

Ozone Layer Protection Amendment Regulations 2000

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

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

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1 Title

- (1) These regulations are the Ozone Layer Protection Amendment Regulations 2000.
- (2) In these regulations, the Ozone Layer Protection Regulations 1996¹ are called “the principal regulations”.

2 Commencement

- (1) Regulations 5 and 9 come into force on 10 November 2000.
- (2) Regulations 4, 8, 11, and 13 come into force on 1 January 2002.
- (3) Regulations 6 and 10 come into force on 1 January 2004.
- (4) The rest of these regulations come into force on the 28th day after the date of their notification in the *Gazette*.

3 Interpretation

- (1) Regulation 2 of the principal regulations is amended by inserting, in their appropriate alphabetical order, the following definitions:

“**bromochloromethane** means the substance specified in Part 9 of the First Schedule

“**party** means a country that is—

“(a) a party to the Montreal Protocol; and

“(b) in relation to provisions regulating the manufacture, importation, and exportation of—

“(i) HCFCs, HBFCs, and methyl bromide, a party to the Copenhagen Amendment to the Montreal Protocol; or

¹ SR 1996/222

“(ii) bromochloromethane, a party to the Beijing Amendment to the Montreal Protocol”.

- (2) Regulation 2 of the principal regulations is amended by revoking the definition of the term **complying country**, and substituting the following definition:

“**complying country** means a country that has been determined, in accordance with the Montreal Protocol, to be a country that is in full compliance with Articles 2, 2A to 2I, and Article 4 of that Protocol, and any certificate given by the Minister of Foreign Affairs to the effect that any country is or is not a complying country is conclusive evidence of that fact”.

- (3) Regulation 2 of the principal regulations is amended by revoking the definition of the term **Minister**, and substituting the following definition:

“**Minister** means the Minister of Commerce”.

- (4) Regulation 2 of the principal regulations is amended by revoking the definition of the term **pre-shipment applications**, and substituting the following definition:

“**pre-shipment applications**—

- “(a) means any treatments applied, no later than 21 days before export, to meet—

“(i) the official requirements of the importing country; or

“(ii) the existing official requirements of the exporting country,—

being official requirements performed or authorised by a national plant, animal, environmental, health, or stored product authority; but

- “(b) does not include quarantine applications”.

4 Prohibition on importation of certain bulk controlled substances

- (1) The heading above regulation 3 of the principal regulations is amended by omitting the words “*and HBFCs*”, and substituting the words “*HBFCs, and Bromochloromethane*”.
- (2) Regulation 3 of the principal regulations is amended by omitting the words “or HBFC”, and substituting the words “HBFC, or bromochloromethane”.

- 5 Conditional prohibition on importation of methyl bromide**
Regulation 5(2) of the principal regulations is amended by inserting, after the words “New Zealand”, the words “from a party or a complying country”.
- 6 Conditional prohibition on importation of HCFCs**
Regulation 8(2) of the principal regulations is amended by inserting, after the words “New Zealand”, the words “from a party or a complying country”.
- 7 Prohibition on importation of certain goods containing ozone depleting substances**
Regulation 19(e) of the principal regulations is amended by omitting the words “a non-complying country”, and substituting the words “another country, unless the other country is a party or a complying country”.
- 8 New regulation 22 substituted**
The principal regulations are amended by revoking regulation 22, and substituting the following regulation:
“**22 Prohibition on certain exports of bulk controlled substances**
The exportation of any bulk CFC, halon, carbon tetrachloride, methyl bromide, HBFC, or bromochloromethane from New Zealand to another country is prohibited, unless the other country is a party or a complying country.”
- 9 New regulation 23A inserted**
The principal regulations are amended by inserting, after regulation 23, the following regulation:
“**23A Prohibition on exportation of methyl bromide**
The exportation of any methyl bromide from New Zealand to another country is prohibited, unless the other country is a party or a complying country.”

10 New regulation 23B inserted

The principal regulations are amended by inserting, after regulation 23A (as inserted by regulation 9 of these regulations), the following regulation:

“23B Prohibition on exportation of HCFC

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

11 Prohibited substances and goods may be exempted

Regulation 28 of the principal regulations is amended by revoking subclause (2), and substituting the following subclause:

“(2) However, no exemption entitles any person to import into New Zealand any bulk CFC, halon, carbon tetrachloride, methyl bromide, HBFC, or bromochloromethane from another country, unless the other country is a party or a complying country.”

12 Exemptions for goods

Regulation 31(3) of the principal regulations is amended by omitting the words “a non-complying country”, and substituting the words “another country (unless it is a party or a complying country)”.

13 Circumstances in which Court may discharge without conviction

Regulation 38(1)(a) of the principal regulations is amended by omitting the words “complying country”, and substituting the words “country that is a party or a complying country”.

14 Schedule 1 amended

Schedule 1 of the principal regulations is amended by inserting, after Part 8, the following part:

“9

“Bromochloromethane”.

| Substance | Number of isomers | Ozone-depleting potential* |
|----------------------|-------------------|----------------------------|
| CH ₂ BrCl | 1 | 0.12 |

15 Schedule 3 amended

The heading to Schedule 3 of the principal regulations is amended by omitting the words “non-complying countries”, and substituting the words “countries other than parties or complying countries”.

16 New Schedule 5 substituted

The principal regulations are amended by revoking Schedule 5, and substituting the Schedule set out in the Schedule of these regulations.

Schedule

r 16

New Schedule 5 substituted

Fifth Schedule

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Montreal Protocol on Substances that Deplete the Ozone Layer

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

Preamble

The Parties to this Protocol,

Being Parties to the Vienna Convention for the Protection of the Ozone Layer,

Fifth Schedule—*continued*

Mindful of their obligation under that Convention to take appropriate measures to protect human health and the environment against adverse effects resulting or likely to result from human activities which modify or are likely to modify the ozone layer,

Recognizing that world-wide emissions of certain substances can significantly deplete and otherwise modify the ozone layer in a manner that is likely to result in adverse effects on human health and the environment,

Conscious of the potential climatic effects of emissions of these substances,

Aware that measures taken to protect the ozone layer from depletion should be based on relevant scientific knowledge, taking into account technical and economic considerations,

Determined to protect the ozone layer by taking precautionary measures to control equitably total global emissions of substances that deplete it, with the ultimate objective of their elimination on the basis of developments in scientific knowledge, taking into account technical and economic considerations and bearing in mind the developmental needs of developing countries,

Acknowledging that special provision is required to meet the needs of developing countries, including the provision of additional financial resources and access to relevant technologies, bearing in mind that the magnitude of funds necessary is predictable, and the funds can be expected to make a substantial difference in the world's ability to address the scientifically established problem of ozone depletion and its harmful effects,

Noting the precautionary measures for controlling emissions of certain chlorofluorocarbons that have already been taken at national and regional levels,

Considering the importance of promoting international co-operation in the research, development and transfer of alternative technologies relating to the control and reduction of emissions of substances that deplete the ozone layer, bearing in mind in particular the needs of developing countries,

HAVE AGREED AS FOLLOWS:

Fifth Schedule—*continued***Article 1: Definitions**

For the purposes of this Protocol:

1. 'Convention' means the Vienna Convention for the Protection of the Ozone Layer, adopted on 22 March 1985.
2. 'Parties' means, unless the text otherwise indicates, Parties to this Protocol.
3. 'Secretariat' means the Secretariat of the Convention.
4. 'Controlled substance' means a substance in Annex A, Annex B, Annex C or Annex E to this Protocol, whether existing alone or in a mixture. It includes the isomers of any such substance, except as specified in the relevant Annex, but excludes any controlled substance or mixture which is in a manufactured product other than a container used for the transportation or storage of that substance.
5. 'Production' means the amount of controlled substances produced, minus the amount destroyed by technologies to be approved by the Parties and minus the amount entirely used as feedstock in the manufacture of other chemicals. The amount recycled and reused is not to be considered as 'production'.
6. 'Consumption' means production plus imports minus exports of controlled substances.
7. 'Calculated levels' of production, imports, exports and consumption means levels determined in accordance with Article 3.
8. 'Industrial rationalization' means the transfer of all or a portion of the calculated level of production of one Party to another, for the purpose of achieving economic efficiencies or responding to anticipated shortfalls in supply as a result of plant closures.

