

# EUROPEAN PARLIAMENT

1999



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*Committee on the Environment, Public Health and Consumer Policy*

26 November 1999

FINAL  
A5-0077/1999

**\*\*\*II**

## **RECOMMENDATION FOR SECOND READING**

on the common position established by the Council with a view to the adoption of a European Parliament and Council regulation on substances that deplete the ozone layer  
(5748/3/1999 – C5-0034/1999 – 1998/0228(COD))

Committee on the Environment, Public Health and Consumer Policy

Rapporteur: Anneli Hulthén

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PE 231.733/fin.

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### *Symbols for procedures*

- \* : Consultation procedure  
*majority of the votes cast*
- \*\*I : Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II : Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position*  
*majority of Parliament's component Members, to reject or amend the common position*
- \*\*\* : Assent procedure  
*majority of Parliament's component Members, except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty*
- \*\*\*I : Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II : Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position*  
*majority of Parliament's component Members, to reject or amend the common position*
- \*\*\*III : Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission.)

### *Abbreviations for committees*

- I. AFET: Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy
- II. BUDG: Committee on Budgets
- III. CONT: Committee on Budgetary Control
- IV. LIBE: Committee on Citizens' Freedoms and Rights, Justice and Home Affairs
- V. ECON: Committee on Economic and Monetary Affairs
- VI. JURI: Committee on Legal Affairs and the Internal Market
- VII. INDU: Committee on Industry, External Trade, Research and Energy
- VIII. EMPL: Committee on Employment and Social Affairs
- IX. ENVI: Committee on the Environment, Public Health and Consumer Policy
- X. AGRI: Committee on Agriculture and Rural Development
- XI. PECH: Committee on Fisheries
- XII. REGI: Committee on Regional Policy, Transport and Tourism
- XIII. CULT: Committee on Culture, Youth, Education, the Media and Sport
- XIV. DEVE: Committee on Development and Cooperation
- XV. AFCO: Committee on Constitutional Affairs
- XVI. FEMM: Committee on Women's Rights and Equal Opportunities
- XVII. PETI: Committee on Petitions

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## Procedural page – codecision procedure

At its sitting of 17 December 1998 Parliament delivered its opinion at first reading on the proposal for a European Parliament and Council regulation on substances that deplete the ozone layer (COM(1998) 398 – 1998/0228(COD)).

At the sitting of 16 September 1999 the President of Parliament announced that the common position had been received and referred to the Committee on the Environment, Public Health and Consumer Policy (C5-0034/1999).

The committee had appointed Anneli Hulthén rapporteur at its meeting of 2 September 1999.

It considered the common position and the draft recommendation for second reading at its meetings of 18 October 1999 and 24 November 1999.

At the last meeting it adopted the draft legislative unanimously with 5 abstentions.

The following were present for the vote: Jackson, chairman; De Roo, vice-chairman; Hulthén, rapporteur; Blokland, Bowe, Bowis, Breyer, Bushill-Matthews (for Arvidsson), Carraro (for Lage), Corbey, Davies, Doyle, Evans (for McKenna), Fatuzzo (for De Sarnez), Flemming, Florenz, Garcia Orcoyen Tormo, González Álvarez, Gorostiaga Atxalandabaso (for Kronberger), Grossetête, Helmer, Hulthén, Isler Béguin, Klass, Korhola, Lange, Lienemann, Liese, Lund, Malliori, Moreira Da Silva, E. Müller, R. Müller, Myller, Nistico', Oomen-Ruijten, Paulsen, Ries, Roth-Behrendt, Sacconi, Scheele, Schnellhardt, Schörling, Sjöstedt, Sommer (for Goodwill), Taylor (for Patrie), Thomas-Mauro, Trakatellis, Valenciano Martinez-Orozco und Zappalà (for Goodwill).

The recommendation for second reading was tabled on 26 November 1999.

The deadline for tabling amendments to the common position will be indicated in the draft agenda for the relevant part-session.

