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**EUROPEAN PARLIAMENT**

# **SESSION DOCUMENTS**

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A3-0343/90

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## **REPORT**

by the Committee on the Environment, Public Health and  
Consumer Protection

on the proposal from the Commission for a Council Regulation  
on substances that deplete the ozone layer  
(COM(90) 3 final - C3-115/90)

Rapporteur: Mr Alexandros ALAVANOS

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Or. FR

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\* = Consultation procedure requiring a single reading

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By letter of 17 April 1990 the Council consulted the European Parliament, pursuant to Articles 113 and 130s of the EEC Treaty, on the Commission proposal for a Council regulation on substances that deplete the ozone layer.

At the sitting of 14 May 1990 the President of Parliament announced that he had referred this proposal to the Committee on the Environment, Public Health and Consumer Protection as the committee responsible and to the Committee on Economic and Monetary Affairs and Industrial Policy for its opinion.

At its meeting of 26 April 1990 the Committee on the Environment, Public Health and Consumer Protection appointed Mr Alavanos rapporteur.

At its meetings of 17 July 1990, 24 September 1990, 16 October 1990 and 28 November 1990 the committee considered the Commission proposal and the draft report.

At the latter meeting it adopted the draft legislative resolution by 18 votes to nil with 5 abstentions.

The following were present for the vote: Collins, chairman; Schleicher, Scott-Hopkins, vice-chairmen; Alavanos, rapporteur; Avgerinos; Bombard; Bowe; Caudron (for de la Camara Martinez); Ceci; Diez de Rivera Icaza; Douste-Blazy; Green; Guidolin; Hadjigeorgiou (for Alber); Mrs C. Jackson; Monnier-Besombes; Muntingh; Partsch; Pereira; Pimenta; Quistorp; Schmid; L. Smith; Vernier and Vertemati.

The opinion of the Committee on Economic and Monetary Affairs and Industrial Policy is attached.

The report was tabled on 3 December 1990.

The deadline for tabling amendments will appear on the draft agenda for the part-session at which the report is to be considered.

A

Commission proposal for a Council regulation on substances that deplete the ozone layer.

Commission text (1)

Amendments

(Amendment No. 1)  
Recital 2a (new)

Whereas the objectives set out in the Montreal Protocol to protect the ozone layer have proved grossly insufficient;

(Amendment No. 2)  
Recital 2b (new)

Whereas the findings of IPCC (Intergovernmental Panel on Climate Change) working parties point to a clear need to reduce drastically and, within a few years, prohibit the use of CFCs, halons, and other substances that deplete stratospheric ozone;

(Amendment No. 3)  
Recital 3a (new)

Whereas, in cases of need, resources should be provided for data gathering, monitoring, and inspection and whereas, with that end in view, the task should be assigned to the European Environment Agency;

(Amendment No. 4)  
Recital 10a (new)

Whereas, given the current progress of research, substitute products for the CFCs used in solid plastics could be available in 1993;

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(1) COM(90) 3 final - OJ No. C 86, 14.4.1990, p. 4

(Amendment No. 5)  
Recital 10b (new)

'Whereas there is a need to introduce a Community charge on products that deplete the ozone layer in order to accelerate their replacement by harmless substances and to facilitate, as far as possible, the adaptation of producers and consumers while contributing to its financing;

(Amendment No. 6)  
Recital 10c (new)

Whereas a coherent environment policy must include fiscal measures following the 'polluter pays' principle;

(Amendment No. 7)  
Recital 10d (new)

Whereas pursuant to Article 130t of the Treaty the Member States may introduce more stringent measures than those set out in the following Regulation;

(Amendment No. 8)  
Article 1

This Regulation applies to the importation, exportation, production and consumption of chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride and methyl chloroform referred to in Annex I, as defined in Article 2.

This Regulation applies to the importation, exportation, production and consumption of chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride and methyl chloroform and hydrochlorofluorocarbons (HCFC) referred to in Annex I, as defined in Article 2.

(Amendment No. 9)  
Article 2, indent 6a (new)

- 'hydrochlorofluorocarbons' means the substances listed in Group IVa of Annex I.

(Amendment No. 10)  
Article 3(3)

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| 3. The Commission, in accordance with the procedures set out in Article 10, may modify the quotas set out in Annex II. | 3. The Commission, in accordance with the procedures set out in Article 10, may modify the quotas set out in Annex II <u>with a view to speeding up the process of restricting and eliminating the substances concerned.</u> |
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(Amendment No. 11)  
Article 5 (1)

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|--|---|
| 1. Subject to paragraph 2, the importation into the Community of products originating in third countries which are not Parties to the Protocol, containing chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride and methyl chloroform is prohibited with effect from 1 January 1993. | 1. Subject to paragraph 2, the importation into the Community of products originating in third countries which are not Parties to the Protocol, containing chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride and methyl chloroform is prohibited with effect from <u>1 January 1992.</u> |
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(Amendment No. 12)  
Article 5(2)

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| 2. The Council, on the proposal of the Commission, shall adopt before that date the list of these products <u>in the light of the list established by the Parties to the Protocol.</u> The Council shall act by a qualified majority. | 2. The Council, on the proposal of the Commission, shall adopt before that date the list of these products, <u>which shall include at least all the products on the list established by the Parties to the Protocol.</u> The Council shall act by a qualified majority <u>after consulting Parliament.</u> |
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(Amendment No. 13)

Article 6

In the light of the decision of the Parties to the Protocol, the Council, on the proposal of the Commission, shall adopt rules applicable to the importation into the Community of products originating in third countries which are not Parties to the Protocol, which are produced with chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride and methyl chloroform which do not contain these substances. The Council shall act by a qualified majority.

Not later than 1 January 1993 and in the light of the decision of the Parties to the Protocol, the Council, on the proposal of the Commission, shall adopt a list of products originating in third countries which are not Parties to the Protocol, which are produced with chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride and methyl chloroform which do not contain these substances, the importation of which into the Community is prohibited. The Council shall act by a qualified majority after consulting Parliament.

(Amendment No. 14)

Article 8(1), third indent

- the calculated level of its production of chlorofluorocarbons in the period 1 January to 31 December 1996 and in each 12-month period thereafter, does not exceed 15% of the calculated level of its production in 1986;

the calculated level of its production of chlorofluorocarbons in the period 1 January to 31 December 1994 and in each 12-month period thereafter, does not exceed 15% of the calculated level of its production in 1986;

(Amendment No. 15)

Article 8(1), fourth indent

- there is no production of chlorofluorocarbons after 31 December 1997

- there is no production of chlorofluorocarbons after 1 January 1996

(Amendment No. 16)  
Article 8(1), second paragraph

The Commission, in accordance with the procedure set out in Article 10, shall determine the quantities of chlorofluorocarbons that could be produced in the Community after this date for the purposes of essential uses or for the provision of developing countries.

The Commission, in accordance with the procedure set out in Article 10, shall determine the quantities of chlorofluorocarbons that could be produced in the Community after this date for the provision of developing countries (Article 5(1) of the Protocol); these quantities shall not exceed those laid down in the Protocol in respect of basic domestic needs.

(Amendment No. 17)  
Article 8(2)

The provisions of paragraph 1 shall apply in their entirety to all fully halogenated chlorofluorocarbons listed in Annex I.

(Amendment No. 18)  
Article 8(3), first indent

- The calculated level of its production of halons in the period 1 January to 31 December 1992 and in each 12-month period thereafter does not exceed the calculated level of its production of halons in 1986;
- The calculated level of its production of halons in the period 1 January to 31 December 1991 and in each 12-month period thereafter does not exceed the calculated level of its production of halons in 1986;

(Amendment No. 19)  
Article 8(3), second indent

- The calculated level of its production of halons in the period 1 January to 31 December 1996 and in each 12-month period thereafter does not exceed 50% of the calculated level of its production of halons in 1986;
- The calculated level of its production of halons in the period 1 January to 31 December 1994 and in each 12-month period thereafter does not exceed 50% of the calculated level of its production of halons in 1986;



(Amendment No. 20)  
Article 8(3), third indent

- there is no production of halons after 31 December 1999.
- there is no production of halons after 1 January 1996.

(Amendment No. 21)  
Article 8(3), paragraph 2

The Commission, in accordance with the procedure set out in Article 10, shall determine the quantities of halons that could be produced in the Community after this date for the purposes of essential uses or for the provision of developing countries.

