II

*(Preparatory Acts)*

# COMMISSION

## Proposal for a Council Regulation (EEC) on substances that deplete the ozone layer

(93/C 232/07)

*COM(93) 202 final*

*(Submitted by the Commission on 3 August 1993)*

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission,

Having regard of the opinion of the European Parliament,

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

Whereas Council Regulation (EEC) No 594/91 of 4 March 1991 on substances that deplete the ozone layer (1) has been amended by Regulation (EEC) No 3952/92 (2); whereas on the occasion of a further amendment it is desirable in the interests of clarity to recast this Regulation;

Whereas in view of the responsibilities of the Community for the environment and trade, all Member States and the Community have become Parties to the Vienna Convention for the protection of the ozone layer and the Montreal Protocol on substances that deplete the ozone layer as amended by the Parties to the Protocol at their second meeting in London;

Whereas it is established that continued emissions of ozone-depleting substances at current levels cause significant damage to the ozone layer;

Whereas, in the light of recent scientific evidence, the Parties to the Montreal Protocol have adopted at their fourth meeting in Copenhagen, at which the Community and the Member States played a leading role, a second amendment to the Protocol comprising additional measures for the protection of the ozone layer;

Whereas it is necessary for action to be taken at Community level to carry out the Community's obligations under the Convention and the second amendment to the Protocol, in particular to control within the Community the production and supply of methyl bromide and hydrobromofluorocarbons, and the supply and use of hydrochlorofluorocarbons;

Whereas, in the light notably of scientific evidence, it is appropriate in certain cases to introduce control measures which are more severe than those of the second amendment to the Protocol;

Whereas, bearing in mind the market stucture for methyl bromide, hydrobromofluorocarbons and hydrochlorofluorocarbons, it is appropriate — to ensure fulfilment of the Community's obligations under the second amendment to the Protocol — to control consumption of these substances by controlling supply rather than demand; whereas supply can be controlled by limiting sales and use by producers of their own production and release into free circulation of imports;

Whereas it is necessary to keep under review the evolution of the market for ozone-depleting substances, particularly with regard to sufficient supply for essential uses, and the state of development of appropriate substitutes;

Whereas it is appropriate to promote the minimization of leakages of ozone-depleting substances and the recovery of such used substances for recycling or safe destruction purposes,

HAS ADOPTED THIS REGULATION:

### CHAPTER I

### INTRODUCTORY PROVISIONS

*Article 1*

**Scope**

This Regulation shall apply to the production, importation, exportation, supply, use and/or recovery of chlorofluorocarbons, other fully halogenated chloroflu-

(1) OJ No L 67, 14. 3. 1991, p. 1.
(2) OJ No L 405, 31. 12. 1992, p. 41.

orocarbons, halons, carbon tetrachloride, 1,1,1-trichloroethane, methyl bromide, hydrobromofluorocarbons and hydrochlorofluorocarbons. It shall also apply to the reporting of data on these substances.

*Article 2*

**Definitions**

For the purposes of this Regulation:

— 'Protocol' means the Montreal Protocol on substances that deplete the ozone layer, whether in its original version from 1987 as adjusted in 1990 and 1992, its amended version from 1990 as adjusted in 1992, or its amended version from 1992,

— 'Party' means any Party to the Protocol. However, as to the rights and obligations resulting from an amendment to the Protocol and any subsequent adjustments to this amendment, any State or regional economic integration organization for which that amendment has not entered into force is not considered as a Party,

— 'controlled substances' means chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride, 1,1,1-trichloroethane, methyl bromide, hydrobromofluorocarbons and hydrochlorofluorocarbons, whether existing alone or in a mixture. This definition shall not cover any controlled substance which is in a manufactured product other than when in a container used for the transportation or storage of that substance, and insignificant quantities of any controlled substance originating from inadvertent or coincidential production during a manufacturing process, from unreacted feedstock, or from its use as process agent which is present in chemical substances as trace impurities, or that is emitted during product manufacture or handling,