## DRAFT LEGISLATIVE RESOLUTION

**Legislative resolution of the European Parliament on the common position with a view to the adoption of a European Parliament and Council regulation on substances that deplete the ozone layer (5748/3/1999 - C5-0034/1999 - 1998/ 0228(COD))**

**(Codecision procedure: second reading)**

*The European Parliament,*

- having regard to the Council common position (5748/3/1999) - C5-0034/1999),
  - having regard to its position at first reading<sup>1</sup> on the Commission proposal (and amended proposal) to Parliament and the Council (COM(1998) 398)<sup>2</sup>,
  - having regard to the Commission's amended proposal/the amendments to the Commission proposal (COM(1999) 67)<sup>3</sup>,
  - having regard to Article 251(2) of the EC Treaty,
  - having regard to Rule 80 of its Rules of Procedure,
  - having regard to the recommendation for second reading of the Committee on the Environment, Public Health and Consumer Policy (A5 0077/1999),
1. Amends the common position as follows;
  2. Instructs its President to forward its position to the Council and Commission.

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<sup>1</sup> OJ C 98, 9.4.1999, p. 198.

<sup>2</sup> OJ C 286, 15.9.1998, p. 6.

<sup>3</sup> OJ C 83, 25.3.1999, p. 4.

(Amendment 1)  
Recital 16a (new)

Whereas the switch to new technologies or alternative products, required because the production and use of controlled substances are to be phased out, could lead to problems for small and medium-sized undertakings (SMUs) in particular; whereas the Member States should therefore consider whether they might provide appropriate forms of assistance specifically to enable SMUs to make the necessary changes;

(Amendment 2)  
Article 3(2) (i)

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

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

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

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

(d) it produces no methyl bromide after 31  
PE 231.733/fin.

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

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

(b) the calculated level of its production of methyl bromide in the period 1 January to 31 December 2000 and in each 12-month period thereafter does not exceed 40% of the calculated level of its production of methyl bromide in 1991;

(c) the calculated level of its production of methyl bromide in the period 1 January to 31 December 2001 and in each 12-month period thereafter does not exceed 25% of the calculated level of its production of methyl bromide in 1991;

(d) it produces no methyl bromide after 31

December 2004.

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

December 2004.

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

(Amendment 3)

Article 3(2)(ii), first subparagraph

In the light of the proposals made by Member States, the Commission shall, in accordance with the procedure laid down in Article 17, apply the criteria set out in Decision IX/6 of the Parties, together with any other relevant criteria agreed by the Parties, in order to determine every year any critical uses for which the production, importation and use of methyl bromide may be permitted in the Community after 31 December 2004, the quantities and uses to be permitted and those users who may take advantage of the critical exemption. Such production and importation shall be allowed only if no adequate alternatives or recycled or reclaimed methyl bromide is available from any of the Parties.

In the light of the proposals made by Member States, the Commission shall, in accordance with the procedure laid down in Article 17, apply the criteria set out in Decision IX/6 of the Parties, together with any other relevant criteria agreed by the Parties, in order to determine every year any critical uses for which the production, importation and use of methyl bromide may be permitted in the Community after 31 December 2004, the quantities and uses to be permitted and those users who may take advantage of the critical exemption. Such production and importation shall be allowed only if no adequate alternatives or recycled or reclaimed methyl bromide is available from any of the Parties.

Critical use exemptions shall not exceed two years. Any extension of such exemptions may be granted only where it can be proved that the criteria set out in Decision IX/6 of the Parties, together with any other relevant criteria agreed by the Parties, are met.

Apart from emergencies, where unexpected outbreaks of particular pests or diseases so require, no exemptions may be granted for agricultural uses after 31 December 2006.

(Amendment 4)  
Article 3(2)(ii), second subparagraph

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

In an emergency, where unexpected outbreaks of particular pests or diseases so require, the Commission, at the request of the competent authority of a Member State, may authorise the temporary use of methyl bromide. Such authorisation shall apply for a period not exceeding 60 days and to a quantity not exceeding 20 tonnes.