The Commission, in accordance with the procedure set out in Article 10, shall determine the quantities of halons that could be produced in the Community after this date for the provision of developing countries; these quantities shall not exceed those laid down in the Protocol in respect of basic domestic needs.

(Amendment No. 22)  
Article 8(4), add a new indent before the first indent

- the level of its production of carbon tetrachloride in the period 1 January to 31 December 1991 will not exceed the level of its production in 1986;

(Amendment No. 23)  
Article 8(4), second indent

- there is no production of carbon tetrachloride after 31 December 1997, except for its use as a feedstock for the production of other industrial products.
- there is no production of carbon tetrachloride after 1 January 1997, except for its use as a feedstock for the production of other industrial products.

(Amendment No. 24)  
Article 8(5), first indent

- the level of its production of methyl chloroform in the period 1 January to 31 December 1992 and in each 12-month period thereafter does not exceed the level of its production in 1986;
- the level of its production of methyl chloroform in the period 1 January to 31 December 1991 and in each 12-month period thereafter does not exceed the level of its production in 1986;

(Amendment No. 25)  
Article 8(5), indent 1a (new)

- the level of its production of methyl chloroform in the period 1 January to 31 December 1994 and in each 12-month period thereafter does not exceed 70% of its production in 1986;

(Amendment No. 26)  
Article 8(5), third indent

- the level of its production of methyl chloroform in the period 1 January to 31 December 2000 and in each 12-month period thereafter does not exceed 60% of its level of production in 1986.
- the level of its production of methyl chloroform in the period 1 January to 31 December 1997 and in each 12-month period thereafter does not exceed 50% of its level of production in 1986.

(Amendment No. 27)  
Article 8(5), indent 3a (new)

- there is no production after 31 December 2000.

(Amendment No. 28)  
Article 8(5a) (new)

- the Commission, in accordance with the procedure set out in Article 10, shall, by 1992, review the provisions of paragraphs 1 to 5 with a view to speeding up the reduction schedule. In the light of an examination of the technical and scientific data and, provided it is deemed absolutely necessary, it shall submit by 1992 a list of exemptions, limited in duration and quantity, for medical purposes, air safety and fire protection in cases where it is not immediately feasible to use substitutes. This list shall be revised every two years.

(Amendment No. 29)  
Article 8(6), paragraph 1

6. A producer may be authorized by the Commission in agreement with the competent authority of the Member State in which it is situated, to exceed the calculated levels of production set out in paragraphs 1 to 5 for the purposes of industrial rationalization between Parties to the Protocol or so as to satisfy the basic domestic needs of States operating under Article 5 of the Protocol, provided that the calculated levels of p r o d u c t i o n o f chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride and methyl chloroform respectively of the Member State concerned do not exceed the levels permitted by Article 2 of the Protocol for the periods in question.

6. A producer may be authorized by the Commission in agreement with the competent authority of the Member State in which it is situated, to exceed the calculated levels of production set out in paragraphs 1 to 5 for the purposes of industrial rationalization between Parties to the Protocol or so as to satisfy the basic domestic needs of States operating under Article 5 of the Protocol, provided that the calculated levels of production of chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride and methyl chloroform respectively of the Party to the Protocol and the Member State do not exceed the levels permitted by Article 2 of the Protocol and by this Regulation for the periods in question.

(Amendment No. 30)  
Article 8(7)

7. A producer may exceed the calculated levels of production set out in paragraphs 1 to 5 for the purposes of industrial rationalization within the Member State in whose territory the producer is established, provided that the obligations of that Member State under the Protocol are not thereby infringed. The competent authority of the Member State and the Commission shall be notified beforehand.

7. A producer may exceed the calculated levels of production set out in paragraphs 1 to 5 for the purposes of industrial rationalization within the Member State in whose territory the producer is established, provided that the obligations of that Member State under this Regulation are not thereby infringed. The competent authority of the Member State and the Commission shall be notified beforehand.

(Amendment No. 31)  
Article 9(1), third indent

- In the period 1 January to 31 December 1996, and in each 12-month period thereafter, 15% of the calculated level of the quantity which it placed on the market or used for its own account within the Community in 1986.

- In the period 1 January to 31 December 1994, and in each 12-month period thereafter, 15% of the calculated level of the quantity which it placed on the market or used for its own account within the Community in 1986.

(Amendment No. 32)  
Article 9(2), paragraph 1

2. Each producer shall ensure that it does not place on the market or use for its own account within the Community from quantities produced by it any quantity of chlorofluorocarbons after 31 December 1997.

2. Each producer shall ensure that it does not place on the market or use for its own account within the Community from quantities produced by it any quantity of chlorofluorocarbons after 1 January 1996.

(Amendment No. 33)  
Article 9(2), paragraph 2

The Commission, in accordance with the procedure set out in Article 10, shall determine the quantities of chlorofluorocarbons that could be placed on the market or used for its own account by each producer for the purposes of essential uses and for the provision of developing countries.

The Commission, in accordance with the procedure set out in Article 10, shall determine the quantities of chlorofluorocarbons that could be placed on the market or used for its own account by each producer for the provision of developing countries, (Article 5(1) of the Protocol); these quantities shall not exceed those laid down by the Protocol in respect of basic domestic needs.

(Amendment No. 34)  
Article 9(3) and (4)

- The provisions of paragraphs 1 and 2 shall also apply in their entirety to fully halogenated chlorofluorocarbons

(Amendment No. 35)  
Article 9(5), first indent

- in the period 1 January to 31 December 1992, and in each 12-month period thereafter, the calculated level of the quantity which it placed on the market or used for its own account within the Community in 1986,
- in the period 1 January to 31 December 1991, and in each 12-month period thereafter, the calculated level of the quantity which it placed on the market or used for its own account within the Community in 1986,

(Amendment No. 36)  
Article 9(5), second indent

- in the period 1 January to 31 December 1996, and in each 12-month period thereafter, 50% of the calculated level of the quantity which it placed on the market or used for its own account within the Community in 1986.
- in the period 1 January to 31 December 1994, and in each 12-month period thereafter, 50% of the calculated level of the quantity which it placed on the market or used for its own account within the Community in 1986.

(Amendment No. 37)  
Article 9(6), paragraph 1

- 6. Each producer shall ensure that it does not place on the market or use for its own account within the Community from quantities produced by it any quantity of halons after 31 December 1999.
- 6. Each producer shall ensure that it does not place on the market or use for its own account within the Community from quantities produced by it any quantity of halons after 1 January 1996.

(Amendment No. 38)  
Article 9(6), paragraph 2

The Commission, in accordance with the procedures set out in Article 10 shall determine the quantities of halons that could be placed on the market or used for its own account by each producer for the purposes of essential uses and for the provision of developing countries.

The Commission, in accordance with the procedure set out in Article 10 shall determine the quantities of halons that could be placed on the market or used for its own account by each producer for the provision of developing countries; these quantities shall not exceed those laid down by the Protocol in respect of domestic needs.

(Amendment No. 39)  
Article 9(6a) (new)

- the quantity of carbon tetrachloride placed on the market or used for producers' own account within the Community in 1991 shall not exceed the level of production in 1986.

(Amendment No. 40)  
Article 9(8)

8. Each producer shall ensure that it does not place on the market or use for its own account within the Community from quantities produced by it any quantity of carbon tetrachloride after 31 December 1997 except for its use as a feedstock for the production of other industrial products.

8. Each producer shall ensure that it does not place on the market or use for its own account within the Community from quantities produced by it any quantity of carbon tetrachloride after 1 January 1997 except for its use as a feedstock for the production of other industrial products.

(Amendment No. 41)  
Article 9(9), first indent

- in the period 1 January to 31 December 1992, and in each 12-month period thereafter, the calculated level of the quantity which it placed on the market or used for its own account within the Community in 1986;

- in the period 1 January to 31 December 1991, and in each 12-month period thereafter, the calculated level of the quantity which it placed on the market or used for its own account within the Community in 1986;

(Amendment No. 42)  
Article 9(9), indent 1a (new)

- In the period from 1 January 1994, and in each 12-month period thereafter, 70% of the calculated level of the quantity which it placed on the market or used for its own account within the Community in 1986.