— 'chlorofluorocarbons' means the controlled substances listed in Group I of Annex I, including their isomers,

— 'other fully halogenated chlorofluorocarbons' means the controlled substances listed in Group II of Annex I, including their isomers,

— 'halons' means the controlled substances listed in Group III of Annex I, including their isomers,

— 'carbon tetrachloride' means the controlled substance listed in Group IV of Annex I,

— '1,1,1-trichloroethane' means the controlled substance listed in Group V of Annex I,

— 'methyl bromide' means the controlled substance listed in Group VI of Annex I,

— 'hydrobromofluorocarbons' means the controlled substances listed in Group VII of Annex I, including their isomers,

— 'hydrochlorofluorocarbons' means the controlled substances listed in Group VIII of Annex I, including their isomers,

— 'producer' means any natural or legal person manufacturing controlled substances within the Community,

— 'production' means the amount of controlled substances produced, minus the amount destroyed by technologies approved by the Parties and minus the amount entirely used as feedstock in the manufacture of other chemicals. Any amount recycled and reused is not to be considered as 'production',

— 'untertaking' means any natural or legal person which produces, recycles for placing on the market or uses in the Community controlled substances for industrial or commercial purposes or which releases into free circulation in the Community such imported substances, or exports such substances from the Community for industrial or commercial purposes,

— 'ozone-depleting potential' means the figure specified in the final column of Annex I representing the potential effect of each controlled substance on the ozone layer,

— 'calculated level' means a quantity determined by multiplying the quantity of each controlled substance by the ozone-depleting potential of that substance specified in Annex I and by adding together, for each group of controlled substances in Annex I separately, the resulting figures,

— 'industrial rationalization' means the transfer either between Parties or within a Member State of all or a portion of the calculated level of production of one producer to another, for the purpose of achieving economic efficiency of responding to anticipated shortfalls in supply as a result of plant closures,

— 'recovery' means the collection and the storage of controlled substances,

— 'recycling' means all cleaning processes of controlled substances such as filtering and drying, distillation, and re-processing.

CHAPTER II

**PHASE-OUT SCHEDULE**

*Article 3*

**Control of production of controlled substances**

1. Subject to the provisions of paragraphs 8 to 11, each producer shall ensure that:

— the calculated level of its production of chlorofluorocarbons in the period 1 January to 31 December 1993 does not exceed 50 % of the calculated level of its production of chlorofluorocarbons in 1986,

— the calculated level of its production of chlorofluorocarbons in the period 1 January to 31 December 1994 does not exceed 15 % of the calculated level of its production of chlorofluorocarbons in 1986,

— there is no production of chlorofluorocarbons after 31 December 1994.

However, subject to the provisions of paragraphs 8 to 11, each producer in a Member State in which the calculated level of production of chlorofluorocarbons was less than 15 000 tonnes in 1986 shall ensure that:

— the calculated level of its production of chlorofluorocarbons in the period 1 January to 31 December 1993 does not exceed 50 % of the calculated level of its production of chlorofluorocarbons in 1986,

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

— there is no production of chlorofluorocarbons after 31 December 1995.

The Commission, in accordance with the procedure set out in Article 16, shall determine any essential uses of chlorofluorocarbons which may be permitted in the Community after 31 December 1994 and any quantities of chlorofluorocarbons which may be produced by each producer for this purpose. Such production shall be allowed only if adequate alternatives or recycled chlorofluorocarbons are not available.

2. Subject to the provisions of paragraphs 8 to 11, each producer shall ensure that:

— the calculated level of its production of other fully halogenated chlorofluorocarbons in the period 1 January to 31 December 1993, does not exceed 50 % of the calculated level of its production of other fully halogenated chlorofluorocarbons in 1989,

— the calculated level of its production of other fully halogenated chlorofluorocarbons in the period 1 January to 31 December 1994 does not exceed 15 % of the calculated level of its production of other fully halogenated chlorofluorocarbons in 1989,

— there is no production of other fully halogenated chlorofluorocarbons after 31 December 1994.