(Amendment 5)  
Article 3(3), first subparagraph, (b)

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

(b) the calculated level of its production of hydrochlorofluorocarbons in the period 1 January to 31 December 2001 and in each 12-month period thereafter does not exceed 75% of the calculated level of its production of hydrochlorofluorocarbons in 1997;

(Amendment 6)  
Article 3(3), first subparagraph, (b)a (new)

(b)a The calculated level of its production of hydrochlorofluorocarbons in the period 1 January to 31 December 2004 and in each 12-month period thereafter does not exceed 55% of the calculated level of its production of hydrochlorofluorocarbons in 1997;

(Amendment 7)  
Article 3(3), first subparagraph, (b)b (new)

(b)b The calculated level of its production of hydrochlorofluorocarbons in the period 1 January to 31 December 2008 and in each 12-month period thereafter does not exceed 30% of the calculated level of its production of hydrochlorofluorocarbons in 1997;



(Amendment 8)  
Article 3(3), first subparagraph, (c)

(c) the calculated level of its production of hydrochlorofluorocarbons in the period 1 January to 31 December 2014 and in each 12-month period thereafter does not exceed 20% of the calculated level of its production of hydrochlorofluorocarbons in 1997;

(c) the calculated level of its production of hydrochlorofluorocarbons in the period 1 January to 31 December 2014 and in each 12-month period thereafter does not exceed 15% of the calculated level of its production of hydrochlorofluorocarbons in 1997;

(Amendment 9)  
Article 4(1), second subparagraph

The Commission may, following a request by a competent authority of a Member State and in accordance with the procedure laid down in Article 17, authorise a temporary exemption to allow the use of chlorofluorocarbons in military applications until 31 December 2008, where it is demonstrated that, for a particular use, technically and economically feasible alternative substances or technologies are not available or cannot be used.

The Commission may, following a request by a competent authority of a Member State and in accordance with the procedure laid down in Article 17, authorise a temporary exemption to allow the use of chlorofluorocarbons in delivery mechanisms for hermetically sealed devices designed for implantation in the human body for delivery of measured doses of medication until 31 December 2004, and in existing military applications under 31 December 2008, where it is demonstrated that, for a particular use, technically and economically feasible alternative substances or technologies are not available or cannot be used.

(Amendment 10)  
Article 4(2) (I), first subparagraph (c)

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| c) the calculated level of methyl bromide which it places on the market or uses for its own account in the period 1 January to 31 December <u>2003</u> and in each 12-month period thereafter does not exceed 25% of the calculated level of methyl bromide which it placed on the market or used for its own account in 1991; | c) the calculated level of methyl bromide which it places on the market or uses for its own account in the period 1 January to 31 December <u>2001</u> and in each 12-month period thereafter does not exceed 25% of the calculated level of methyl bromide which it placed on the market or used for its own account in 1991; |
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(Amendment 11)  
Article 4(2)(i) second subparagraph

To the extent permitted by the Protocol, the Commission shall, following a request by a competent authority of a Member State and in accordance with the procedure laid down in Article 17, adjust the calculated level of methyl bromide referred to in Article 3(2)(i)(c) and subparagraph (c) above where it is demonstrated that this is necessary to meet the needs of that Member State, because technically and economically feasible alternatives or substitutes that are acceptable from the standpoint of environment and health are not available or cannot be used.

Delete

(Amendment 12)  
Article 4(2)(iii)

The quantities referred to in subparagraphs 2(i)(a), (b), (c) and (d) shall not include the amount of methyl bromide produced or imported for quarantine and pre-shipment applications. For the period [.....]<sup>1</sup> and for each 12-month period thereafter, each producer and importer shall ensure that the calculated level of methyl bromide which it places on the market or uses for its own account for quarantine and pre-shipment applications shall not exceed the average of the calculated level of methyl bromide which it placed on the market or used for its own account for quarantine and pre-shipment in the years 1996, 1997 and 1998.

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

The Commission shall, in accordance with the procedure laid down in Article 17, take measures to reduce the calculated level of methyl bromide which producers and importers may place on the market or use for their own account for quarantine and pre-shipment in the light of technical and economic availability of alternative substances or technologies and of the relevant international developments under the Protocol.

The quantities referred to in subparagraphs 2(i)(a), (b), (c) and (d) shall not include the amount of methyl bromide produced or imported for quarantine and pre-shipment applications. For the period [.....]<sup>1</sup> and for each 12-month period thereafter, each producer and importer shall ensure that the calculated level of methyl bromide which it places on the market or uses for its own account for quarantine and pre-shipment applications shall not exceed the average of the calculated level of methyl bromide which it placed on the market or used for its own account for quarantine and pre-shipment in the years 1996, 1997 and 1998.