(Amendment No. 43)  
Article 9(9), second indent

- in the period 1 January to 31 December 1998, and in each 12-month period thereafter, 80% of the calculated level of the quantity which it placed on the market or used for its own account within the Community in 1986,
- in the period 1 January to 31 December 1997, and in each 12-month period thereafter, 50% of the calculated level which it placed on the market or used for its own account within the Community in 1986,

(Amendment No. 44)  
Article 9 (9), indent 3a (new)

- producers shall not be permitted, after 31 December 2000, to place methyl chloroform on the market or use it for their own account within the Community.

(Amendment No. 45)  
Article 9(9a) (new)

- the Commission, in accordance with the procedure set out in Article 10, shall, by 1992, review the provisions of paragraphs 1 to 9 with a view to speeding up the reduction schedule. In the light of an examination of the technical and scientific data and, provided it is deemed absolutely necessary, it shall, by 1992, submit a list of exemptions, restricted in duration and quantity, for medical purposes, air safety and fire protection where it is not immediately feasible to use substitutes. This list shall be reviewed every two years.

(Amendment No. 46)  
Article 9(10)

- 10. Any imports permitted in accordance with Articles 3 to 7 shall be in addition to the quantities which the producers place on the market or use for their own account under this Article.
- 10. Any imports permitted in accordance with Articles 3 to 7 shall be included in the quantities which the producers place on the market or use for their own account under this Article.

(Amendment No. 47)  
Article 9(11)

11. Beginning with the control period 1 January to 31 December 1993, the quantities resulting from the application of paragraphs 1 to 7 will be reduced in a given 12-month control period thereafter by the quantities of fully halogenated chlorofluorocarbons, halons, carbon tetrachloride or methyl chloroform as appropriate that were exported to countries which are not Parties to the Protocol during that 12-month control period.

11. Exports of regulated substances to third countries that are not Parties to the Protocol shall be prohibited after 31 December 1991.

(Amendment No. 48)  
Article 9 (12)

12. The quantities resulting from the application of paragraphs 1 to 7 may be increased by the Commission if imports of these substances into the Community in any 12-month period to which paragraphs 1 to 7 apply shall be less than the respective quantitative limits fixed in Annex II.

Deleted

The Commission shall act in accordance with the procedure set out in Article 10.



(Amendment No. 49)  
Article 9a (new)

Hydrochlorofluorocarbons

The substances in Group IVa of Annex I are authorized temporarily, as transitional substances only. Their use shall be confined to applications already covered by the substances in Annex I and to cases in which there are no more environmentally acceptable substances or technologies; they shall be selected with a view to the minimal effect on the ozone layer and global warming. The Commission shall keep an annual check on the correct use of hydrochlorofluorocarbons, their impact on the environment, the emergence of alternative substances and technologies and submit proposals by 1 January 1995 with a timetable for restricting production and consumption in the Community with a view to their complete substitution by the year 2005 with alternative substances which do not deplete the ozone layer.

(Amendment No. 50)  
Part IIa (new), title

MEASURES TO CONTROL DEMAND

(Amendment No. 51)  
Article 9b (new)

The Commission, acting in accordance with Article 10 of this Regulation and within the meaning of Article 9 of the Protocol, shall seek to encourage the Community, acting alone, jointly with other states or through international organizations or assisted by scientific and environmentalist groups and organizations, to promote:

- a public awareness campaign on the effects on the environment and human health of emissions of controlled and other substances which deplete the ozone layer, proposing alternative uses;
- the best possible technology, the establishment of norms and standards to improve the scope for the containment, recovery, recycling, safe disposal, transportation and destruction of controlled substances or to reduce their emissions;
- viable, safe alternative solutions for controlled substances and for products containing or prepared with these;
- the drawing up of a list of non-essential uses of controlled and transitional substances and of the uses for which harmless substitutes exist and the banning of the relevant products,
- provisions for compulsory training and the acquisition of qualifications by those whose work could contribute towards a reduction in the release of the substances listed in Annex I.

The Regulation containing the above provisions shall enter into force by 31 July 1992 at the latest.

(Amendment No. 52)  
Article 9c (new)

The Commission shall submit to the Council, by 30 June 1991, a proposal introducing a special consumer tax proportionate to the ozone-depleting potential of the controlled and transitional substances covered by the Protocol with a view to encouraging their more rapid substitution, recovery, recycling, safe destruction and the promotion of alternative uses.

This tax revenue shall form the Community's contribution to the multilateral fund for the developing countries provided for in the revised Protocol and for implementing the measures laid down in Article 9b above of this Regulation.

(Amendment No. 53)  
Article 9d (new)

The Commission, acting in accordance with Article 10 of this Regulation, shall submit by 30 June 1991 a list of ozone-depleting products and, before they are marketed, shall make public in an appropriate manner that the product concerned contains ozone-depleting substances.

(Amendment No. 54)  
Article 10, paragraph 1

The Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by a representative of the Commission.

The Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by a representative of the Commission. Two representatives of non-governmental organizations involved in the protection of the ozone layer shall also take part in the Commission's work.

(Amendment No. 55)  
Article 10(4a) (new)

The Commission shall submit regular reports to the European Parliament on the progress made in restricting and eliminating controlled substances. These reports shall be submitted no later than four months following the end of each period specified in Articles 8 and 9. Where this Regulation provides for a decision to be taken by the Council, there shall be prior consultation with Parliament.

(Amendment No. 56)  
Article 11(1)

1. Each producer, importer and exporter of chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride and methyl chloroform shall communicate to the Commission with a copy to the competent authority of the Member State concerned, not later than 28 February of every year the figures of its:

- production,
- quantities placed on the market or used for the producer's own account within the Community,
- imports into the Community,
- exports from the Community, separately to countries which are Parties to the Montreal Protocol and to those which are not,
- stocks,
- quantities destroyed, in accordance with technologies approved by the Parties to the Protocol,

of each of the chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride and methyl chloroform listed in Annex I in respect of the period 1 January to 31 December 1991 and for each 12-month period thereafter.

1. Each producer, importer and exporter of chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride and methyl chloroform shall communicate to the Commission and the European Environment Agency, with a copy to the competent authority of the Member State concerned, not later than 28 February of every year the figures of its:

- production,
- quantities placed on the market or used for the producer's own account within the Community,
- imports into the Community,
- exports from the Community, separately to countries which are Parties to the Montreal Protocol and to those which are not,
- stocks,
- quantities destroyed, in accordance with technologies approved by the Parties to the Protocol,

of each of the chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride and methyl chloroform listed in Annex I in respect of the period 1 January to 31 December 1991 and for each 12-month period thereafter.

(Amendment No. 57)  
Article 11(3)

3. The communications referred to in the last indent of paragraph 1 shall be made to the Commission for the first time on 28 February of the subsequent year following the date on which approval is granted.

3. The communications referred to in the last indent of paragraph 1 shall be made to the Commission and the European Environment Agency for the first time on 28 February of the subsequent year following the date on which approval is granted.

(Amendment No. 58)  
Article 11(4)

4. The Commission will take the appropriate measures to protect the confidentiality of the submitted data. Deleted

(Amendment No. 59)  
Article 12(1)

1. In carrying out the tasks assigned to it by this Regulation, the Commission may obtain all necessary information from the governments and competent authorities of the Member States and from undertakings.

1. In carrying out the tasks assigned to it by this Regulation, the Commission may obtain all necessary information from the governments and competent authorities of the Member States and from undertakings through the European Environment Agency, whose task shall be to compile data on production, consumption, imports, and exports of the substances covered in this Regulation. The findings resulting from the data compiled shall be published annually in the Official Journal of the European Communities.

(Amendment No. 60)  
Article 12(4)

4. If agreed by the Commission and the competent authority of the Member State in whose territory the investigation is to be made, the officials of the Commission shall assist the officials of such authority in carrying out their duties.

4. If agreed by the Commission, the European Environment Agency, and the competent authority of the Member State in whose territory the investigation is to be made, the officials of the Commission and the European Environment Agency shall assist the officials of such authority in carrying out their duties.

(Amendment No. 61)  
Article 12(5)

5. The Commission will take the appropriate measures to protect the confidentiality of information obtained pursuant to this Article.

5. Where it proves necessary to check or obtain information for the purposes of applying this Regulation, the European Environment Agency may decide to carry out inspections, assisted by the Commission officials responsible for monitoring the application of Community environmental law.

