Proposal for a Council Decision concerning the conclusion of the amendment to the Montreal Protocol on substances that deplete the ozone layer as adopted in November 1992 in Copenhagen by the Parties to the Protocol

(93/C 103/08)

COM(93) 102 final

(Submitted by the Commission on 16 March 1993)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 130S and 113 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas it is established that continued emissions of chlorofluorocarbons, halons, carbon tetrachloride, 1,1,1-trichloroethane, methyl bromide and hydrobromofluorocarbons at current levels cause significant damage to the ozone layer; whereas there is an international consensus that significant reductions in both production and consumption of such substances are necessary;

Whereas hydrochlorofluorocarbons have a much lower ozone depleting potential than the above substances and are in certain applications substitutes for them, but have to be used in a careful manner because of their impact on the ozone layer;

Whereas the Community together with all of its Member States have signed the Vienna Convention for the protection of the ozone layer, hereinafter referred as the 'Vienna Convention';

Whereas a protocol supplementary to the Vienna Convention, the Montreal Protocol on substances that deplete the ozone layer, hereinafter referred to as the 'Montreal Protocol', was negotiated and adopted on 16 September 1987; whereas the Protocol has been signed by the Community and by all of its Member States; whereas a first amendment to the Protocol was adopted on 29 June 1990 in London;

Whereas the Community, in view of the responsibilities for the environment and trade, has approved, by Decision 88/540/EEC [1] the Vienna Convention and the Montreal Protocol, and by Decision 91/690 EEC the first amendment to the Protocol;

Whereas the most recent scientific evidence indicates that for the adequate protection of the ozone layer a higher degree of control of chlorofluorocarbons, halons, carbon tetrachloride and 1,1,1-trichloroethane is required than that provided by the Montreal Protocol as amended in 1990; whereas the same evidence indicates that additional controls should be placed on methyl bromide, hydrobromofluorocarbons and hydrochlorofluorocarbons;

Whereas a second amendment and adjustments to the Montreal Protocol implementing these controls have been adopted in Copenhagen in November 1992 and only the amendment needs to be approved;

Whereas it is necessary for the protection, promotion and improvement of the environment to bring into force the second amendment to the Montreal Protocol, which is based on the principle of preventive action to avoid further damage to the ozone layer and on the scientific and technical data which were available at the time of its adoption;

Whereas, to that end, the Community must approve this second amendment;

Whereas it is, in particular, necessary for the Community and all Member States to approve the second amendment to the Montreal Protocol because some of its provisions can be carried out only if the Community and all its Member States approve it;

Whereas in order for all the obligations under the second amendment to be appropriately carried out, it is necessary that all Member States should also approve it;

Whereas this amendment has to be ratified by at least twenty Parties to the Protocol for its timely entry into force on 1 January 1994, all Member States should conclude as rapidly as possible their procedures for ratification of the second amendment, with a view to permit the deposit, as far as possible simultaneously and in any case before the above date, of the instruments of approval, acceptance or ratification by the Community and the Member States,

[1] OJ No L 297, 31. 10. 1988, p. 8.

HAS ADOPTED THIS DECISION:

Article 1

The second amendment to the Montreal Protocol on substances that deplete the ozone layer as adopted in Copenhagen is hereby approved on behalf of the Community.

The text of this amendment appears as an Annex to this Decision.

Article 2

The President of the Council shall deposit the act of approval of this second amendment on behalf of the Community with the Secretary General of the United Nations in accordance with Article 13 of the Vienna Convention, as read in conjunction with Article 3 of the second amendment to the Montreal Protocol.

Article 3

Member States shall take the necessary steps to permit the deposit, as far as possible simultaneously, before 30 November 1993 of the instruments of ratification, acceptance or approval of the second amendment to the Montreal Protocol by the Community and the Member States.

Member States will inform the Commission, before 31 October 1993 of their decision to ratify or of the prospective date of finalization of their ratification procedures. The Commission, in cooperation with Member States, shall arrange a date for the simultaneous deposit of the instruments which shall in any case be before 31 December 1993.

Article 4

This Decision is addressed to the Member States.

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

Article 1 — Amendment

A. *Article 1 (4)*

In paragraph 4 of Article 1 of the Protocol, for the words 'or in Annex B' there shall be substituted 'Annex B, Annex C or Annex E'.

B. *Article 1 (9)*

Paragraph 9 of Article 1 of the Protocol shall be deleted.

C. *Article 2 (5)*

In paragraph 5 of Article 2 of the Protocol, after the words 'Articles 2A to 2E' there shall be added 'and Article 2H'.

D. *Article 2 (5) (a)*

The following paragraph shall be inserted after Article 2 (5) of the Protocol:

'5. (a) 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 2 F, 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 kg 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 2 F. 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.'

E. *Article 2 (8) (a) and (11)*

In Article 2 (8) (a) and (11) of the Protocol, for the words 'Articles 2 A to 2 E' there shall be substituted each time they occur 'Articles 2 A to 2 H'.

F. *Article 2 (9) (a) (i)*

In Article 2 (9) (a) (i) of the Protocol, for the words 'and/or Annex B' there shall be substituted 'Annex B, Annex C and/or Annex E'.

G. *Article 2 F — Hydrochlorofluorocarbons*

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

'*Article 2 F*

Hydrochlorofluorocarbons

1. Each Party shall ensure that for the 12-month period commencing on 1 January 1996, and in each 12-month period thereafter, its calculated level of