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

The Commission shall, in accordance with the procedure laid down in Article 17, take measures to reduce the calculated level of methyl bromide which producers and importers may place on the market or use for their own account for quarantine and pre-shipment in the light of technical and economic availability of alternative substances or technologies and of the relevant international developments under the Protocol.

By 31 December 2001, the Commission shall review the calculated level of methyl bromide which producers and importers may place on the market or use for their

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<sup>1</sup> Dates to be inserted at a later stage.

own account for quarantine and pre-shipment with a view to reducing it by a minimum of 50% within two years.

(Amendment 13)  
Article 5(1)(b)(ii)

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

(ii) from 1 January 2001, in all solvent uses, with the exception of precision cleaning of electrical and other components in the aerospace and aeronautics applications where the prohibition shall enter into force on 31 December 2008, provided no alternatives are available;

(Amendment 14)  
Article 5 (i)(c)(iv)

From 1 January 2001, in all other refrigeration and air-conditioning equipment produced after 31 December 2000, with the exception of fixed air-conditioning equipment, with a cooling capacity of less than 100 kW, where the use of hydrochlorofluorocarbons shall be prohibited from 1 January 2003 in equipment produced after 31 December 2002 and of reversible air-conditioning/heat pump systems where the use of hydrochlorofluorocarbons shall be prohibited from 1 January 2004 in all equipment produced after 31 December 2003;

From 1 January 2001, in all other refrigeration and air-conditioning equipment produced after 31 December 2000, with the exception of reversible air-conditioning/heat pump systems where the use of hydrochlorofluorocarbons shall be prohibited from 1 January 2004 in all equipment produced after 31 December 2003;

(Amendment 15)  
Article 5(1) (c) (v)

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

(v) from 1 January 2005, the use of virgin hydrochlorofluorocarbons shall be prohibited in the maintenance and servicing of refrigeration and air-conditioning equipment existing at that date;  
all HCFCs shall be prohibited from 1 January 2007;

(Amendment 16)  
Article 5(1)(d)(iii) and (iv)

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

(iii) from 1 January 2002, for the production of extruded polystyrene foams, except where used for insulated transport, of polyurethane foams for appliances, of polyurethane flexible faced laminate foams and of polyurethane sandwich panels, except where these latter two are used for insulated transport;

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

(Amendment 17)  
Article 5(1)(d)(v)

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

(v) from 1 January 2003, for the production of all foams; including polyurethane spray and block foams;

(Amendment 18)  
Article 5(3)

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

Delete

- halons contained in such fire protection systems shall be replaced completely,
- halons withdrawn shall be destroyed,
- 70 % of the destruction costs shall be covered by the supplier of the hydrochlorofluorocarbons,
- each year, Member States making use of this provision shall notify to the Commission the number of installations and the quantities of halons concerned.

(Amendment 19)  
Article 5(4)

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

4. The importation and placing on the market of products and equipment containing hydrochlorofluorocarbons for which a use restriction is in force under this Article shall be prohibited from the date on which the use restriction comes into force. Products and equipment shown to be manufactured before the date of that use restriction may be placed on the market within a transitional period of five years.

(Amendment 20)

Article 5(5)

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| 5. <u>Until 31 December 2009</u> , the use restrictions under this Article shall not apply to the use of hydrochlorofluorocarbons for the production of products for export to countries where the use of hydrochlorofluorocarbons in those products is still permitted. | 5. <u>The use restrictions under this Article shall not apply to the use of hydrochlorofluorocarbons for the production of products for export to countries where the use of hydrochlorofluorocarbons in those products is still permitted. Three years after the prohibitions of use as laid down in this Article come into force, the export of those products to countries in which the use of hydrofluorocarbons is still permitted shall be prohibited.</u> |
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(Amendment 21)

Article 5(6)

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| 6. The Commission may, in accordance with the procedure laid down in Article 17, in the light of experience with the operation of this Regulation or to reflect technical progress, modify the list and the dates set out in paragraph 1. | 6. The Commission may, in accordance with the procedure laid down in Article 17, in the light of experience with the operation of this Regulation or to reflect technical progress, modify the list and the dates set out in paragraph 1, <u>but in no case extend the periods set out therein.</u> |
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(Amendment 22)

Article 5(7)