(Amendment No. 62)  
Article 13(2) (new)

2. Any breach of this Regulation may be punishable by a fine imposed by the Commission.

(Amendment No. 63)  
Article 13a (new)

Six months after the date set down in Article 15, the Commission shall present to the Parliament and to the Council a comprehensive analysis of a broad environment strategy based on a fiscal approach, either at national and/or Community level. Such a communication may contain legislative proposals.

(Amendment No. 64)  
Annex 1, first paragraph

The Regulation applies to the substances listed in this Annex, whether alone or in a mixture; it does not apply to any such substance which is in a manufactured product other than a container used for the transport or storage of the substance listed.

The Regulation applies to the substances listed in this Annex, whether alone or in a mixture.

(Amendment No. 65)  
ANNEX I, GROUP IIa (new)

Group IIa

<u>Group IIa</u>		
CF <sub>3</sub> Cl	(CFC-11)	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
C <sub>3</sub> F <sub>5</sub> Cl <sub>3</sub>	(CFC-215)	1.0
C <sub>3</sub> F <sub>6</sub> Cl <sub>2</sub>	(CFC-216)	1.0
C <sub>3</sub> F <sub>7</sub> Cl	(CFC-217)	1.0

(Amendment No. 66)  
ANNEX I, GROUP IVa (new)

CHFCl <sub>2</sub>	(HCFC-21)
CHF <sub>2</sub> Cl	(HCFC-22)
CH <sub>2</sub> FCl	(HCFC-31)
C <sub>2</sub> HFC <sub>3</sub>	(HCFC-121)
C <sub>2</sub> H <sub>2</sub> F <sub>2</sub> Cl	(HCFC-122)
C <sub>2</sub> H <sub>2</sub> F <sub>3</sub> Cl	(HCFC-123)
C <sub>2</sub> H <sub>2</sub> F <sub>4</sub> Cl	(HCFC-124)
C <sub>2</sub> H <sub>2</sub> FCl <sub>3</sub>	(HCFC-131)
C <sub>2</sub> H <sub>2</sub> F <sub>2</sub> Cl <sub>2</sub>	(HCFC-132)
C <sub>2</sub> H <sub>2</sub> F <sub>3</sub> Cl	(HCFC-133)
C <sub>2</sub> H <sub>3</sub> FCl <sub>2</sub>	(HCFC-141)
C <sub>2</sub> H <sub>3</sub> F <sub>2</sub> Cl	(HCFC-142)
C <sub>3</sub> HFC <sub>5</sub>	(HCFC-221)
C <sub>3</sub> H <sub>2</sub> F <sub>2</sub> Cl <sub>3</sub>	(HCFC-222)
C <sub>3</sub> H <sub>2</sub> F <sub>3</sub> Cl <sub>2</sub>	(HCFC-223)
C <sub>3</sub> H <sub>2</sub> F <sub>4</sub> Cl	(HCFC-224)
C <sub>3</sub> H <sub>2</sub> F <sub>5</sub> Cl	(HCFC-225)
C <sub>3</sub> H <sub>2</sub> F <sub>6</sub> Cl	(HCFC-226)
C <sub>3</sub> H <sub>2</sub> FCl <sub>4</sub>	(HCFC-231)
C <sub>3</sub> H <sub>2</sub> F <sub>2</sub> Cl <sub>3</sub>	(HCFC-232)
C <sub>3</sub> H <sub>2</sub> F <sub>3</sub> Cl <sub>2</sub>	(HCFC-233)
C <sub>3</sub> H <sub>2</sub> F <sub>4</sub> Cl	(HCFC-234)
C <sub>3</sub> H <sub>2</sub> F <sub>5</sub> Cl	(HCFC-235)
C <sub>3</sub> H <sub>3</sub> FCl <sub>3</sub>	(HCFC-241)
C <sub>3</sub> H <sub>3</sub> F <sub>2</sub> Cl <sub>2</sub>	(HCFC-242)
C <sub>3</sub> H <sub>3</sub> F <sub>3</sub> Cl	(HCFC-243)
C <sub>3</sub> H <sub>3</sub> F <sub>4</sub> Cl	(HCFC-244)
C <sub>3</sub> H <sub>4</sub> FCl <sub>2</sub>	(HCFC-251)
C <sub>3</sub> H <sub>4</sub> F <sub>2</sub> Cl	(HCFC-252)
C <sub>3</sub> H <sub>4</sub> F <sub>3</sub> Cl	(HCFC-253)
C <sub>3</sub> H <sub>5</sub> FCl	(HCFC-261)
C <sub>3</sub> H <sub>5</sub> F <sub>2</sub> Cl	(HCFC-262)
C <sub>3</sub> H <sub>6</sub> FCl	(HCFC-271)

(Amendment No. 67)  
ANNEX II, paragraph 1 (new)

The quantities laid down in Annex II shall be adjusted in line with the modifications relating to Articles 8 and 9.



## DRAFT LEGISLATIVE RESOLUTION

embodying the opinion of the European Parliament on the Commission proposal for a Council Regulation on substances that deplete the ozone layer.

### The European Parliament,

- having regard to the Commission proposal for the Council (COM(90) 3 final)<sup>1</sup>
  - having been consulted by the Council pursuant to Articles 113 and 130s of the EEC Treaty (C3-115/90),
  - having regard to the report of the Committee on the Environment, Public Health and Consumer Protection and the opinion of the Committee on Economic and Monetary Affairs and Industrial Policy (A3-0343/90),
1. Approves the Commission proposal subject to Parliament's amendments and in accordance with the vote thereon;
  2. Calls on the Commission to amend its proposal accordingly, pursuant to Article 149(3) of the EEC Treaty;
  3. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
  4. Asks to be consulted again should the Council intend to make substantial modifications to the Commission proposal;
  5. Instructs its President to forward this opinion to the Council and Commission.

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<sup>1</sup> OJ No. C 86, 4.4.1990, p. 4

## B

### EXPLANATORY STATEMENT

Since 1974, scientific research has linked the continued depletion of the ozone layer to certain chemical compounds which are released into the upper layers of the atmosphere where, as a result of photolysis, particles of chlorine and bromine are released which act as catalysts in the depleting of the ozone layer.

Recent measurements (NASA, 1989) confirm that the hole in the ozone layer in the Antarctic is steadily increasing in size. Ozone concentrations in the Antarctic have decreased by roughly 50% over the last twenty years. According to recent evidence, similar chemical effects are taking place in the Arctic where large concentrations of similar ozone-depleting substances have been found, even though meteorological conditions have prevented the problem from spreading at the same rate as in the Antarctic.

Scientific forecasts are extremely disturbing. Unless an immediate halt is called to the man-made factors which contribute to the depletion of the ozone layer - which operate in addition to the physical factors that influence the depletion and renewal of the ozone layer - the depletion of the ozone layer may soon become an enormous problem with an irreversible impact on human health and the ecosystem.

#### IMPACT OF THE DEPLETION OF THE OZONE LAYER

The depletion of the ozone layer allows large quantities of UV-B ultraviolet rays to pass through the stratosphere and reach the earth. According to recent scientific evidence, particularly that of the UN International Commission on the effects of the depletion of the ozone layer (1989), the increased incidence of UV-B rays due to the depletion of the ozone layer leads to:

- adverse effects on human health: increased incidence of skin cancer (1% decrease in the amount of ozone leads to a 4% increase in the incidence of cancers not caused by melanomas), increased incidence of eye diseases (1% decrease in the amount of ozone leads to a 0.6% increase in the incidence of cataracts, 100 000 cases of blindness world-wide), reduced effectiveness of the human immunization system and spread of contagious diseases. Flora and fauna are similarly affected,
- a reduction in agricultural yields, including the most important crops such as cereals due to the disruption of the photochemical system,
- the disintegration of the marine food-chain with a major impact on phytoplankton, zooplankton and microorganisms which provide a large proportion of vital proteins for human consumption and absorb large quantities of carbon dioxides from the atmosphere,
- an enhanced greenhouse effect, increased global warming with a subsequent rise in sea levels, climatic changes and a world-wide impact on agriculture,

- increased surface ozone in the troposphere causing an increased incidence of smog in built-up areas,
- premature ageing of polymer plastics due to increased exposure to ultra-violet radiation.

#### THE MONTREAL PROTOCOL

In view of the increasing seriousness of the depletion of the ozone layer, legislation has gradually been introduced at national and international level to restrict the use of harmful substances. Since 1978 the use of aerosols has been banned in the USA, Canada and the Scandinavian countries.