Article 2: Control Measures

1. *Incorporated in Article 2A.*
2. *Replaced by Article 2B.*
3. *Replaced by Article 2A.*
4. *Replaced by Article 2A.*

Fifth Schedule—*continued*

5. Any Party may, for one or more control periods, transfer to another Party any portion of its calculated level of production set out in Articles 2A to 2F, and Article 2H, provided that the total combined calculated levels of production of the Parties concerned for any group of controlled substances do not exceed the production limits set out in those Articles for that group. Such transfer of production shall be notified to the Secretariat by each of the Parties concerned, stating the terms of such transfer and the period for which it is to apply.
- 5 bis.* Any Party not operating under paragraph 1 of Article 5 may, for one or more control periods, transfer to another such Party any portion of its calculated level of consumption set out in Article 2F, provided that the calculated level of consumption of controlled substances in Group I of Annex A of the Party transferring the portion of its calculated level of consumption did not exceed 0.25 kilograms per capita in 1989 and that the total combined calculated levels of consumption of the Parties concerned do not exceed the consumption limits set out in Article 2F. Such transfer of consumption shall be notified to the Secretariat by each of the Parties concerned, stating the terms of such transfer and the period for which it is to apply.
6. Any Party not operating under Article 5, that has facilities for the production of Annex A or Annex B controlled substances under construction, or contracted for, prior to 16 September 1987, and provided for in national legislation prior to 1 January 1987, may add the production from such facilities to its 1986 production of such substances for the purposes of determining its calculated level of production for 1986, provided that such facilities are completed by 31 December 1990 and that such production does not raise that Party's annual calculated level of consumption of the controlled substances above 0.5 kilograms per capita.
7. Any transfer of production pursuant to paragraph 5 or any addition of production pursuant to paragraph 6 shall be notified to the Secretariat, no later than the time of the transfer or addition.
- 8.

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- (a) Any Parties which are Member States of a regional economic integration organization as defined in Article 1(6) of the Convention may agree that they shall jointly fulfil their obligations respecting consumption under this Article and Articles 2A to 2I provided that their total combined calculated level of consumption does not exceed the levels required by this Article and Articles 2A to 2I.
 - (b) The Parties to any such agreement shall inform the Secretariat of the terms of the agreement before the date of the reduction in consumption with which the agreement is concerned.
 - (c) Such agreement will become operative only if all Member States of the regional economic integration organization and the organization concerned are Parties to the Protocol and have notified the Secretariat of their manner of implementation.
- 9.
- (a) Based on the assessments made pursuant to Article 6, the Parties may decide whether:
 - (i) Adjustments to the ozone depleting potentials specified in Annex A, Annex B, Annex C and/or Annex E should be made and, if so, what the adjustments should be; and
 - (ii) Further adjustments and reductions of production or consumption of the controlled substances should be undertaken and, if so, what the scope, amount and timing of any such adjustments and reductions should be;
 - (b) Proposals for such adjustments shall be communicated to the Parties by the Secretariat at least six months before the meeting of the Parties at which they are proposed for adoption;
 - (c) In taking such decisions, the Parties shall make every effort to reach agreement by consensus. If all efforts at consensus have been exhausted, and no agreement reached, such decisions shall, as a last resort, be adopted

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- by a two-thirds majority vote of the Parties present and voting representing a majority of the Parties operating under Paragraph 1 of Article 5 present and voting and a majority of the Parties not so operating present and voting;
- (d) The decisions, which shall be binding on all Parties, shall forthwith be communicated to the Parties by the Depositary. Unless otherwise provided in the decisions, they shall enter into force on the expiry of six months from the date of the circulation of the communication by the Depositary.
10. Based on the assessments made pursuant to Article 6 of this Protocol and in accordance with the procedure set out in Article 9 of the Convention, the Parties may decide:
- (a) whether any substances, and if so which, should be added to or removed from any annex to this Protocol, and
- (b) the mechanism, scope and timing of the control measures that should apply to those substances;
11. Notwithstanding the provisions contained in this Article and Articles 2A to 2I Parties may take more stringent measures than those required by this Article and Articles 2A to 2I.

Article 2A: CFCs

1. Each Party shall ensure that for the twelve-month period commencing on the first day of the seventh month following the date of entry into force of this Protocol, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex A does not exceed its calculated level of consumption in 1986. By the end of the same period, each Party producing one or more of these substances shall ensure that its calculated level of production of the substances does not exceed its calculated level of production in 1986, except that such level may have increased by no more than ten per cent based on the 1986 level. Such increase shall be permitted only so as to satisfy the basic do-

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- mestic needs of the Parties operating under Article 5 and for the purposes of industrial rationalization between Parties.
2. Each Party shall ensure that for the period from 1 July 1991 to 31 December 1992 its calculated levels of consumption and production of the controlled substances in Group I of Annex A do not exceed 150 per cent of its calculated levels of production and consumption of those substances in 1986; with effect from 1 January 1993, the twelve-month control period for these controlled substances shall run from 1 January to 31 December each year.
 3. Each Party shall ensure that for the twelve-month period commencing on 1 January 1994, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex A does not exceed, annually, twenty-five per cent of its calculated level of consumption in 1986. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the substances does not exceed, annually, twenty-five per cent of its calculated level of production in 1986. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to ten per cent of its calculated level of production in 1986.
 4. Each Party shall ensure that for the twelve-month period commencing on 1 January 1996, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex A does not exceed zero. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the substances does not exceed zero. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by a quantity equal to the annual average of its production of the controlled substances in Group I of Annex A for basic domestic needs for the period 1995 to 1997 inclusive. This paragraph will apply save to the extent that the

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Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be essential.

5. Each party shall ensure that for the twelve-month period commencing on 1 January 2003 and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex A for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed eighty per cent of the annual average of its production of those substances for basic domestic needs for the period 1995 to 1997 inclusive.
6. Each Party shall ensure that for the twelve-month period commencing on 1 January 2005 and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex A for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed fifty per cent of the annual average of its production of those substances for basic domestic needs for the period 1995 to 1997 inclusive.
7. Each Party shall ensure that for the twelve-month period commencing on 1 January 2007 and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex A for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed fifteen per cent of the annual average of its production of those substances for basic domestic needs for the period 1995 to 1997 inclusive.
8. Each Party shall ensure that for the twelve-month period commencing on 1 January 2010 and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex A for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed zero.
9. For the purposes of calculating basic domestic needs under paragraphs 4 to 8 of this Article, the calculation of the annual average of production by a Party includes any production entitlements that it has transferred in accordance with paragraph

Fifth Schedule—*continued*

5 of Article 2, and excludes any production entitlements that it has acquired in accordance with paragraph 5 of Article 2.

Article 2B: Halons

1. Each Party shall ensure that for the twelve-month period commencing on 1 January 1992, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group II of Annex A does not exceed, annually, its calculated level of consumption in 1986. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the substances does not exceed, annually, its calculated level of production in 1986. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to ten per cent of its calculated level of production in 1986.
2. Each Party shall ensure that for the twelve-month period commencing on 1 January 1994, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group II of Annex A does not exceed zero. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the substances does not exceed zero. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may, until 1 January 2002 exceed that limit by up to fifteen per cent of its calculated level of production in 1986; thereafter, it may exceed that limit by a quantity equal to the annual average of its production of the controlled substances in Group II of Annex A for basic domestic needs for the period 1995 to 1997 inclusive. This paragraph will apply save to the extent that the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be essential.
3. Each Party shall ensure that for the twelve-month period commencing on 1 January 2005 and in each twelve-month period thereafter, its calculated level of production of the controlled

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substances in Group II of Annex A for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed fifty per cent of the annual average of its production of those substances for basic domestic needs for the period 1995 to 1997 inclusive.

