozone-Depleting Potential
Group I			
CHFCl2	(HCFC-21)**	1	0.04
CHF2Cl	(HCFC-22)**	1	0.055
CH2FCl	(HCFC-31)	1	0.02
C2HFCl4	(HCFC-121)	2	0.01-0.04
C2HF2Cl3	(HCFC-122)	3	0.02-0.08
C2HF3Cl2	(HCFC-123)	3	0.02-0.06
CHCl2CF3	(HCFC-123)**	—	0.02
C2HF4Cl	(HCFC-124)	2	0.02-0.04
CHFC1CF3	(HCFC-124)**	—	0.022
C2H2FC13	(HCFC-131)	3	0.007-0.05
C2H2F2Cl2	(HCFC-132)	4	0.008-0.05
C2H2F3Cl	(HCFC-133)	3	0.02-0.06
C2H3FC12	(HCFC-141)	3	0.005-0.07
CH3CFCl2	(HCFC-141b)**	—	0.11
C2H3F2Cl	(HCFC-142)	3	0.008-0.07
CH3CF2Cl	(HCFC-142b)**	—	0.065
C2H4FC1	(HCFC-151)	2	0.003-0.005
C3HFC16	(HCFC-221)	5	0.015-0.07
C3HF2Cl5	(HCFC-222)	9	0.01-0.09
C3HF3Cl4	(HCFC-223)	12	0.01-0.08
C3HF4Cl3	(HCFC-224)	12	0.01-0.09
C3HF5Cl2	(HCFC-225)	9	0.02-0.07
CF3CF2CHCl2	(HCFC-225ca)**	—	0.025
CF2ClCF2CHClF	(HCFC-225cb)**	—	0.033
C3HF6Cl	(HCFC-226)	5	0.02-0.10
C3H2FC15	(HCFC-231)	9	0.05-0.09
C3H2F2Cl4	(HCFC-232)	16	0.008-0.10
C3H2F3Cl3	(HCFC-233)	18	0.007-0.23
C3H2F4Cl2	(HCFC-234)	16	0.01-0.28
C3H2F5Cl	(HCFC-235)	9	0.03-0.52
C3H3FC14	(HCFC-241)	12	0.004-0.09

Group	Substance	Number of isomers	Ozone-Depleting Potential	
	C3H3F2Cl3	(HCFC-242)	18	0.005-0.13
	C3H3F3Cl2	(HCFC-243)	18	0.007-0.12
	C3H3F4Cl	(HCFC-244)	12	0.009-0.14
	C3H4FCl3	(HCFC-251)	12	0.001-0.01
	C3H4F2Cl2	(HCFC-252)	16	0.005-0.04
	C3H4F3Cl	(HCFC-253)	12	0.003-0.03
	C3H5FCl2	(HCFC-261)	9	0.002-0.02
	C3H5F2Cl	(HCFC-262)	9	0.002-0.02
	C3H6FCl	(HCFC-271)	5	0.001-0.03
Group II				
	CHFBr2		1	1.00
	CHF2Br	(HBFC-22B1)	1	0.74
	CH2FBr		1	0.73
	C2HFBr4		2	0.3-0.8
	C2HF2Br3		3	0.5-1.8
	C2HF3Br2		3	0.4-1.6
	C2HF4Br		2	0.7-1.2
	C2H2FBr3		3	0.1-1.1
	C2H2F2Br2		4	0.2-1.5
	C2H2F3Br		3	0.7-1.6
	C2H3FBr2		3	0.1-1.7
	C2H3F2Br		3	0.2-1.1
	C2H4FBr		2	0.07-0.1
	C3HFBr6		5	0.3-1.5
	C3HF2Br5		9	0.2-1.9
	C3HF3Br4		12	0.3-1.8
	C3HF4Br3		12	0.5-2.2
	C3HF5Br2		9	0.9-2.0
	C3HF6Br		5	0.7-3.3
	C3H2FBr5		9	0.1-1.9
	C3H2F2Br4		16	0.2-2.1
	C3H2F3Br3		18	0.2-5.6
	C3H2F4Br2		16	0.3-7.5
	C3H2F5Br		8	0.9-14.0
	C3H3FBr4		12	0.08-1.9
	C3H3F2Br3		18	0.1-3.1
	C3H3F3Br2		18	0.1-2.5
	C3H3F4Br		12	0.3-4.4
	C3H4FBr3		12	0.03-0.3
	C3H4F2Br2		16	0.1-1.0
	C3H4F3Br		12	0.07-0.8
	C3H5FBr2		9	0.04-0.4
	C3H5F2Br		9	0.07-0.8
	C3H6FBr		5	0.02-0.7
Group III				
	CH2BrCl	bromochloromethane	1	0.12

\* Where a range of ODPs is indicated, the highest value in that range shall be used for the purposes of

Group	Substance	Number of isomers	Ozone-Depleting Potential
<p>the Protocol. The ODPs listed as a single value have been determined from calculations based on laboratory measurements. Those listed as a range are based on estimates and are less certain. The range pertains to an isomeric group. The upper value is the estimate of the ODP of the isomer with the highest ODP, and the lower value is the estimate of the ODP of the isomer with the lowest ODP.</p> <p>** Identifies the most commercially viable substances with ODP values listed against them to be used for the purposes of the Protocol.</p>			

### Schedule D\*

#### A list of products\*\* containing controlled substances specified in Annex A

Products	Customs code number
1. Automobile and truck air conditioning units (whether incorporated in vehicles or not)	
2. Domestic and commercial refrigeration and air conditioning/heat pump equipment***	
eg Refrigerators	
Freezers	
Dehumidifiers	
Water coolers	
Ice machines	
Air conditioning and heat pump units	
3. Aerosol products, except medical aerosols	
4. Portable fire extinguisher	
5. Insulation boards, panels and pipe covers	
6. Pre-polymers	
*This Annex was adopted by the Third Meeting of the Parties in Nairobi, 21 June 1991 as required by paragraph 3 of Article 4 of the Protocol.	
**Though not when transported in consignments of personal or household effects or in similar non-commercial situations normally exempted from customs attention.	
***When containing controlled substances in Annex A as a refrigerant and/or in insulating material of the product.	

### Schedule E

#### Controlled substance

Group	Substance	Ozone-Depleting Potential
Group I		
CH3Br	methyl bromide	0.6

MARIE SHROFF,  
Clerk of the Executive Council.

These regulations, which come into force on 16 September 1996,—

- (a) Prohibit the importation into New Zealand, the exportation, the manufacture, and the sale of certain ozone depleting substances and goods, and
- (b) Provide for other matters as are desirable for giving full effect to the Ozone Layer Protection Act 1996 and its due administration. The regulations replace the detailed provisions of the old Ozone Layer Protection Act 1990 and the 2 Import Control Orders which impose controls on methyl bromide and HCFCs. The principles of the old Ozone Act are now contained in the new Ozone Layer Protection Act 1996. The principal changes from the previous legislation are as follows:
  - (a) The obsolete provisions relating to import permits for CFCs (chlorofluorocarbons), carbon tetrachloride, and methyl chloroform are not carried forward. No new import permits are now issued for those substances:
  - (b) New provisions relating to import permits for bulk methyl bromide and HCFCs (hydrochlorofluorocarbons) are introduced:
  - (c) The restrictions on importation of goods, exportation, manufacture, and sale are updated to reflect recent changes to the Montreal Protocol:
  - (d) The rules relating to exemptions are updated (eg the Minister is empowered to grant exemptions in respect of substances that have passed their phase-out date where the Montreal Protocol provides for this) and written in clearer language.

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