In 1985, the International Convention for the Protection of the Ozone Layer was signed in Vienna. Without taking any practical measures, the Vienna Convention called on the parties to it to take appropriate measures to protect the environment and human health, promote scientific research and exchange information.

In 1987, the Montreal Protocol on substances that deplete the ozone layer was signed. In 1989 it entered into force and was ratified by countries accounting for more than two-thirds of the world's output of the controlled substances covered in the Protocol. The European Community is a party to the Protocol.

The Protocol refers to two categories only of controlled substances:

First, chlorofluorocarbons (CFCs) F 11, F 12, F 113, F 114 and F 115 (which are used chiefly in aerosols, refrigerators, plastic foams and solvents). World-wide consumption of these substances amounted to 1110 thousand tonnes in 1986 and their effect in depleting the ozone layer is estimated at 87% of the total effect of the substances covered by the Montreal Protocol.

Second, halons (halogenated chlorofluorocarbons containing bromium) 1211, 1301 and 2404 (which are used mainly in fire extinguishers). World-wide consumption of these substances amounted to 30 thousand tonnes and their effect on depleting the ozone layer was assessed at 13%.

The Protocol laid down measures for restricting the production and consumption of chlorofluorocarbons and halons. Important derogations were allowed for the purposes of industrial modernization and to satisfy the basic domestic needs of developing countries. Imports and exports with countries not party to the Protocol were banned or restricted.

The Montreal Protocol is clearly of major significance for international environmental legislation since, for the first time, specific regulations, conditions and quotas have been established for substances that are harmful to the environment.

#### THE FAILURE OF THE MONTREAL PROTOCOL

Before the protocol entered properly into force, new scientific research showed that, compared to the size of the problem, the regulations provided for under the protocol were inadequate even to contain the gradual depletion of ozone in the stratosphere. The basic inadequacies of the protocol were as follows:

- the reductions in production and consumption of ozone-depleting substances were far less than required and far less than the figure proposed by the United Nations Environment Programme (UNEP),
- in view of the numerous and general derogations and the absence of strict monitoring measures, even the limited reductions provided for were unattainable in practice,
- in view of the absence of serious measures to support the developing countries, the protocol was not adhered to by countries - such as China, India, Brazil - whose contribution to the output of ozone-depletion substances that deplete the ozone layer is very small, but whose markets for controlled substances, especially in the field of refrigerators, are large (in 1986 the regional breakdown of production for chlorofluorocarbons and halons was 29% for North America, 49% for Europe, 5% for South America and 17% for Africa),
- the protocol did not cover substances which have a considerable ozone-depleting potential (ODP) such as carbon tetrachloride (ODP 1.1) or methyl chloroform (ODP 0.1).

Council Regulation (EEC) No. 3322/88 incorporates the regulations of Articles 2 and 4 of the Montreal Protocol in Community law imposing on Community producers the relevant restrictions on production and imports. However, it did not implement more stringent measures, even though this was possible under Article 2(11) of the protocol.

At the conferences in The Hague in October 1988 and March 1989, in London in March 1989 and at the first conference of the parties to the protocol in Helsinki in May 1989, it was generally agreed that the provisions of the protocol were inadequate and more radical measures were needed to protect the ozone layer.

#### THE LONDON REVIEW

From 20 to 29 June 1990, just 18 months after the entry into force of the Montreal Protocol, the parties met in London to review it. The basic points under review were as follows:

##### (a) Controlled substances

The revised protocol covers the two groups of controlled substances agreed on in Montreal, namely chlorofluorocarbons and halons.

In London, three new groups of ozone-depleting substances were added. The first group contains another ten fully halogenated chlorofluorocarbons, F13, F111, F112, F211, F212, F213, F214, F215, F216 and F217. All have an ODP of 1, i.e. equal to F11 which is contained in the Montreal Protocol. Of these, the most important are F13 (trichlorofluoromethane, used in refrigerators) and F112 (tetrachlorofluoroethane, used in solvents).

The second group includes carbon tetrachloride (CCl<sub>4</sub>) which has a high ozone-depleting potential (1.1). Carbon tetrachloride is used as a component of F11 and F12 compounds and as a solvent and fire-

extinguishing substance, particularly in Eastern Europe and the Third World.

The third group contains methyl chloroform (CCl<sub>3</sub>CH<sub>3</sub>) which has an ozone-depleting potential of 0.1 and is used in solvents. It has a particularly long life which enables it to reach the highest strata of the atmosphere (above 10 km) where the chlorine contained in it has an ozone-depleting effect. It is estimated that 6% of the emissions of ozone-depleting substances come from methyl chloroform.

The London review introduced a new category, transitional substances which include hydrochlorofluorocarbons (H-CFCs). Since they contain hydrogen atoms, they are partially dispersed in the lower levels of the atmosphere with the result that their ozone-depleting potential is less than that of chlorofluorocarbons. In accordance with the London review, H-CFCs can be used under certain conditions and a deadline has been fixed, between 2020 and 2040, for their abolition.

(b) New timetable for restrictions

In London, a new timetable was adopted for restricting controlled substances - based on a compromise of the guarded positions advanced by numerous parties, particularly the USA, the USSR and Japan - fixing a deadline earlier than that included in the Montreal Protocol. Provision was made for gradual restrictions leading to the abolition, while simultaneously retaining the derogations, of all controlled chlorofluorocarbons, halons, carbon tetrachloride (2000) and methyl chloroform (2005).

(c) Restrictions on products

In addition to the ban on controlled substances, the London review placed additional restrictions and bans on products which contain or are manufactured with controlled substances in connection with their import from or export to countries not party to the protocol.

(d) Polymer fund

Despite the initial reaction of the USA, it was decided that a financial instrument should be set up to help the developing countries to deal with the cost of adjusting to the revised protocol. The polymer fund, which is to be run by the World Bank and the UN Environmental and Development Programme, will also help to promote research, information and training in the developing countries. Financial assistance will be based on the corresponding UN scale rather than a 'CFC consumption formula' as proposed by the Scandinavian countries.

In general, the polymer fund is a major innovation whereby the developed countries undertake to transfer resources to the developing countries in order to promote world-wide legislation on global ecological problems.

The polymer fund and the remaining adjustments to the protocol have encouraged many countries (important both from the point of view of production and consumption) to sign the protocol.

Finally, decisions were also taken in London on various other aspects including technical and procedural matters, data collection, etc.

## THE PROPOSAL FOR A REGULATION AND AMENDMENTS THERETO

In March 1990, the Commission issued the proposal for a Council Regulation (EEC) on substances that deplete the ozone layer (COM(90) 3 final) with a view to replacing the current and completely outdated Regulation (EEC) 3322/88.

The proposal for a new regulation clearly contains more stringent restrictions than the current regulation on substances that deplete the ozone layer. However, it still falls far short of the regulations needed to tackle effectively the problem of the depletion of the ozone layer.

A major shortcoming of the Commission's proposal is that it was drawn up before the decisions taken by the parties to the protocol in London with the result that it does not contain important regulations. Unfortunately, despite the time which has elapsed in the intervening period, the Commission has not made the necessary amendments to its proposal to meet the new requirements that have emerged in the light of the London conference.

The rapporteur's main proposed amendments are as follows:

### (a) Broadening the scope of controlled substances

While the Commission's proposal contains carbon tetrachloride and methyl chloroform, added to the Montreal Protocol by the London Conference, it does not contain the 10 fully halogenated chlorofluorocarbons contained in Group 1 of Annex B of the London Conference, namely F13, F111, F112, F211, F212, F213, F214, F215, F216 and F217.

### (b) Speeding up the timetable

Although the timetable for the reduction and abolition of controlled substances is more advanced than that put forward in the current regulation, it should be speeded up further for a number of reasons:

- In certain circumstances, the time limits put forward in the proposal for a regulation are less stringent than those proposed by the London Conference
  - . This is, for example, the case with methyl chloroform.
- In other cases, the Community made more advanced proposals in London than those contained in the proposal such as the interim regulations on chlorofluorocarbons and halons. The Community should make use of Article 2(11) of the protocol which allows it to take more stringent measures.
- The extremely high ozone depleting potential of certain substances makes it essential that their abolition be speeded up. This is particularly true in the case of halons whose ODP is three to six times greater than F11 which is the unit of measurement.