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

Article 2C: Other fully halogenated CFCs

1. Each Party shall ensure that for the twelve-month period commencing on 1 January 1993, its calculated level of consumption of the controlled substances in Group I of Annex B does not exceed, annually, eighty per cent of its calculated level of consumption in 1989. Each Party producing one or more of these substances shall, for the same period, ensure that its calculated level of production of the substances does not exceed, annually, eighty per cent of its calculated level of production in 1989. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to ten per cent of its calculated level of production in 1989.
2. Each Party shall ensure that for the twelve-month period commencing on 1 January 1994, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex B does not exceed, annually, twenty-five per cent of its calculated level of consumption in 1989. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the substances does not exceed, annually, twenty-five per cent of its calculated level of production in 1989. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its cal-

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culated level of production may exceed that limit by up to ten per cent of its calculated level of production in 1989.

3. Each Party shall ensure that for the twelve-month period commencing on 1 January 1996, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex B does not exceed zero. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the substances does not exceed zero. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may, until 1 January 2003 exceed that limit by up to fifteen per cent of its calculated level of production in 1989; thereafter, it may exceed that limit by a quantity equal to eighty per cent of the annual average of its production of the controlled substances in Group I of Annex B for basic domestic needs for the period 1998 to 2000 inclusive. This paragraph will apply save to the extent that the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be essential.
4. Each Party shall ensure that for the twelve-month period commencing on 1 January 2007 and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex B for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed fifteen per cent of the annual average of its production of those substances for basic domestic needs for the period 1998 to 2000 inclusive.
5. Each party shall ensure that for the twelve-month period commencing on 1 January 2010 and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex B for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed zero.

Fifth Schedule—*continued***Article 2D: Carbon tetrachloride**

1. Each Party shall ensure that for the twelve-month period commencing on 1 January 1995, its calculated level of consumption of the controlled substance in Group II of Annex B does not exceed, annually, fifteen per cent of its calculated level of consumption in 1989. Each Party producing the substance shall, for the same period, ensure that its calculated level of production of the substance does not exceed, annually, fifteen per cent of its calculated level of production in 1989. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to ten per cent of its calculated level of production in 1989.
2. Each Party shall ensure that for the twelve-month period commencing on 1 January 1996, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substance in Group II of Annex B does not exceed zero. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed zero. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to fifteen per cent of its calculated level of production in 1989. This paragraph will apply save to the extent that the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be essential.

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

1. Each Party shall ensure that for the twelve-month period commencing on 1 January 1993, its calculated level of consumption of the controlled substance in Group III of Annex B does not exceed, annually, its calculated level of consumption in 1989. Each Party producing the substance shall, for the same period, ensure that its calculated level of production of the substance does not exceed, annually, its calculated level of production in 1989. However, in order to satisfy the basic domes-

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- tic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to ten per cent of its calculated level of production in 1989.
2. Each Party shall ensure that for the twelve-month period commencing on 1 January 1994, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substance in Group III of Annex B does not exceed, annually, fifty per cent of its calculated level of consumption in 1989. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed, annually, fifty per cent of its calculated level of production in 1989. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to ten per cent of its calculated level of production in 1989.
 3. Each Party shall ensure that for the twelve-month period commencing on 1 January 1996, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substance in Group III of Annex B does not exceed zero. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed zero. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to fifteen per cent of its calculated level of production for 1989. This paragraph will apply save to the extent that the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be essential.

Article 2F: Hydrochlorofluorocarbons

1. Each Party shall ensure that for the twelve-month period commencing on 1 January 1996, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed, annually, the sum of:

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- (a) Two point eight per cent of its calculated level of consumption in 1989 of the controlled substances in Group I of Annex A; and
 - (b) Its calculated level of consumption in 1989 of the controlled substances in Group I of Annex C.
2. Each Party shall ensure that for the twelve month period commencing on 1 January 2004, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed, annually, sixty-five per cent of the sum referred to in paragraph 1 of this Article.
3. Each Party shall ensure that for the twelve-month period commencing on 1 January 2010, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed, annually, thirty-five per cent of the sum referred to in paragraph 1 of this Article.
4. Each Party shall ensure that for the twelve-month period commencing on 1 January 2015, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed, annually, ten per cent of the sum referred to in paragraph 1 of this Article.
5. Each Party shall ensure that for the twelve-month period commencing on 1 January 2020, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed, annually, zero point five per cent of the sum referred to in paragraph 1 of this Article. Such consumption shall, however, be restricted to the servicing of refrigeration and air conditioning equipment existing at that date.
6. Each Party shall ensure that for the twelve-month period commencing on 1 January 2030, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed zero.
7. As of 1 January 1996, each Party shall endeavour to ensure that:

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- (a) The use of controlled substances in Group I of Annex C is limited to those applications where other more environmentally suitable alternative substances or technologies are not available;
 - (b) The use of controlled substances in Group I of Annex C is not outside the areas of application currently met by controlled substances in Annexes A, B and C, except in rare cases for the protection of human life or human health; and
 - (c) Controlled substances in Group I of Annex C are selected for use in a manner that minimizes ozone depletion, in addition to meeting other environmental, safety and economic considerations.
8. Each Party producing one or more of these substances shall ensure that for the twelve-month period commencing on 1 January 2004, and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex C does not exceed, annually, the average of:
- (a) The sum of its calculated level of consumption in 1989 of the controlled substances in Group I of Annex C and two point eight per cent of its calculated level of consumption in 1989 of the controlled substances in Group I of Annex A; and
 - (b) The sum of its calculated level of production in 1989 of the controlled substances in Group I of Annex C and two point eight per cent of its calculated level of production in 1989 of the controlled substances in Group I of Annex A.

However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to fifteen per cent of its calculated level of production of the controlled substances in Group I of Annex C as defined above.

Article 2G: Hydrobromofluorocarbons

Each Party shall ensure that for the twelve-month period commencing on 1 January 1996, and in each twelve-month period

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thereafter, its calculated level of consumption of the controlled substances in Group II of Annex C does not exceed zero. Each Party producing the substances shall, for the same periods, ensure that its calculated level of production of the substances does not exceed zero. This paragraph will apply save to the extent that the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be essential.

Article 2H: Methyl bromide

1. Each Party shall ensure that for the twelve-month period commencing on 1 January 1995, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substance in Annex E does not exceed, annually, its calculated level of consumption in 1991. Each Party producing the substance shall, for the same period, ensure that its calculated level of production of the substance does not exceed, annually, its calculated level of production in 1991. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to ten per cent of its calculated level of production in 1991.
2. Each Party shall ensure that for the twelve-month period commencing on 1 January 1999, and in the twelve-month period thereafter, its calculated level of consumption of the controlled substance in Annex E does not exceed, annually, seventy-five per cent of its calculated level of consumption in 1991. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed, annually, seventy-five per cent of its calculated level of production in 1991. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to ten per cent of its calculated level of production in 1991.
3. Each Party shall ensure that for the twelve-month period commencing on 1 January 2001, and in the twelve-month period

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thereafter, its calculated level of consumption of the controlled substance in Annex E does not exceed, annually, fifty per cent of its calculated level of consumption in 1991. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed, annually, fifty per cent of its calculated level of production in 1991. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to ten per cent of its calculated level of production in 1991.