The Commission, in accordance with the procedure set out in Article 16, shall determine any essential uses of other fully halogenated chlorofluorocarbons which may be permitted in the Community after 31 December 1994 and any quantities of other fully halogenated chlorofluorocarbons which may be produced by each producer for this purpose. Such production shall be allowed only if adequate alternatives or recycled other fully halogenated chlorofluorocarbons are not available.

3. Subject to the provisions of paragraphs 8 to 11, each producer shall ensure that:

— the calculated level of its production of halons in the period 1 January to 31 December 1993 does not exceed the calculated level of its production of halons in 1986,

— there is no production of halons after 31 December 1993.

The Commission, in accordance with the procedure set out in Article 16, shall determine any essential uses of halons which may be permitted in the Community after 31 December 1993 and any quantities of halons which may be produced by each producer for this purpose. Such production shall only be allowed if adequate alternatives or recycled halons are not available.

4. Subject to the provisions of paragraphs 8 to 11, each producer shall ensure that:

— the calculated level of its production of carbon tetrachloride in the period 1 January to 31 December 1993 does not exceed 50 % of the calculated level of its production of carbon tetrachloride in 1989,

— the calculated level of its production of carbon tetrachloride in the period 1 January to 31 December 1994 does not exceed 15 % of the calculated level of its production of carbon tetrachloride in 1989,

— there is no production of carbon tetrachloride after 31 December 1994.

The Commission, in accordance with the procedure set out in Article 16, shall determine any essential uses of carbon tetrachloride which may be permitted in the Community after 31 December 1994 and any quantities of carbon tetrachloride which may be produced by each producer for this purpose. Such production shall be allowed only if adequate alternatives or recycled carbon tetrachloride are not available.

5. Subject to the provisions of paragraphs 8 to 11, each producer shall ensure that:

— the calculated level of its production 1,1,1-trichloroethane in the period 1 January to 31 December 1993 does not exceed the calculated level of its production of 1,1,1-trichloroethane in 1989,

— the calculated level of its production of 1,1,1-trichlorothane in the period 1 January to 31 December 1994 and in the following 12-month period does not exceed 50 % of the calculated level of its production of 1,1,1-trichloroethane in 1989,

— there is no production of 1,1,1-trichloroethane after 31 December 1995.

The Commission, in accordance with the procedure set out in Article 16, shall determine any essential uses of 1,1,1-trichloroethane which may be permitted in the Community after 31 December 1995 and any quantities of 1,1,1-trichloroethane which may be produced by each producer for this purpose. Such production shall be allowed only if adequate alternatives or recycled 1,1,1-trichloroethane are not available.

6. Subject to the provisions of paragraphs 8 to 11, each producer shall ensure that:

— the calculated level of its production of methyl bromide in the period 1 January to 31 December 1995 does not exceed the calculated level of its production of methyl bromide in 1991,

— the calculated level of its production of methyl bromide in the period 1 January to 31 December 1996 and in each 12-month period thereafter does not exceed 75 % of the calculated level of its production of methyl bromide in 1991.

7. Subject to the provisions of paragraphs 9 to 11, each producer shall ensure that there is no production of hydrobromofluorocarbons after 31 December 1995.

The Commission, in accordance with the procedure set out in Article 16, shall determine any essential uses of hydrobromofluorocarbons which may be permitted in the Community after 31 December 1995 and any quantities of hydrobromofluorocarbons which may be produced by each producer for this purpose. Such production shall be allowed only if adequate alternatives or recycled hydrobromofluorocarbons are not available.

8. To the extent permitted by the Protocol, a producer may be authorized by the competent authority of the Member State in which its relevant production is situated, to exceed the calculated levels of its production set out in paragraphs 1 to 6 so as to satisfy the basic domestic needs of Parties operating under Article 5 of the Protocol, provided that the additional calculated levels of production of the Member State concerned do not exceed those permitted for this purpose by Articles 2a to 2e and 2h of the Protocol for the periods in question. The competent authority of the Member State concerned shall notify the Commission in advance of any such authorization.