The potential of controlled substances for increasing global warming is also of major significance. The phenomenon of ozone depletion is directly related to the greenhouse effect: increased temperature in the lower levels of the atmosphere, decreased temperature in the stratosphere and action of the catalysts that deplete the ozone layer on a broader scale. Indeed, certain chlorofluorocarbons have an exceptionally large potential in this respect: F12 and F113 have an effect that is 18 000 and 22 000 times greater respectively than that of carbon dioxide which is taken as the unit of measurement.

- Controlled substances have a long life which, in certain circumstances, lasts for several centuries having a cumulative effect with the result that, even when their emissions are greatly reduced, their cumulative levels rise. For instance, in the case of F11 which has a life of 110 years, 90% of the quantities emitted so far will remain in the atmosphere even if its current production is greatly reduced.

At the same time, one atom of chlorine or bromium can have a multiple effect depleting up to tens of thousands of ozone molecules. Furthermore, it should not be forgotten that in addition to current production and consumption, substances which have already been obtained by consumers and substances which are not contained in the protocol are still to be emitted into the atmosphere.

- In view of the Community's particular position in respect of the world-wide production and consumption of chlorofluorocarbons, it is largely responsible for exacerbating the problem and has an obligation to introduce strict legislation to help speed up the process of dealing with it. Western Europe is responsible for producing 37% of the world's chlorofluorocarbons and halons, while Asia, the Pacific and South America together account for 22% (1986). In the same year, per capita consumption of F11 and F12 in the Community (10) amounted to 0.85 kilos compared to 0.2 kilos in China.
- The London Review offers the opportunity for deciding to opt for 1992 as the year to abolish controlled substances. Stricter Community legislation will make it easier to adopt a shorter deadline.
- A shorter deadline for the abolition of controlled substances will not have an adverse effect on the Community or on the competitiveness of its industry. The market for ozone-friendly substitutes is, from the economic point of view, an attractive alternative to products which are currently manufactured using chlorofluorocarbons. As stated in the Economic Panel Report of the UN Environment Programme, the development of substitute substances and technologies will be accelerated by the imposition of restrictions.
- Finally, it should be stressed that considerable progress has been made in developing substitute substances which do not contain chlorine and bromium and in developing alternative technologies. As far as solvents are concerned there are hydrocarbons such as benzene, alcohol, ketones such as acetone, esters, liquid cleaning systems; there are also new adhesive procedures which do not require solvents. Foam products include nitrogen, carbon dioxide and hydrocarbons such as pentane and butane. Ammonia and, in certain cases, helium, can be

used as substitutes in refrigeration processes. Aerosols can be replaced by carbon dioxide, nitrogen and various hydrocarbons and substances used for extinguishing fires can be replaced by new developments in powder and foam technology. Fluorocarbons (FCs), which have no ozone-depleting potential, can be used as a general substitute.

(c) Hydrochlorofluorocarbons

Transitional substances, the hydrochlorofluorocarbons, contained in Annex C to the revised protocol are not covered by the Commission's proposal. Despite the fact that the most important of these, F22, has an ODP equal only to 5% of F11, controls are essential to limit emissions since the H-CFCs will be used on a large-scale as a substitute for CFCs and they have a high potential for increasing global warming (the potential of F22 is 2000 times greater than carbon dioxide).

According to scientific forecasts, the chlorine level in the stratosphere is not going to fall below the average level for the 1970s - when the hole in the ozone layer was first noticed even if the production of the substances controlled by the Montreal Protocol is stopped completely and restrictions are placed on other ozone-depleting substances contained in the Protocol. It is therefore clear that hydrochlorocarbons must be controlled.

An amendment is therefore called for to apply the restrictions of the London Conference to H-CFCs for applications which are already covered by controlled substances and where more suitable substitutes do not exist - and the Commission should submit a timetable for the introduction of restrictions with a view to their total replacement by 2005 so that their essential temporary use by industry does not lead to their uncontrolled and unlimited consumption with irreversible consequences for the environment. There is also an argument for including F22 in the category of chlorofluorocarbons and their total abolition during the current decade.

(d) Derogations

Derogations to the proposal for a regulation 'for special uses' could lead to the improper use of these substances or even violations of the ban on their use. For this reason, it is proposed that the conditions governing derogations be strictly limited to medical applications, regulations in respect of aircraft safety and firefighting in accordance with the provisions drawn up by the American Congress.

(e) Measures influencing demand

In the Commission text, there is a glaring absence of measures aimed at influencing consumers to avoid or restrict their use of CFCs and products manufactured from or with CFCs. Such measures should include, inter alia:

Introduction of a special tax. In addition to a legal ban, a flexible tax system for the conversion of ozone depletion into a cost coefficient so as to promote the use of substitutes, recovery and recycling activities. The income raised by this tax will be made available for the above activities and for the protocol's polymer fund.



Public information. Of major importance in this connection products containing CFCs should be labelled.

Ban on non-essential uses and products. It is worth noting that in the USA, where there are bans on aerosols, aerosols account for only 1% of the market of products manufactured using CFCs, while in Western Europe this figure is 40%. Voluntary agreements between the Commission and industry, (such as those already made for a 90% reduction in aerosols by 1990 and for a 50% reduction in refrigeration and a 65% for all foams by 1993) can also play a positive role in so far as they meet more stringent regulations which are essential.

Negotiation with the European Parliament before Council decisions are taken, participation by non-governmental organizations concerned with the protection of the ozone layer, demystification of information.

#### BASIC SOURCES

- SECOND MEETING OF THE PARTIES TO THE MONTREAL PROTOCOL ON SUBSTANCES THAT DEplete THE OZONE LAYER, London 27-29 June 1990, UNEP.
- ECONOMIC PANEL REPORT, Montreal Protocol on Substances that Deplete the Ozone Layer, July 1989, UNEP.
- RESPONSIBILITY MEANS DOING WITHOUT - HOW TO RESCUE THE OZONE LAYER, Federal Environmental Agency, 1989, Berlin.
- REPORT CONCERNING THE EFFECTS OF CFC'S ON THE ENVIRONMENT, Parliamentary Office for the Evaluation of Scientific and Technological Decisions, French National Assembly, 1990.
- 1990: LE FROID ET LES CFC, Institut International du Froid, 1990, Paris.
- THE FAILURE OF THE MONTREAL PROTOCOL, Greenpeace International, June 1990.

Your rapporteur's amendments<sup>13</sup>Commission Proposals<sup>2</sup>

## Revised Montreal Protocol

CFCs* and other CFCs	Reductions from 1 January:		Reductions from 1 January:		Reductions from 1 January:	
	1993:	20%	1991:	frozen	1991:	frozen
	1995:	50% only CFCs	1992:	50%	1992:	50%
	1997:	85%	1996:	85%	1994:	85%
	2000:	100%	1998:	100%*	1996:	100%

1 2

Halons*	Reductions from 1 January:		Reductions from 1 January:		Reductions from 1 January:	
	1995:	50%	1992:	frozen	1991:	frozen
	2000:	100%	1996:	50%	1994:	50%
			2000:	100%	1996:	100%

Carbon Tetrachloride	Reductions from 1 January:		Reductions from 1 January:		Reductions from 1 January:	
	1995:	85%	1992:	50%	1991:	frozen
	2000:	100%	1998:	100%	1992:	50%
					1997:	100%

2

Methyl Chloroform	Reductions from 1 January:		Reductions from 1 January:		Reductions from 1 January:	
	1993:	frozen	1992:	frozen	1991:	frozen
	1995:	30%	1998:	20%	1994:	30%
	2000:	70%	2000:	40%	1997:	50%
	2005:	100%			2000:	100%

2

HCFCs	From 1.1.95 timetable for their complete abolition by 2005
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<sup>2</sup> Base year 1986

<sup>3</sup> In addition to the reduction measures, the effect of the tax must be taken into account although this cannot be measured

\* Derogations for special uses and developing countries

<sup>2</sup> Base year 1989

## O P I N I O N

(Rule 120 of the Rules of Procedure)

of the Committee on Economic and Monetary Affairs and Industrial Policy  
for the Committee on the Environment, Public Health and Consumer Protection  
Draftsman: Mr Bouke BEUMER

At its meeting of 17 July 1990 the Committee on Economic and Monetary Affairs and Industrial Policy appointed Mrs Roth draftsman.

At its meetings of 20 September, 26 September, 15 October and 6 November 1990 it considered the draft opinion. At the latter meeting it adopted the conclusions and amendments contained therein by 15 votes to 8, with 2 abstentions.