4. Each Party shall ensure that for the twelve-month period commencing on 1 January 2003, and in the twelve-month period thereafter, its calculated level of consumption of the controlled substance in Annex E does not exceed, annually, thirty per cent of its calculated level of consumption in 1991. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed, annually, thirty per cent of its calculated level of production in 1991. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to ten per cent of its calculated level of production in 1991.
5. Each Party shall ensure that for the twelve-month period commencing on 1 January 2005, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substance in Annex E does not exceed zero. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed zero. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may, until 1 January 2002 exceed that limit by up to fifteen per cent of its calculated level of production in 1991; thereafter, it may exceed that limit by a quantity equal to the annual average of its production of the controlled substance in Annex E for basic domestic needs for the period 1995 to 1998 inclusive. This paragraph will apply save to the extent that the Parties decide to permit the level of production

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or consumption that is necessary to satisfy uses agreed by them to be critical uses.

- 5 bis.* Each Party shall ensure that for the twelve-month period commencing on 1 January 2005 and in each twelve-month period thereafter, its calculated level of production of the controlled substance in Annex E for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed eighty per cent of the annual average of its production of the substance for basic domestic needs for the period 1995 to 1998 inclusive.
- 5 ter.* Each Party shall ensure that for the twelve-month period commencing on 1 January 2015 and in each twelve-month period thereafter, its calculated level of production of the controlled substance in Annex E for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed zero.
6. The calculated levels of consumption and production under this Article shall not include the amounts used by the Party for quarantine and pre-shipment applications.

Article 2I: Bromochloromethane

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

Article 3: Calculation of control levels

For the purposes of Articles 2, 2A to 2I and 5, each Party shall, for each group of substances in Annex A, Annex B, Annex C or Annex E determine its calculated levels of:

- (a) Production by:

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

Article 4: Control of trade with non-Parties

1. As of 1 January 1990, each party shall ban the import of the controlled substances in Annex A from any State not party to this Protocol.
- 1 *bis*. Within one year of the date of the entry into force of this paragraph, each Party shall ban the import of the controlled substances in Annex B from any State not party to this Protocol.
- 1 *ter*. Within one year of the date of entry into force of this paragraph, each Party shall ban the import of any controlled substances in Group II of Annex C from any State not party to this Protocol.
- 1 *qua*. Within one year of the date of entry into force of this paragraph, each Party shall ban the import of the controlled substance in Annex E from any State not party to this Protocol.
- 1 *quin*. As of 1 January 2004, each Party shall ban the import of the controlled substances in Group I of Annex C from any State not party to this Protocol.
- 1 *sex*. Within one year of the date of entry into force of this paragraph, each Party shall ban the import of the controlled substance in Group III of Annex C from any State not party to this Protocol.

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2. As of 1 January 1993, each Party shall ban the export of any controlled substances in Annex A to any State not party to this Protocol.
- 2 *bis*. Commencing one year after the date of entry into force of this paragraph, each Party shall ban the export of any controlled substances in Annex B to any State not party to this Protocol.
- 2 *ter*. Commencing one year after the date of entry into force of this paragraph, each Party shall ban the export of any controlled substances in Group II of Annex C to any State not party to this Protocol.
- 2 *qua*. Commencing one year of the date of entry into force of this paragraph, each Party shall ban the export of the controlled substance in Annex E to any State not party to this Protocol.
- 2 *quin*. As of 1 January 2004, each Party shall ban the export of the controlled substances in Group I of Annex C to any State not party to this Protocol.
- 2 *sex*. Within one year of the date of entry into force of this paragraph, each Party shall ban the export of the controlled substance in Group III of Annex C to any State not party to this Protocol.
3. By 1 January 1992, the Parties shall, following the procedures in Article 10 of the Convention, elaborate in an annex a list of products containing controlled substances in Annex A. Parties that have not objected to the annex in accordance with those procedures shall ban, within one year of the annex having become effective, the import of those products from any State not party to this Protocol.
- 3 *bis*. Within three years of the date of the entry into force of this paragraph, the Parties shall, following the procedures in Article 10 of the Convention, elaborate in an annex a list of products containing controlled substances in Annex B. Parties that have not objected to the annex in accordance with those procedures shall ban, within one year of the annex having become effective, the import of those products from any State not party to this Protocol.

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- 3 *ter*. Within three years of the date of entry into force of this paragraph, the Parties shall, following the procedures in Article 10 of the Convention, elaborate in an annex a list of products containing controlled substances in Group II of Annex C. Parties that have not objected to the annex in accordance with those procedures shall ban, within one year of the annex having become effective, the import of those products from any State not party to this Protocol.
4. By 1 January 1994, the Parties shall determine the feasibility of banning or restricting, from States not party to this Protocol, the import of products produced with, but not containing, controlled substances in Annex A. If determined feasible, the Parties shall, following the procedures in Article 10 of the Convention, elaborate in an annex a list of such products. Parties that have not objected to the annex in accordance with those procedures shall ban, within one year of the annex having become effective, the import of those products from any State not party to this Protocol.
- 4 *bis*. Within five years of the date of the entry into force of this paragraph, the Parties shall determine the feasibility of banning or restricting, from States not party to this Protocol, the import of products produced with, but not containing, controlled substances in Annex B. If determined feasible, the Parties shall, following the procedures in Article 10 of the Convention, elaborate in an annex a list of such products. Parties that have not objected to the annex in accordance with those procedures shall ban or restrict, within one year of the annex having become effective, the import of those products from any State not party to this Protocol.
- 4 *ter*. Within five years of the date of entry into force of this paragraph, the Parties shall determine the feasibility of banning or restricting, from States not party to this Protocol, the import of products produced with, but not containing, controlled substances in Group II of Annex C. If determined feasible, the Parties shall, following the procedures in Article 10 of the Convention, elaborate in an annex a list of such products. Parties that have not objected to the annex in accordance with those

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

5. Each Party undertakes to the fullest practicable extent to discourage the export to any State not party to this Protocol of technology for producing and for utilizing controlled substances in Annexes A, B, C and E.
6. Each Party shall refrain from providing new subsidies, aid, credits, guarantees or insurance programmes for the export to States not party to this Protocol of products, equipment, plants or technology that would facilitate the production of controlled substances in Annexes A, B, C and E.
7. Paragraphs 5 and 6 shall not apply to products, equipment, plants or technology that improve the containment, recovery, recycling or destruction of controlled substances, promote the development of alternative substances, or otherwise contribute to the reduction of emissions of controlled substances in Annexes A, B, C and E.
8. Notwithstanding the provisions of this Article, imports and exports referred to in paragraphs 1 to 4 ter of this Article may be permitted from, or to, any State not party to this Protocol, if that State is determined, by a meeting of the Parties, to be in full compliance with Article 2, Articles 2A to 2I and this Article, and have submitted data to that effect as specified in Article 7.
9. For the purposes of this Article, the term **State not party to this Protocol** shall include, with respect to a particular controlled substance, a State or regional economic integration organization that has not agreed to be bound by the control measures in effect for that substance.
10. By 1 January 1996, the Parties shall consider whether to amend this Protocol in order to extend the measures in this Article to trade in controlled substances in Group I of Annex C and in Annex E with States not party to the Protocol.

Fifth Schedule—*continued***Article 4A: Control of trade with Parties**

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

Article 4B: Licensing

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

Article 5: Special situation of developing countries

1. Any Party that is a developing country and whose annual calculated level of consumption of the controlled substances in Annex A is less than 0.3 kilograms per capita on the date of

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the entry into force of the Protocol for it, or any time thereafter until 1 January 1999, shall, in order to meet its basic domestic needs, be entitled to delay for ten years its compliance with the control measures set out in Articles 2A to 2E, provided that any further amendments to the adjustments or Amendment adopted at the Second Meeting of the Parties in London, 29 June 1990, shall apply to the Parties operating under this paragraph after the review provided for in paragraph 8 of this Article has taken place and shall be based on the conclusions of that review.