9. To the extent permitted by the Protocol, a producer may be authorized by the competent authority of the Member State in which its relevant production is situated, to exceed the calculated levels of its production set out in paragraphs 1 to 8 for the purpose of industrial rationalization within the Member State concerned, provided that the calculated levels of production of that Member State do not exceed the sum of the calculated levels of production of its domestic producers set out in paragraphs 1 to 8 for the periods in question. The competent authority of the Member State concerned shall notify the Commission in advance of any such authorization.

10. To the extent permitted by the Protocol, a producer may be authorized by the Commission, in agreement with the competent authority of the Member State in which its relevant production is situated, to exceed the calculated levels of its production allowed under paragraphs 1 to 9 for the purpose of industrial rationalization between Member States, provided that the combined calculated levels of production of the Member States concerned do not exceed the sum of the calculated levels of production of their domestic producers set out in paragraphs 1 to 9 for the periods in question. The agreement of the competent authority of the Member State in which it is intended to reduce production shall also be required.

11. To the extent permitted by the Protocol, a producer may be authorized by the Commission, in agreement both with the competent authority of the Member State in which its relevant production is situated, and the government of the third Party concerned, to combine the calculated levels of its production allowed under paragraphs 1 to 10 with the calculated levels of production allowed to a producer in a third Party under the Protocol and its domestic legislation for the purpose of industrial rationalization with a third Party, provided that the combined calculated levels of production by the two producers do not exceed the sum of the calculated levels of production allowed under paragraphs 1 to 10 to the Community producer and the calculated levels of production allowed to the third Party producer under the Protocol and its domestic legislation.

*Article 4*

**Control of supply of controlled substances**

1. Subject to the provisions of paragraph 10, each producer shall ensure that:

— the calculated level of chlorofluorocarbons which it places on the market or uses for its own account in the period 1 January to 31 December 1993 does not exceed 50 % of the calculated level of chlorofluorocarbons which it placed on the market or used for its own account in 1986,

— the calculated level of chlorofluorocarbons which it places on the market or uses for its own account in the period 1 January to 31 December 1994 does not exceed 15 % of the calculated level of chlorofluorocarbons which it placed on the market or used for its own account in 1986,

— it does not place on the market or use for its own account chlorofluorocarbons after 31 December 1994.

The Commission, in accordance with the procedure set out in Article 16, shall determine any quantities of chlorofluorocarbons that could be placed on the market or used for its own account by each producer after 31 December 1994 for the purpose of essential uses.

2. Subject to the provisions of paragraph 10, each producer shall ensure that:

— the calculated level of other fully halogenated chlorofluorocarbons which it places on the market or uses for its own account in the period 1 January to 31 December 1993 does not exceed 50 % of the calculated level of other fully halogenated chlorofluorocarbons which it placed on the market or used for its own account in 1989,

— the calculated level of other fully halogenated chlorofluorocarbons which it places on the market or uses for its own account in the period 1 January to 31 December 1994 does not exceed 15 % of the calculated level of other fully halogenated chlorofluorocarbons which it placed on the market or used for its own account in 1989,

— it does not place on the market or use for its own account other fully halogenated chlorofluorocarbons after 31 December 1994.

The Commission, in accordance with the procedure set out in Article 16, shall determine any quantities of other fully halogenated chlorofluorocarbons that could be placed on the market or used for its own account by each producer after 31 December 1994 for the purpose of essential uses.

3. Subject to the provisions of paragraph 10, each producer shall ensure that:

— the calculated level of halons which it places on the market or uses for its own account in the period 1 January to 31 December 1993 does not exceed the calculated level of halons which it placed on the market or used for its own account in 1986,

— it does not place on the market or use for its own account halons after 31 December 1993.