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| 7. The Commission may, following a request by a competent authority of a Member State and in accordance with the procedure laid down in Article 17, authorise a time-limited exemption to allow the use and placing on the market of hydrochlorofluorocarbons in derogation from paragraph 1 and Article 4(3) where it is demonstrated that, for a particular use, technically and economically feasible alternative substances or technologies are not available or cannot be used. | 7. The Commission may, following a request by a competent authority of a Member State and in accordance with the procedure laid down in Article 17, authorise a time-limited exemption to allow the use and placing on the market of hydrochlorofluorocarbons in derogation from paragraph 1 and Article 4(3) where it is demonstrated that, for a particular use, technically and economically feasible alternative substances or technologies are not available or cannot be used. <u>The Commission shall immediately inform the Member States of any exemptions granted.</u> |
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(Amendment 23)  
Article 11 (2),(3)

(2) Exports from the Community of methyl bromide to any State not Party to the Protocol shall be prohibited.

(2) Exports from the Community of methyl bromide and hydrochlorofluorocarbons to any State not Party to the Protocol shall be prohibited.

(3) From 1 January 2004, exports from the Community of hydrochlorofluorocarbons to any State not party to the Protocol shall be prohibited. The Commission shall, in accordance with the procedure laid down in Article 17, examine the above date in the light of relevant international developments under the Protocol and modify it as appropriate.

Delete

(Amendment 24)  
Article 14a (new)

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

(Amendment 25)  
Article 15, paragraph 5

Member States shall promote, as appropriate, the establishment of destruction, recycling and reclamation facilities. Member states shall define the minimum qualification requirements for the personnel involved. At the latest on 31 December 2001, Member States shall report to the Commission on the programmes related to the above qualification requirements. The Commission shall evaluate the measures taken by the Member States. In the light of this evaluation and of technical and other relevant information, the Commission, as appropriate, shall propose measures

Member States shall establish systems to promote the recovery, recycling, reclamation and destruction of controlled substances and assign to users, refrigeration technicians or other appropriate bodies the responsibility to ensure compliance with the provisions in Article 15(1). Member states shall define the minimum qualification requirements for the personnel involved. At the latest on 31 December 2001, Member States shall report to the Commission on the programmes related to the above qualification requirements. The Commission shall evaluate the measures taken by the



regarding those minimum qualification requirements.

Member States. In the light of this evaluation and of technical and other relevant information, the Commission, as appropriate, shall propose measures regarding those minimum qualification requirements.

(Amendment 26)  
Article 19(3)

The competent authorities of the Member States shall carry out the investigations which the Commission considers necessary under this Regulation.

The competent authorities of the Member States shall carry out the investigations which the Commission considers necessary under this Regulation. The Member States shall also conduct random checks on imports of controlled substances, and communicate the schedules and results of those checks to the Commission.

(Amendment 27)  
Article 21

New substances

1. The production, release for free circulation in the Community and inward processing, placing on the market and use of new substances in Annex II are prohibited. This prohibition does not apply to new substances if they are used as feedstock.
2. The Commission shall, as appropriate, make proposals to include in Annex II any substances that are not controlled substances but that are found by the Scientific Assessment Panel under the Protocol to have a significant ozone-depleting potential, including on possible exemptions from paragraph 1.

New substances

1. The production, importation, placing on the market and use of substances in Group IX of Annex I are prohibited.
2. The Commission may, in accordance with the procedure under Article 17, decide to include from an appropriate date in Group IX of Annex I any substances that are not substances covered by the Regulation but are found to have a significant ozone-depleting potential.
3. The Commission may, in accordance with the procedure under Article 17, decide upon exemptions from paragraph 1 for critical uses. The Commission may, in accordance with the same procedure, review these exemptions at a later date.

(Amendment 28)  
Annex VI

PROCESSES IN WHICH CONTROLLED  
SUBSTANCES ARE USED  
AS PROCESSING AGENTS

- use of carbon tetrachloride for the elimination of nitrogen trichloride in the production of chlorine and caustic soda;
- use of carbon tetrachloride in the recovery of chlorine in tail gas from production of chlorine;
- use of carbon tetrachloride in the manufacture of chlorinated rubber;
- use of carbon tetrachloride in the manufacture of isobutyl acetophenone (ibuprofen – analgesic);
- use of carbon tetrachloride in the manufacture of poly-phenylene-terephthalamide;
- use of CFC-11 in manufacture of fine synthetic polyolefin fibre sheet;
- use of CFC-113 in the manufacture of vinorelbine (pharmaceutical product);
- use of CFC-12 in the photochemical synthesis of perfluoropolyetherpolyperoxide precursors of Z-perfluoropolyethers and difunctional derivatives;
- use of CFC-113 in the reduction of perfluoropolyetherpolyperoxide intermediate for production of perfluoropolyether diesters;
- use of CFC-113 in the preparation of perfluoropolyether diols with high functionality;
- use of carbon tetrachloride in the production of tralomethrine (insecticide).