- 1 *bis*. The Parties shall, taking into account the review referred to in paragraph 8 of this Article, the assessments made pursuant to Article 6 and any other relevant information, decide by 1 January 1996, through the procedure set forth in paragraph 9 of Article 2:
- (a) With respect to paragraphs 1 to 6 of Article 2F, what base year, initial levels, control schedules and phase-out date for consumption of the controlled substances in Group I of Annex C will apply to Parties operating under paragraph 1 of this Article;
 - (b) With respect to Article 2G, what phase-out date for production and consumption of the controlled substances in Group II of Annex C will apply to Parties operating under paragraph 1 of this Article; and
 - (c) With respect to Article 2H, what base year, initial levels and control schedules for consumption and production of the controlled substance in Annex E will apply to Parties operating under paragraph 1 of this Article.
2. However, any Party operating under paragraph 1 of this Article shall exceed neither an annual calculated level of consumption of the controlled substances in Annex A of 0.3 kilograms per capita nor an annual calculated level of consumption of controlled substances of Annex B of 0.2 kilograms per capita.
3. When implementing the control measures set out in Articles 2A to 2E, any Party operating under paragraph 1 of this Article shall be entitled to use:

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- (a) For controlled substances under Annex A, either the average of its annual calculated level of consumption for the period 1995 to 1997 inclusive or a calculated level of consumption of 0.3 kilograms per capita, whichever is the lower, as the basis for determining its compliance with the control measures relating to consumption.
 - (b) For controlled substances under Annex B, the average of its annual calculated level of consumption for the period 1998 to 2000 inclusive or a calculated level of consumption of 0.2 kilograms per capita, whichever is the lower, as the basis for determining its compliance with the control measures relating to consumption.
 - (c) For controlled substances under Annex A, either the average of its annual calculated level of production for the period 1995 to 1997 inclusive or a calculated level of production of 0.3 kilograms per capita, whichever is the lower, as the basis for determining its compliance with the control measures relating to production.
 - (d) For controlled substances under Annex B, either the average of its annual calculated level of production for the period 1998 to 2000 inclusive or a calculated level of production of 0.2 kilograms per capita, whichever is the lower, as the basis for determining its compliance with the control measures relating to production.
4. If a Party operating under paragraph 1 of this Article, at any time before the control measures obligations in Articles 2A to 2I become applicable to it, finds itself unable to obtain an adequate supply of controlled substances, it may notify this to the Secretariat. The Secretariat shall forthwith transmit a copy of such notification to the Parties, which shall consider the matter at their next Meeting, and decide upon appropriate action to be taken.
5. Developing the capacity to fulfil the obligations of the Parties operating under paragraph 1 of this Article to comply with the control measures set out in Articles 2A to 2E and Article 2I, and any control measures in Articles 2F to 2H that are decided

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pursuant to paragraph 1 bis of this Article, and their implementation by those same Parties will depend upon the effective implementation of the financial co-operation as provided by Article 10 and the transfer of technology as provided by Article 10A.

6. Any Party operating under paragraph 1 of this Article may, at any time, notify the Secretariat in writing that, having taken all practicable steps it is unable to implement any or all of the obligations laid down in Articles 2A to 2E and Article 2I, or any or all obligations in Articles 2F to 2H that are decided pursuant to paragraph 1 bis of this Article, due to the inadequate implementation of Articles 10 and 10A. The Secretariat shall forthwith transmit a copy of the notification to the Parties, which shall consider the matter at their next Meeting, giving due recognition to paragraph 5 of this Article and shall decide upon appropriate action to be taken.
7. During the period between notification and the Meeting of the Parties at which the appropriate action referred to in paragraph 6 above is to be decided, or for a further period if the Meeting of the Parties so decides, the non-compliance procedures referred to in Article 8 shall not be invoked against the notifying Party.
8. A Meeting of the Parties shall review, not later than 1995, the situation of the Parties operating under paragraph 1 of this Article, including the effective implementation of financial co-operation and transfer of technology to them, and adopt such revisions that may be deemed necessary regarding the schedule of control measures applicable to those Parties.
- 8 bis. Based on the conclusions of the review referred to in paragraph 8 above:
 - (a) With respect to the controlled substances in Annex A, a Party operating under paragraph 1 of this Article shall, in order to meet its basic domestic needs, be entitled to delay for ten years its compliance with the control measures adopted by the Second Meeting of the Parties in London, 29 June 1990, and reference by the Protocol to Articles 2A and 2B shall be read accordingly;

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- (b) With respect to the controlled substances in Annex B, a Party operating under paragraph 1 of this Article shall, in order to meet its basic domestic needs, be entitled to delay for ten years its compliance with the control measures adopted by the Second Meeting of the Parties in London, 29 June 1990, and reference by the Protocol to Articles 2C to 2E shall be read accordingly.
- 8 *ter*. Pursuant to paragraph 1 bis above:
- (a) Each Party operating under paragraph 1 of this Article shall ensure that for the twelve-month period commencing on 1 January 2016, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed, annually, its calculated level of consumption in 2015. As of 1 January 2016 each Party operating under paragraph 1 of this Article shall comply with the control measures set out in paragraph 8 of Article 2F and, as the basis for its compliance with these control measures, it shall use the average of its calculated levels of production and consumption in 2015;
 - (b) Each Party operating under paragraph 1 of this Article shall ensure that for the twelve-month period commencing on 1 January 2040, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed zero;
 - (c) Each Party operating under paragraph 1 of this Article shall comply with Article 2G;
 - (d) With regard to the controlled substance contained in Annex E:
 - (i) As of 1 January 2002 each Party operating under paragraph 1 of this Article shall comply with the control measures set out in paragraph 1 of Article 2H and, as the basis for its compliance with these control measures, it shall use the average of its annual calculated level of consumption and

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- production, respectively, for the period of 1995 to 1998 inclusive;
- (ii) Each Party operating under paragraph 1 of this Article shall ensure that for the twelve-month period commencing on 1 January 2005, and in each twelve-month period thereafter, its calculated levels of consumption and production of the controlled substance in Annex E do not exceed, annually, eighty per cent of the average of its annual calculated levels of consumption and production, respectively, for the period of 1995 to 1998 inclusive;
 - (iii) Each Party operating under paragraph 1 of this Article shall ensure that for the twelve-month period commencing on 1 January 2015 and in each twelve-month period thereafter, its calculated levels of consumption and production of the controlled substance in Annex E do not exceed zero. This paragraph will apply save to the extent that the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be critical uses;
 - (iv) The calculated levels of consumption and production under this subparagraph shall not include the amounts used by the Party for quarantine and pre-shipment applications.
9. Decisions of the Parties referred to in paragraph 4, 6 and 7 of this Article shall be taken according to the same procedure applied to decision-making under Article 10.

Article 6: Assessment and review of control measures

Beginning in 1990, and at least every four years thereafter, the Parties shall assess the control measures provided for in Article 2 and Articles 2A to 2I on the basis of available scientific, environmental, technical and economic information. At least one year before each assessment, the Parties shall convene appropriate panels of experts qualified in the fields mentioned

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and determine the composition and terms of reference of any such panels. Within one year of being convened, the panels will report their conclusions, through the Secretariat, to the Parties.

Article 7 Reporting of data

1. Each Party shall provide to the Secretariat, within three months of becoming a Party, statistical data on its production, imports and exports of each of the controlled substances in Annex A for the year 1986, or the best possible estimates of such data where actual data are not available.
2. Each Party shall provide to the Secretariat statistical data on its production, imports and exports of each of the controlled substances
 - in Annex B and Groups I and II of Annex C, for the year 1989;
 - in Annex E, for the year 1991,or the best possible estimates of such data where actual data are not available, not later than three months after the date when the provisions set out in the Protocol with regard to the substances in Annexes B, C and E respectively enter into force for that Party.
3. Each Party shall provide to the Secretariat statistical data on its annual production (as defined in paragraph 5 of Article 1) of each of the controlled substances listed in Annexes A, B, C and E and, separately, for each substance,
 - Amounts used for feedstocks,
 - Amounts destroyed by technologies approved by the Parties, and
 - Imports from and exports to Parties and non-Parties respectively,for the year during which provisions concerning the substances in Annexes A, B, C and E respectively entered into force for that Party and for each year thereafter. Each Party shall provide to the Secretariat statistical data on the annual amount of the controlled substance listed in Annex E used

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for quarantine and pre-shipment applications. Data shall be forwarded not later than nine months after the end of the year to which the data relate.