Following the vote on her draft, the rapporteur withdrew as draftsman on this report in view of the outcome of the vote. The opinion will therefore be submitted by the chairman.

The following took part in the vote: Beumer, chairman; Fuchs (vice-chairman); de Montesquiou (vice-chairman); Ernst de la Graete (substitute draftsman); Barton, Peter Beazley, Cassidy, Sir Fred Catherwood (for Stevens), Cox, David (for Donnelly), Dessylas (for Herzog, pursuant to Rule 111(2)), de Donnea, Ferreira Ribeiro, Friedrich, Herman, Hoppenstedt, Lataillade, Merz, Metten, Patterson, Pinxten, Read, Tongue, Vasquez-Fouz (for Cravinho, pursuant to Rule 111(2)) and von Wogau.

## I. The subject of the draft regulation

### 1. Background

By the Montreal Protocol of 16 September 1987 on substances which deplete the ozone layer, the signatory states undertook to cut the production and use of five chlorofluorocarbons (CFCs) by 50 per cent by 1990 and to freeze the use of three halons by 1992. The commitments contained in the protocol were implemented in the Community through Regulation No. 3322/88 of 14 October 1988.

Recent scientific findings have, however, indicated that the objectives set out in the Montreal Protocol are not sufficient to prevent further depletion of the ozone layer or reverse the process. To make matters worse, substances that deplete the ozone layer also bear approximately 20 per cent of the blame for the greenhouse effect and only some of them are governed by the provisions of the protocol.

The intensive public debate, in which environmental organizations have played a particularly prominent role, enabled the Council, in the face of resistance from industrial pressure groups, to adopt a firmer stance on the problem of substances that deplete the ozone layer. On 2 March 1989 the Council concluded that the production and use of CFCs had to be cut by at least 85 per cent as soon as possible, both within the Community and world-wide, with a view to their complete elimination by the end of the century.

The present Commission draft regulation is intended to implement the Council decision of 1989 and replace Regulation No. 3322/88 of 14 October 1988.

### 2. Content and objective of the draft regulation

The draft regulation concerns the import, export, production and use of the chlorofluorocarbons and halons covered by the Montreal Protocol, and also carbon tetrachloride, methyl chloroform and other fully halogenated hydrocarbons. The aim is the gradual limiting of the production and use of these substances in the Community, as follows:

#### (a) CFCs covered by the Montreal Protocol (F 11, F 12, F 113, F 114 and F 115)

By the end of 1991 these are to be frozen at 1986 levels; from 1992 they are to be reduced by 50% of the 1986 level; from 1995 by 85%; by 1998 by 100%.

#### (b) Halons (1211, 1301 and 2402):

To be frozen at 1986 levels by 1992; to be reduced by 50% by 1996; to be reduced by 100% from the year 2000.

#### (c) Carbon tetrachloride (not previously regulated):

To be reduced by 50% of the 1986 level by 1992; by 1998 to be reduced by 100%.

#### (d) Methyl chloroform (not previously regulated):

To be frozen at 1986 levels by 1992; to be reduced by 20% by 1998; to be reduced by 40% by the year 2000.

The aims of the draft regulation are to be achieved by restricting supply. To this end, the draft contains provisions for restricting trade with third countries (Articles 3-6), issuing import licences (Article 7), production quotas (Article 8), marketing and consumption rights in respect of the regulated substances (Article 9). A committee (Article 10) is to oversee the details of the issuing of licences, insofar as this is not done in the regulation. The producers of regulated substances are required to provide the Commission with data reports (Article 11). The draft also contains monitoring provisions (Article 12) and provisions for legal or administrative action in cases of infringement (Article 13). The regulation is intended to enter into force on 1 January 1991.

## II. Production and use of CFCs and halons

### 1. Production

Up to the end of 1989, some 22 million tonnes of CFCs (F 11, F 12 and F 113), had been produced world-wide (excluding the socialist countries). 27 groups, with their parent companies located in 11 countries, produce these substances. The only Third World countries to do so are India and Korea (1).

In 1984, the United States accounted for 34 per cent of world production (F 11, F 12); the European Community, 36.2 per cent; Japan, 12.4 per cent; the socialist countries 9.9 per cent, and the rest of the world 4.1 per cent). (2)

As shown by a comparison of the amounts sold, the CFC problem was caused by the industrialized North. Whereas 7.1 m tonnes of F 11 (9.3 m tonnes of F 12) were sold in the industrialized countries between 1931 and 1988, the southern hemisphere took a mere 0.3 m tonnes of F 11 and 0.5 m tonnes of F 12 (source: Enquête).

European producers of CFCs and halons notify an enterprise office in London of the quantities produced of the five CFCs governed by the Montreal Protocol, imports from non-Community countries and exports to third countries.

The figures break down as follows:

Volume in tonnes	1986	1987	1988	1989
Production	429 379	435 121	412 946	372 490
Imports	2 321	2 481	2 293	1 600
Exports	129 223	128 415	117 160	137 467

Source: Directorate General for Research

The Community's responsibility to take special measures to protect the ozone layer also stems from the high proportion of its production of regulated substances that goes to export (1986: 30%; 1988: 37%) - much of it (1989: 58%) to countries that have not signed the protocol.

Halons (3) are the most potentially damaging to the ozone layer and are used solely as fire-extinguishing agents, the use of which is restricted to expensive schemes that would be damaged if simple extinguishers such as water

were used. There are very few major producers of halons: Dupont de Nemours (USA), Great Lakes Corp, (USA), ICI (UK), Atochem (France) and Kali-Chemie (West Germany).

In 1986, these firms produced a total of approximately 10 000 tonnes of halon 1301, 14 000 tonnes of halon 1211 and 1 000 tonnes of halon 2402. This is equivalent to approximately 80% of world-wide halon consumption.

According to the manufacturer's statistics, in 1989 the volume of F 11 equivalent halon (that is the raw data multiplied by the ODP factor) produced was 71 000 tonnes, while 46 000 tonnes were consumed within the Community. 4 800 tonnes were imported and 25 900 tonnes exported (14 2000 tonnes going to states that are not parties to the Protocol).

The output of carbon tetrachloride and methyl chloroform could not be ascertained as no manufacturer's figures are available. The present draft regulation requires them to provide such information.

## 2. Uses

CFCs and halons have special technical and chemical properties that fitted them for use in many fields. The fully halogenated CFCs are chemically highly stable and therefore extremely durable (important for use as a refrigerant), non-flammable (important for foam blowing) and of low toxicity (important for industrial safety and consumer protection) (4). They are also cheap to produce: F 11 and F 12 sell at between \$1.30 and \$1.75 per kilo and F 113 at about \$3 (5).

The main use (6) of CFCs (F 11, F 12, F 112, F 114 and F 115) in the Community is as propellants. Their sales share in the Community has dropped from 47% (1986) to 38.2% (1988). The proportion used for foam blowing, on the other hand, has risen from 28.3% (1986) to 34.7%. Their use as coolants had remained more or less constant in absolute terms, although the proportion rose slightly from 9.5% (1986) to 10% (1988). Other uses, notably as solvents and cleaning agents, increased both in absolute terms and proportionally from 15.1% (1986) to 17.1% (1988).

Economically speaking, CFCs do have considerable advantages from the production angle and in the uses to which they can be put. But they are by no means key products as far as industry is concerned and their use, even today, is non-essential except for small quantities not likely to have any measurable harmful effects. In all the areas in which they are used, at least one of the following options is open: replacing products containing or manufactured with CFCs with other products or using alternative products; replacement of CFCs by alternative substance, likely to be available in the next five years if not already obtainable; more rational and sparing use; recovery and recycling (7).

Owing to the type of use to which CFCs are put and experiences from, for example, West Germany and the United States (8), limiting supply, as proposed in the draft regulation, may be expected to have implications first and foremost for the use of CFCs as propellants, while their use for foam blowing may increase in absolute and relative terms and their use as coolants will remain constant, as the plastics market is growing while the coolant

market (except for air conditioning in cars) is not. Their use as solvents in the growing information technology sector will also increase; military users, in particular, often specify that electronic components should be cleaned with CFCs.