And the use of HCFCs in the above processes when used to replace CFC or carbon tetrachloride.

PROCESSES IN WHICH CONTROLLED  
SUBSTANCES ARE USED  
AS PROCESSING AGENTS

- use of carbon tetrachloride for the elimination of nitrogen trichloride in the production of chlorine and caustic soda;
- use of carbon tetrachloride in the recovery of chlorine in tail gas from production of chlorine;
- use of carbon tetrachloride in the manufacture of chlorinated rubber;
- use of carbon tetrachloride in the manufacture of isobutyl acetophenone (ibuprofen – analgesic);
- use of carbon tetrachloride in the manufacture of poly-phenylene-terephthalamide;
- use of CFC-113 in the manufacture of vinorelbine (pharmaceutical product);
- use of CFC-12 in the photochemical synthesis of perfluoropolyetherpolyperoxide precursors of Z-perfluoropolyethers and difunctional derivatives;
- use of CFC-113 in the reduction of perfluoropolyetherpolyperoxide intermediate for production of perfluoropolyether diesters;
- use of CFC-113 in the preparation of perfluoropolyether diols with high functionality;
- use of carbon tetrachloride in the production of tralomethrine (insecticide).

And the use of HCFCs in the above processes when used to replace CFC or carbon tetrachloride.

(Amendment 29)  
Annex VII, third indent

- for the making inert of occupied spaces where flammable liquid and/or gas release could occur in the military and petrochemical sector, and in cargo ships;
- for the making inert of occupied spaces where flammable liquid and/or gas release could occur in the military and oil, gas and petrochemical sectors, and in cargo ships;

## EXPLANATORY STATEMENT

### 1. Introduction

Regulation 3093/94<sup>1</sup> regulates the production and use of substances which deplete the ozone layer. The new proposal supplements and strengthens this regulation, by implementing the amendments from the Montreal Protocol and by taking account of the progress made in the development and availability of alternative substances.

The Commission proposal is based on Article 175 of the EC Treaty and is intended to phase out the production and use of ozone depleting substances.

### 2. Description of certain substances that deplete the ozone layer and their uses

**HCFCs – Hydrochlorofluorocarbons:** used primarily in refrigeration technology and air conditioning systems, as solvents and in the production of insulating foam. Studies have shown the availability of environmentally less harmful and technically viable alternatives for practically all HCFC applications.

**Methyl bromide:** primarily used for soil fumigation to combat pests and plant diseases. 'Highly toxic' WHO classification. Toxic to humans. Also kills useful organisms and thus harms soil quality. Alternative methods already exist and are in use in many Member States.

**CFCs – chlorofluorocarbons** – originally produced for use in refrigeration systems. Because of their properties also used in plastic foam, solvents and aerosol propellants. Today used only in existing refrigeration installations. Alternatives available for all applications.

**Halons:** used in fire extinguishing systems, especially in critical applications, e.g. in aircraft. Before they were regulated by the Montreal Protocol they were also used in many other types of fire extinguishing equipment. Alternatives now available for the great majority of applications.

### 3. Consideration in Parliament and the Council

At first reading Parliament adopted 27 amendments, of which the Commission adopted 12 either in full, in part or in essence. (Amendments 1, 30, 19, 21, 24, 25, 26, 2, 4, 14, 22 and 23).

The Council adopted its common position on 22 February 1999, taking account of seven of Parliament's first reading amendments, two of them in part and five in full (amendments 1, 30, 19, 21, 24, 25 and 26).

The Council did not accept Parliament's amendments regarding HCFCs and the phasing out of methyl bromide. The ban on the use of methyl bromide will not occur until 2005. The halt to its production and placing on the market is put back to the end of 2004. The Council did not adopt

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<sup>1</sup> OJ L 333, 22.12.1994  
PE 231.733/fin.