- 3 *bis*. Each Party shall provide to the Secretariat separate statistical data of its annual imports and exports of each of the controlled substances listed in Group II of Annex A and Group I of Annex C that have been recycled.
4. For Parties operating under the provisions of paragraph 8(a) of Article 2, the requirements in paragraphs 1, 2, 3 and 3 bis of this Article in respect of statistical data on imports and exports shall be satisfied if the regional economic integration organization concerned provides data on imports and exports between the organization and States that are not members of that organization.

Article 8: Non-compliance

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

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

1. The Parties shall co-operate, consistent with their national laws, regulations and practices and taking into account in particular the needs of developing countries, in promoting, directly or through competent international bodies, research, development and exchange of information on:
- (a) best technologies for improving the containment, recovery, recycling, or destruction of controlled substances or otherwise reducing their emissions;
 - (b) possible alternatives to controlled substances, to products containing such substances, and to products manufactured with them; and
 - (c) costs and benefits of relevant control strategies.

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2. The Parties, individually, jointly or through competent international bodies, shall co-operate in promoting public awareness of the environmental effects of the emissions of controlled substances and other substances that deplete the ozone layer.
3. Within two years of the entry into force of this Protocol and every two years thereafter, each Party shall submit to the Secretariat a summary of the activities it has conducted pursuant to this Article.

Article 10: Financial mechanism

1. The Parties shall establish a mechanism for the purposes of providing financial and technical co-operation, including the transfer of technologies, to Parties operating under paragraph 1 of Article 5 of this Protocol to enable their compliance with the control measures set out in Articles 2A to 2E and Article 2I, and any control measures in Articles 2F to 2H that are decided pursuant to paragraph 1 bis of Article 5 of the Protocol. The mechanism, contributions to which shall be additional to other financial transfers to Parties operating under that paragraph, shall meet all agreed incremental costs of such Parties in order to enable their compliance with the control measures of the Protocol. An indicative list of the categories of incremental costs shall be decided by the meeting of the Parties.
2. The mechanism established under paragraph 1 shall include a Multilateral Fund. It may also include other means of multilateral, regional and bilateral co-operation.
3. The Multilateral Fund shall:
 - (a) Meet, on a grant or concessional basis as appropriate, and according to criteria to be decided upon by the Parties, the agreed incremental costs;
 - (b) Finance clearing-house functions to:
 - (i) Assist Parties operating under paragraph 1 of Article 5, through country specific studies and other technical co-operation, to identify their needs for co-operation;
 - (ii) Facilitate technical co-operation to meet these identified needs;

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- (iii) Distribute, as provided for in Article 9, information and relevant materials, and hold workshops, training sessions, and other related activities, for the benefit of Parties that are developing countries; and
 - (iv) Facilitate and monitor other multilateral, regional and bilateral co-operation available to Parties that are developing countries;
 - (c) Finance the secretarial services of the Multilateral Fund and related support costs.
- 4. The Multilateral Fund shall operate under the authority of the Parties who shall decide on its overall policies.
- 5. The Parties shall establish an Executive Committee to develop and monitor the implementation of specific operational policies, guidelines and administrative arrangements, including the disbursement of resources, for the purpose of achieving the objectives of the Multilateral Fund. The Executive Committee shall discharge its tasks and responsibilities, specified in its terms of reference as agreed by the Parties, with the co-operation and assistance of the International Bank for Reconstruction and Development (World Bank), the United Nations Environment Programme, the United Nations Development Programme or other appropriate agencies depending on their respective areas of expertise. The members of the Executive Committee, which shall be selected on the basis of a balanced representation of the Parties operating under paragraph 1 of Article 5 and of the Parties not so operating, shall be endorsed by the Parties.
- 6. The Multilateral Fund shall be financed by contributions from Parties not operating under paragraph 1 of Article 5 in convertible currency or, in certain circumstances, in kind and/or in national currency, on the basis of the United Nations scale of assessments. Contributions by other Parties shall be encouraged. Bilateral and, in particular cases agreed by a decision of the Parties, regional co-operation may, up to a percentage and consistent with any criteria to be specified by decision of

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the Parties, be considered as a contribution to the Multilateral Fund, provided that such co-operation, as a minimum:

- (a) Strictly relates to compliance with the provisions of this Protocol;
 - (b) Provides additional resources; and
 - (c) Meets agreed incremental costs.
7. The Parties shall decide upon the programme budget of the Multilateral Fund for each fiscal period and upon the percentage of contributions of the individual Parties thereto.
 8. Resources under the Multilateral Fund shall be disbursed with the concurrence of the beneficiary Party.
 9. Decisions by the Parties under this Article shall be taken by consensus whenever possible. If all efforts at consensus have been exhausted and no agreement reached, decisions shall be adopted by a two-thirds majority vote of the Parties present and voting, representing a majority of the Parties operating under paragraph 1 of Article 5 present and voting and a majority of the Parties not so operating present and voting.
 10. The financial mechanism set out in this Article is without prejudice to any future arrangements that may be developed with respect to other environmental issues.

Article 10A: Transfer of technology

Each Party shall take every practicable step, consistent with the programmes supported by the financial mechanism, to ensure:

- (a) that the best available, environmentally safe substitutes and related technologies are expeditiously transferred to Parties operating under paragraph 1 of Article 5; and
- (b) that the transfers referred to in subparagraph (a) occur under fair and most favourable conditions.

Article 11: Meetings of the parties

1. The Parties shall hold meetings at regular intervals. The Secretariat shall convene the first meeting of the Parties not later than one year after the date of the entry into force of this Protocol and in conjunction with a meeting of the Conference of the

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Parties to the Convention, if a meeting of the latter is scheduled within that period.

2. Subsequent ordinary meetings of the parties shall be held, unless the Parties otherwise decide, in conjunction with meetings of the Conference of the Parties to the Convention. Extraordinary meetings of the Parties shall be held at such other times as may be deemed necessary by a meeting of the Parties, or at the written request of any Party, provided that within six months of such a request being communicated to them by the Secretariat, it is supported by at least one third of the Parties.
3. The Parties, at their first meeting, shall:
 - (a) adopt by consensus rules of procedure for their meetings;
 - (b) adopt by consensus the financial rules referred to in paragraph 2 of Article 13;
 - (c) establish the panels and determine the terms of reference referred to in Article 6;
 - (d) consider and approve the procedures and institutional mechanisms specified in Article 8; and
 - (e) begin preparation of workplans pursuant to paragraph 3 of Article 10.
4. The functions of the meetings of the Parties shall be to:
 - (a) review the implementation of this Protocol;
 - (b) decide on any adjustments or reductions referred to in paragraph 9 of Article 2;
 - (c) decide on any addition to, insertion in or removal from any annex of substances and on related control measures in accordance with paragraph 10 of Article 2;
 - (d) establish, where necessary, guidelines or procedures for reporting of information as provided for in Article 7 and paragraph 3 of Article 9;
 - (e) review requests for technical assistance submitted pursuant to paragraph 2 of Article 10;
 - (f) review reports prepared by the secretariat pursuant to subparagraph (c) of Article 12;
 - (g) assess, in accordance with Article 6, the control measures;

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- (h) consider and adopt, as required, proposals for amendment of this Protocol or any annex and for any new annex;
 - (i) consider and adopt the budget for implementing this Protocol; and
 - (j) consider and undertake any additional action that may be required for the achievement of the purposes of this Protocol.
5. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not party to this Protocol, may be represented at meetings of the Parties as observers. Any body or agency, whether national or international, governmental or non-governmental, qualified in fields relating to the protection of the ozone layer which has informed the secretariat of its wish to be represented at a meeting of the Parties as an observer may be admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Parties.