### III. Business aspects of a CFC ban

The production value of CFCs and halons is at present equivalent to 0.3% of the total value of the Community chemical industry's output. Since research into finding substitutes began, the manufacturers, Dupont, ICI and Atochem) have spent approximately \$63 m. From 1988 on, annual research expenditure of \$22.5 m has been planned. The other manufacturers do not anticipate any research expenditure, acquiring patents and licences instead. (9)

Reductions in the supply of CFCs in the Community, as laid down in the regulations, will send the price of the regulated products up, which in turn may lead to windfall profits for manufacturers. These price rises may speed up the use of substitutes and the appropriate technologies on the part of the users. The overall level of prices in the Community is unlikely to be as seriously affected owing to the regulated substances' small share of the cost of products manufactured using CFCs (with the exception of aerosols) (10).

Cutbacks in production are likely to lead to business difficulties for the manufacturers of the regulated substances, the gravity of which will largely depend on the relative importance of CFC sales to their turnover as a whole. This varies, for example, in the case of West German manufacturers from 0.5% to 20% (11).

On the other hand, through strict application of the regulation, the Community can improve its international competitiveness by pressing ahead with the development and use of substitutes and the appropriate applied technologies, giving it a competitive edge that will far outweigh the business problems anticipated. For this reason, the loopholes that the draft regulation still contains should be blocked and its shortcomings made good, so that this effect may be quickly achieved, enabling the Community to make a valuable contribution towards the protection of the ozone layer.

### IV. Conclusions

1. The Committee on Economic and Monetary Affairs and Industrial Policy welcomes in principle the fact that the draft regulation contains more stringent restrictions on CFCs and halons than Regulation (EEC) No. 3322/88.
2. It does not, however, view the proposed deadlines as an adequate implementation of the Council decision that the production and use of CFCs in the Community should be reduced by at least 85% 'as soon as possible'.

3. The currently ascertainable and continuing damage to the ozone layer has been caused by the use of these substances over several decades and, because of their durability and long-lived effects on the stratosphere (in some cases over 100 years) the use of CFCs and halons until 1998 or 2000 will continue to cause further destruction of the ozone layer well into the next millennium.
4. It recommends that it should be left open to Member States to adopt more stringent measures than those set out in the draft regulation, pursuant to Article 130t of the EEC Treaty.
5. To absorb the price rises and attendant windfall profits anticipated as a result of limiting the supply of regulated substances, as proposed by the regulation, the committee recommends the introduction of a charge to be levied on producers and importers.
6. The committee is emphatically in favour of compulsorily labelling of products containing ozone-depleting CFCs or halons, or manufactured with their help, giving users and consumers the information necessary to make an environmentally conscious purchase.
7. The Committee on Economic and Monetary Affairs and Industrial Policy requests the Committee on the Environment, Public Health and Consumer Protection to take the following amendments into account.



### Source

- (1) 2ème réunion du Réseau climatique de Belgique (ed.), Les destructeurs d'ozone: La position des ONG Belges, Mai 1990, p. 8 ss.
- (2) Enquete-Kommission des Deutschen Bundestages 'Schutz der Erdatmosphäre', Produktions- und Verbrauchsmengen sowie Hersteller, 1990, not published, S. 8
- (3) Enquete-Kommission, a.a.O., S. 14
- (4) Hans W. Jakobi, Fluorchlorkohlenwasserstoffe (FCKW), 1989, S. 38 ff.
- (5) A. Budzinski, Ersatzstoffe sollen Ozonloch stopfen, in: Chemische Industrie, 11/1988, S. 14 ff.  
Hans W. Jakobi, a.a.O., S. 153
- (6) Generaldirektion Wissenschaft, Antwort auf eine Anfrage
- (7) Schärer/Lid/Lau, Strategie und Instrumente für den FCKW-Ausstieg, in: Zeitschrift für Umweltpolitik und Umweltrecht, 3/89, S. 311 ff. Enquete-Kommission, Arbeitsunterlage 11/92 - Teil 2 - Mai 1988, S. 11/11 ff.
- (8) Proposal to control the Manufacture, Use, and Disposal of Ozone-Depleting Substances. Hearing before the Subcommittee on Environment and Public Works. United States Senate, May 19, 1989
- (9) Theys/Facheux/Noel, La guerre de l'ozone, in: futurible, octobre 1988, p. 59 ss.
- (10) Bundesminister für Umwelt, Naturschutz und Reaktorsicherheit/Umweltbundesamt, antworten auf den Fragenkatalog für eine öffentliche Anhörung der Enquete-Kommission 'Schutz der Erdatmosphäre', Mai 1988, Pressematerial
- (11) Hans W. Jakobi, a.a.O., S.119

Commission text<sup>1</sup>

Amendment

(Amendment No. 1)

Add the following new recital

'Whereas there is a need to introduce a Community charge on products that deplete the ozone layer in order to accelerate their replacement by harmless substances and to facilitate, as far as possible, the adaptation of producers and consumers while contributing to its financing;

(Amendment No. 2)

Add the following new recital

Whereas a coherent environment policy must include fiscal measures following the 'polluter pays' principle;

(Amendment No. 3)

Add the following new recital

Whereas pursuant to Article 130t of the Treaty the Member States may introduce more stringent measures than those set out in the following Regulation;

(Amendment No. 4)

PART I

Import Regime

External Trade Regime

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<sup>1</sup> Complete text: COM(90) 0003 final - OJ No. C 86, 4.4.1990, p.4

Commission text

Amendment

(Amendment No. 5)  
Article 3(1)

1. The importation into the Community of chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride and methyl chloroform originating in third countries which are Parties to the Protocol shall be subject to quantitative limits.

1. The importation into the Community of chlorofluorocarbons, other fully halogenated fluorocarbons, halons, carbon tetrachloride and methyl chloroform originating in third countries (omit seven words) shall be subject to quantitative limits.

(Amendment No. 6)  
Article 5(2)

2. The Council, on the proposal of the Commission, shall adopt before that date the list of these products in the light of the list established by the Parties to the Protocol. The Council shall act by a qualified majority.

2. The Council, on the proposal of the Commission, shall adopt before that date the list of these products in the light of the list established by the Parties to the Protocol. The Council shall act by a qualified majority after consulting Parliament.

(Amendment No. 7)  
Article 6

In the light of the decision of the parties to the Protocol, the Council, on the proposal of the Commission, shall adopt rules applicable to the importation into the Community of products originating in third countries which are not Parties to the Protocol, which are produced with chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride and methyl chloroform but which do not contain these substances. The Council shall act by a qualified majority.

In the light of the decision of the parties to the Protocol, the Council, on the proposal of the Commission, shall adopt, by 1 January 1993, rules applicable to the importation into the Community of products originating in third countries which are not Parties to the Protocol, which are produced with chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride and methyl chloroform but which do not contain these substances. The Council shall act by a qualified majority after consulting Parliament.

Commission text

Amendment

(Amendment No. 8)  
Insert new Article 6a

1. The export of technology for the production and use of regulated substances to third countries that are not Parties to the Protocol shall be prohibited from 1 January 1991.

(Amendment No. 9)  
Article 9(10)

10. Any imports permitted in accordance with Articles 3 to 7 shall be in addition to the quantities which producers may place on the market or use for their own account under this Article.

10. Any imports permitted in accordance with Annex II shall be included in the quantities which producers may place on the market in accordance with paragraphs 1-5.

(Amendment No. 10)  
Article 9(11)

11. Beginning with the control period 1 January to 31 December 1993, the quantities resulting from the application of paragraphs 1 to 7 will be reduced in a given 12-month control period thereafter by the quantities of fully halogenated chlorofluorocarbons, halons, carbon tetrachloride or methyl chloroform as appropriate that were exported to countries which are not Parties to the Protocol during that 12-month control period.

11. Exports of regulated substances to third countries that are not Parties to the Protocol shall be prohibited after 31 December 1991.

Commission text

Amendment

(Amendment No. 11)  
Add a new Article 9a

1. With effect from 1.7.1991, a tax on the production and import of controlled substances shall be imposed on producers and importers.

2. The Commission shall determine the level of the tax and, in accordance with the procedure under Article 10, shall adjust the tax rate annually in line with fluctuations in the market price for controlled substances as a result of the reduced demand brought about by the present regulation and the availability of substitutes at competitive market prices.

(Amendment No. 12)  
Article 13(2) new

2. Any breach of this Regulation may be punishable by a fine imposed by the Commission.

(Amendment No. 13)  
Article 13a (new)

Six months after the date set down in Article 15, the Commission shall present to the Parliament and to the Council a comprehensive analysis of a broad environment strategy based on a fiscal approach, either at national and/or Community level. Such a communication may contain legislative proposals.