Parliament's stricter line on the production (Ams 6-9) and use of HCFCs (Ams 32, 12, 13, 14, 16, 17, 18 and 19).

In its common position the Council has made a number of changes. The phasing out programme for methyl bromide (Article 3.2 and 4.2) has been changed. The Council has laid down timetables for halting use, production and placing on the market which will put back the phasing out dates. The areas of critical use will apply even after phase out. The use of methyl bromide for quarantine and pre-shipment fumigation will be frozen at current levels.

Articles 3(3), 4(4) and 5, concerning the phasing out schedule and the restrictions on the use of HCFCs have also been changed; in some places the Commission proposal has been tightened up, and in others watered down.

The Council has also made changes to Article 4(4), on halons, introducing stricter rules in general, except in the case of critical use.

Article 5(3) allows the use of HCFCs in existing fire protection systems to replace halons in critical areas of use.

#### **4. The rapporteur's grounds**

The depletion of the ozone layers in the stratosphere is one of the most momentous environmental problems we are facing. There has been a 6-10% decrease in ozone since 1980. The ozone hole over the Antarctic covered an area of 20 million km<sup>2</sup> for over 40 days in 1996 and the depletion of the ozone layer over Scandinavia, Greenland and Siberia reached a record 45% level.

The depletion of the ozone layer affects human health by reducing immune defences and increasing skin cancer, as well as affecting the ecosystem. The substances that are breaking down the ozone layer are well known, and research and development have provided alternatives.

Our concern must be to use this regulation to establish an acceptable programme for this operation.

The rapporteur proposes the following amendments:

Article 3(2)(i) of the common position proposes that methyl bromide should be allowed to be produced after 31 December 2004. The schedule for phasing it out is longer than desirable and longer than that proposed by the Commission. However, because of the amendments adopted by Parliament at first reading, there is no chance of returning to the Commission proposal. The rapporteur would like to restrict the scope for critical use exemptions to a maximum of two years (3(2)(ii) first subparagraph), and the use of methyl bromide in emergencies to a maximum of 60 days and 20 tonnes (3.2(ii) second subparagraph).

Reflecting earlier proposals, a tighter schedule for the production of HCFCs is proposed, but the final phasing out date remains at 2025.

(Art. 3(3)a-e)

In Art. 4(1) the Council is proposing temporary exemptions for CFCs and halons for military purposes. The rapporteur considers this exemption to be unnecessary.

The rapporteur can accept the phasing-out schedule for the placing on the market and use for own account of methyl bromide as set out in the common position (Article 4(2)(i) first subparagraph). Article 4(2)(i) second subparagraph is deleted as it does not accord with the committee procedure.

In Article 4(2)(ii) the Council is proposing that the use of methyl bromide for quarantine and pre-transport fumigation be frozen at the current level. The rapporteur proposes that the Commission should produce a review with a view to reducing that level.

The rapporteur endorses the common position in respect of the phasing out of halons, as phasing them out earlier could result in illegal placing on the market (Article 4(4)(iv)).

On the use of HCFCs as solvents (Art. 5(1)(b)(ii)) the amendment proposes that the ban should apply from 1 January 2001 instead of 2002 as in the common position. It would be unreasonable to demand an earlier date.

The Council intends to grant further exemptions regarding certain air conditioning and heat pump systems (Article 5(1)(c)(iv)). The rapporteur considers that this exemption should be granted as sparingly as possible and therefore retables Parliament's first reading amendment.

The rapporteur considers that the ban on the production of extruded polystyrene foam and polyurethane foam should occur simultaneously (Article 5(1)(d)(iii) and (iv)).

The rapporteur supports Parliament's first reading proposal that all foams, including polyurethane spray and block foams, should be phased out in 2003 rather than 2004 (Art. 5(1)(d)(v)).

The derogation in Article 5(3) in respect of the use of halons is superfluous as alternatives are available for these areas.

The rapporteur would like to see a five-year transitional period for the importation and placing on the market of HCFCs (Articles 5.4 and 5.5). The export ban should come into force at most three years after entry into force of this regulation.

The rapporteur has adopted Parliament's amendment on new substances with a view to producing a speedier process than that proposed in the common position (Article 21).