Article 12: Secretariat

For the purposes of this Protocol, the Secretariat shall:

- (a) arrange for and service meetings of the Parties as provided for in Article 11;
- (b) receive and make available, upon request by a Party, data provided pursuant to Article 7;
- (c) prepare and distribute regularly to the Parties reports based on information received pursuant to Articles 7 and 9;
- (d) notify the Parties of any request for technical assistance received pursuant to Article 10 so as to facilitate the provision of such assistance;
- (e) encourage non-Parties to attend the meetings of the Parties as observers and to act in accordance with the provisions of this Protocol;

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- (f) provide, as appropriate, the information and requests referred to in subparagraphs (c) and (d) to such non-party observers; and
- (g) perform such other functions for the achievement of the purposes of this Protocol as may be assigned to it by the Parties.

Article 13: Financial provisions

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

Article 14: Relationship of this Protocol to the Convention

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

Article 15: Signature

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

Article 16: Entry into force

1. This Protocol shall enter into force on 1 January 1989, provided that at least eleven instruments of ratification, acceptance, approval of the Protocol or accession thereto have been deposited by States or regional economic integration organizations representing at least two-thirds of 1986 estimated global consumption of the controlled substances, and the provisions of paragraph 1 of Article 17 of the Convention have been fulfilled. In the event that these conditions have not been fulfilled

Fifth Schedule—*continued*

by that date, the Protocol shall enter into force on the ninetieth day following the date on which the conditions have been fulfilled.

2. For the purposes of paragraph 1, any such instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.
3. After the entry into force of this Protocol, any State or regional economic integration organization shall become a Party to it on the ninetieth day following the date of deposit of its instrument of ratification, acceptance, approval or accession.

Article 17: Parties joining after entry into force

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

Article 18: Reservations

No reservations may be made to this Protocol.

Article 19: Withdrawal

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

Article 20: Authentic texts

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

Fifth Schedule—*continued*

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

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

Annex A:
Controlled substances

| <u>Group</u> | <u>Substance</u> | <u>Ozone-Depleting Potential*</u> |
|-----------------|--|-----------------------------------|
| <i>Group I</i> | | |
| | CFCl ₃ (CFC-11) | 1.0 |
| | CF ₂ Cl ₂ (CFC-12) | 1.0 |
| | C ₂ F ₃ Cl ₃ (CFC-113) | 0.8 |
| | C ₂ F ₄ Cl ₂ (CFC-114) | 1.0 |
| | C ₂ F ₅ Cl (CFC-115) | 0.6 |
| <i>Group II</i> | | |
| | CF ₂ BrCl (halon-1211) | 3.0 |
| | CF ₃ Br (halon-1301) | 10.0 |
| | C ₂ F ₄ Br ₂ (halon-2402) | 6.0 |

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

Fifth Schedule—*continued*

Annex B:
Controlled substances

| <u>Group</u> | <u>Substance</u> | <u>Ozone-Depleting Potential</u> |
|------------------|--|----------------------------------|
| <i>Group I</i> | | |
| | CF ₃ Cl (CFC-13) | 1.0 |
| | C ₂ FCl ₅ (CFC-111) | 1.0 |
| | C ₂ F ₂ Cl ₄ (CFC-112) | 1.0 |
| | C ₃ FCl ₇ (CFC-211) | 1.0 |
| | C ₃ F ₂ Cl ₆ (CFC-212) | 1.0 |
| | C ₃ F ₃ Cl ₅ (CFC-213) | 1.0 |
| | C ₃ F ₄ Cl ₄ (CFC-214) | 1.0 |
| | C ₃ F ₅ Cl ₃ (CFC-215) | 1.0 |
| | C ₃ F ₆ Cl ₂ (CFC-216) | 1.0 |
| | C ₃ F ₇ Cl (CFC-217) | 1.0 |
| <i>Group II</i> | | |
| | CCl ₄ carbon tetrachloride | 1.1 |
| <i>Group III</i> | | |
| | C ₂ H ₃ Cl ₃ * 1,1,1-trichloroethane* (methyl chloroform) | 0.1 |

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

Fifth Schedule—*continued***Annex C:
Controlled substances**

| <u>Group</u> | <u>Substance</u> | <u>Number of isomers</u> | <u>Ozone- Depleting Potential</u> | |
|----------------|--|----------------------------------|---|-------------|
| <i>Group I</i> | | | | |
| | CHFC ₂ | (HCFC-21)** | 1 | 0.04 |
| | CHF ₂ Cl | (HCFC-22)** | 1 | 0.055 |
| | CH ₂ FCI | (HCFC-31) | 1 | 0.02 |
| | C ₂ HFCl ₄ | (HCFC-121) | 2 | 0.01-0.04 |
| | C ₂ HF ₂ Cl ₃ | (HCFC-122) | 3 | 0.02-0.08 |
| | C ₂ HF ₃ Cl ₂ | (HCFC-123) | 3 | 0.02-0.06 |
| | CHCl ₂ CF ₃ | (HCFC-123)** | — | 0.02 |
| | C ₂ HF ₄ Cl | (HCFC-124) | 2 | 0.02-0.04 |
| | CHFCICF ₃ | (HCFC-124)** | — | 0.022 |
| | C ₂ H ₂ FCI ₃ | (HCFC-131) | 3 | 0.007–0.05 |
| | C ₂ H ₂ F ₂ Cl ₂ | (HCFC-132) | 4 | 0.008-0.05 |
| | C ₂ H ₂ F ₃ Cl | (HCFC-133) | 3 | 0.02-0.06 |
| | C ₂ H ₃ FCI ₂ | (HCFC-141) | 3 | 0.005–0.07 |
| | CH ₃ CFCl ₂ | (HCFC- 141b)** | — | 0.11 |
| | C ₂ H ₃ F ₂ Cl | (HCFC-142) | 3 | 0.008-0.07 |
| | CH ₃ CF ₂ Cl | (HCFC- 142b)** | — | 0.065 |
| | C ₂ H ₄ FCI | (HCFC-151) | 2 | 0.003-0.005 |

Fifth Schedule—*continued*

| <u>Group</u> | <u>Substance</u> | <u>Number of isomers</u> | <u>Ozone- Depleting Potential</u> |
|--|--------------------|----------------------------------|---|
| C ₃ HFCl ₆ | (HCFC-221) | 5 | 0.015-0.07 |
| C ₃ HF ₂ Cl ₅ | (HCFC-222) | 9 | 0.01-0.09 |
| C ₃ HF ₃ Cl ₄ | (HCFC-223) | 12 | 0.01-0.08 |
| C ₃ HF ₄ Cl ₃ | (HCFC-224) | 12 | 0.01-0.09 |
| C ₃ HF ₅ Cl ₂ | (HCFC-225) | 9 | 0.02-0.07 |
| CF ₃ CF ₂ CHCl ₂ | (HCFC- 225ca)** | — | 0.025 |
| CF ₂ ClCF ₂ CHClF | (HCFC- 225cb)** | — | 0.033 |
| C ₃ HF ₆ Cl | (HCFC-226) | 5 | 0.02-0.10 |
| C ₃ H ₂ FCl ₅ | (HCFC-231) | 9 | 0.05-0.09 |
| C ₃ H ₂ F ₂ Cl ₄ | (HCFC-232) | 16 | 0.008-0.10 |
| C ₃ H ₂ F ₃ Cl ₃ | (HCFC-233) | 18 | 0.007-0.23 |
| C ₃ H ₂ F ₄ Cl ₂ | (HCFC-234) | 16 | 0.01-0.28 |
| C ₃ H ₂ F ₅ Cl | (HCFC-235) | 9 | 0.03-0.52 |
| C ₃ H ₃ FCl ₄ | (HCFC-241) | 12 | 0.004-0.09 |
| C ₃ H ₃ F ₂ Cl ₃ | (HCFC-242) | 18 | 0.005-0.13 |
| C ₃ H ₃ F ₃ Cl ₂ | (HCFC-243) | 18 | 0.007-0.12 |
| C ₃ H ₃ F ₄ Cl | (HCFC-244) | 12 | 0.009-0.14 |
| C ₃ H ₄ FCl ₃ | (HCFC-251) | 12 | 0.001-0.01 |
| C ₃ H ₄ F ₂ Cl ₂ | (HCFC-252) | 16 | 0.005-0.04 |

Fifth Schedule—*continued*

| <u>Group</u> | <u>Substance</u> | <u>Number of isomers</u> | <u>Ozone- Depleting Potential</u> |
|-----------------|--|----------------------------------|---|
| | C ₃ H ₄ F ₃ Cl (HCFC-253) | 12 | 0.003-0.03 |
| | C ₃ H ₃ FCl ₂ (HCFC-261) | 9 | 0.002-0.02 |
| | C ₃ H ₃ F ₂ Cl (HCFC-262) | 9 | 0.002-0.02 |
| | C ₃ H ₆ FCl (HCFC-271) | 5 | 0.001-0.03 |
| <i>Group II</i> | | | |
| | CHBr ₂ | 1 | 1.00 |
| | CHF ₂ Br (HBFC-22B1) | 1 | 0.74 |
| | CH ₂ FBr | 1 | 0.73 |
| | C ₂ HBr ₄ | 2 | 0.3-0.8 |
| | C ₂ HF ₂ Br ₃ | 3 | 0.5-1.8 |
| | C ₂ HF ₃ Br ₂ | 3 | 0.4-1.6 |
| | C ₂ HF ₄ Br | 2 | 0.7-1.2 |
| | C ₂ H ₂ FBr ₃ | 3 | 0.1-1.1 |
| | C ₂ H ₂ F ₂ Br ₂ | 4 | 0.2-1.5 |
| | C ₂ H ₂ F ₃ Br | 3 | 0.7-1.6 |
| | C ₂ H ₃ FBr ₂ | 3 | 0.1-1.7 |
| | C ₂ H ₃ F ₂ Br | 3 | 0.2-1.1 |
| | C ₂ H ₄ FBr | 2 | 0.07-0.1 |
| | C ₃ HBr ₆ | 5 | 0.3-1.5 |
| | C ₃ HF ₂ Br ₅ | 9 | 0.2-1.9 |

Fifth Schedule—*continued*

| <u>Group</u> | <u>Substance</u> | <u>Number of isomers</u> | <u>Ozone- Depleting Potential</u> |
|------------------|--|----------------------------------|---|
| | C ₃ HF ₃ Br ₄ | 12 | 0.3-1.8 |
| | C ₃ HF ₄ Br ₃ | 12 | 0.5-2.2 |
| | C ₃ HF ₅ Br ₂ | 9 | 0.9-2.0 |
| | C ₃ HF ₆ Br | 5 | 0.7-3.3 |
| | C ₃ H ₂ FBr ₅ | 9 | 0.1-1.9 |
| | C ₃ H ₂ F ₂ Br ₄ | 16 | 0.2-2.1 |
| | C ₃ H ₂ F ₃ Br ₃ | 18 | 0.2-5.6 |
| | C ₃ H ₂ F ₄ Br ₂ | 16 | 0.3-7.5 |
| | C ₃ H ₂ F ₅ Br | 8 | 0.9-14.0 |
| | C ₃ H ₃ FBr ₄ | 12 | 0.08-1.9 |
| | C ₃ H ₃ F ₂ Br ₃ | 18 | 0.1-3.1 |
| | C ₃ H ₃ F ₃ Br ₂ | 18 | 0.1-2.5 |
| | C ₃ H ₃ F ₄ Br | 12 | 0.3-4.4 |
| | C ₃ H ₄ FBr ₃ | 12 | 0.03-0.3 |
| | C ₃ H ₄ F ₂ Br ₂ | 16 | 0.1-1.0 |
| | C ₃ H ₄ F ₃ Br | 12 | 0.07-0.8 |
| | C ₃ H ₅ FBr ₂ | 9 | 0.04-0.4 |
| | C ₃ H ₅ F ₂ Br | 9 | 0.07-0.8 |
| | C ₃ H ₆ FBr | 5 | 0.02-0.7 |
| <i>Group III</i> | | | |

Fifth Schedule—*continued*

| <u>Group</u> | <u>Substance</u> | <u>Number of isomers</u> | <u>Ozone- Depleting Potential</u> |
|----------------------|-------------------------|----------------------------------|---|
| CH ₂ BrCl | bro- mochloromethane | 1 | 0.12 |

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

** Identifies the most commercially viable substances with ODP values listed against them to be used for the purposes of the Protocol.

Annex D:*
A list of products containing controlled
substances specified in Annex A**

| <u>Products</u> | <u>Customs code number</u> |
|--|--------------------------------|
| 1. Automobile and truck air conditioning units (whether incorporated in vehicles or not) | |
| 2. Domestic and commercial refrigeration and air conditioning/heat pump equipment*** | |
| eg Refrigerators | |

Fifth Schedule—*continued*

| <u>Products</u> | <u>Customs code number</u> |
|--|----------------------------|
| Freezers | |
| Dehumidifiers | |
| Water coolers | |
| Ice machines | |
| Air conditioning and heat pump units | |
| 3. Aerosol products, except medical aerosols | |
| 4. Portable fire extinguisher | |
| 5. Insulation boards, panels and pipe covers | |
| 6. Pre-polymers | |

* This Annex was adopted by the Third Meeting of the Parties in Nairobi, 21 June 1991 as required by paragraph 3 of Article 4 of the Protocol.

** Though not when transported in consignments of personal or household effects or in similar non-commercial situations normally exempted from customs attention.

*** When containing controlled substances in Annex A as a refrigerant and/or in insulating material of the product.

Fifth Schedule—*continued***Annex E:
Controlled substance**

| <u>Group</u> | <u>Substance</u> | <u>Ozone-Depleting Potential</u> |
|--------------------|------------------|----------------------------------|
| <i>Group I</i> | | |
| CH ₃ Br | methyl bromide | 0.6 |

Martin Bell,
for Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations amend the Ozone Layer Protection Regulations 1996. The amendments come into force on different dates.

The principal amendments, and the dates on which they come into force, are as follows:

- the importation or exportation of methyl bromide from or to any country is prohibited, unless the country is a party to both the Montreal Protocol and the Copenhagen Amendment or the country is a complying country. This amendment comes into force on 10 November 2000:
- the manufacture of bromochloromethane is prohibited. This amendment comes into force on 1 January 2002:
- the importation or exportation of bromochloromethane from or to any country is prohibited, unless the country is a party to both the Montreal Protocol and the Beijing Amendment or the country is a complying country. This amendment comes into force on 1 January 2002:
- the importation or exportation of HCFCs from or to any country is prohibited, unless the country is a party to both the Montreal Protocol and the Copenhagen Amendment or the country is a complying country. This amendment comes into force on 1 January 2004:

- the definition of **pre-shipment applications** is amended to clarify that they must be in response to an official requirement of the importing country, and must be applied no later than 21 days before export. This amendment comes into force on the 28th day after the date on which these regulations are notified in the *Gazette*.

These regulations also amend the principal regulations to substitute the Montreal Protocol as amended by the Beijing Amendment made in December 1999.

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