The Commission, in accordance with the procedure set out in Article 16, shall determine any quantities of halons that could be placed on the market or used for his own account by each producer after 31 December 1993 for the purpose of essential uses.

4. Subject to the provisions of paragraph 10, each producer shall ensure that:

— the calculated level of carbon tetrachloride which it places on the market or uses for its own account in the period 1 January to 31 December 1993 does not exceed 50 % of the calculated level of carbon tetrachloride which it placed on the market or used for its own account in 1989,

— the calculated level of carbon tetrachloride which it places on the market or uses for its own account in the period 1 January to 31 December 1994 does not exceed 15 % of the calculated level of carbon tetrachloride which it placed on the market or used for its own account in 1989,

— it does not place on the market or use for its own account carbon tetrachloride after 31 December 1994.

The Commission, in accordance with the procedure set out in Article 16, shall determine any quantities of carbon tetrachloride that could be placed on the market or used by each producer for his own account after 31 December 1994 for the purpose of essential uses.

5. Subject to the provisions of paragraph 10, each producer shall ensure that:

— the calculated level of 1,1,1-trichloroethane which it places on the market or uses for its own account in the period 1 January to 31 December 1993 does not exceed the calculated level of 1,1,1-trichloroethane which it placed on the market or used for its own account in 1989,

— the calculated level of 1,1,1-trichloroethane which it places on the market or uses for its own account in the period 1 January to 31 December 1994 and in the following 12-month period does not exceed 50 % of the calculated level of 1,1,1-trichloroethane which it placed on the market or used for its own account in 1989,

— it does not place on the market or use for its own account 1,1,1-trichloroethane after 31 December 1995.

The Commission, in accordance with the procedure set out in Article 16, shall determine any quantities of 1,1,1-trichloroethane that could be placed on the market or used for its own account by each producer after 31 December 1995 for the purpose of essential uses.

6. Subject to the provisions of paragraph 10, each producer shall ensure that:

— the calculated level of methyl bromide which it places on the market or uses for its own account in the period 1 January to 31 December 1995 does not exceed the calculated level of methyl bromide which it placed on the market or used for its own account in 1991,

— the calculated level of methyl bromide which it places on the market or uses for its own account in the period 1 January to 31 December 1996 and in each 12-month period thereafter does not exceed 75 % of the calculated level of methyl bromide which it placed on the market or used for its own account in 1991.

7. Subject to the provisions of paragraph 10, each producer shall ensure that it does not place on the market or use for its own account hydrobromofluorocarbons after 31 December 1995.

The Commission, in accordance with the procedure set out in Article 16, shall determine any quantities of hydrobromofluorocarbons that could be placed on the market or used for his own account by each producer after 31 December 1995 for the purpose of essential uses.

8. Subject to the provisions of paragraph 10, each producer shall ensure that:

— the calculated level of hydrochlorofluorocarbons which it places on the market or uses for its own account in the period 1 January to 31 December 1995 and in each 12-month period thereafter does not exceed the sum of:

  — 2,5 % of its calculated level of chlorofluorocarbons which it placed on the market or used for its own account in 1989, and

  — its calculated level of hydrochlorofluorocarbons which it placed on the market of used for its own account in 1989,

— the calculated level of hydrochlorofluorocarbons which it places on the market or uses for its own account in the period 1 January to 31 December 2000 and in each 12-month period thereafter does not exceed 75 % of the sum referred to in the first indent,

— the calculated level of hydrochlorofluorocarbons which it places on the market or uses for its own account in the period 1 January to 31 December 2004 and in each 12-month period thereafter does not exceed 40 % of the sum referred to in the first indent,

— the calculated level of hydrochlorofluorocarbons which it places on the market or uses for its own account in the period 1 January to 31 December 2008 and in each 12-month period thereafter does not exceed 20 % of the sum referred to in the first indent,

— the calculated level of hydrochlorofluorocarbons which it places on the market or uses for its own account in the period 1 January to 31 December 2012 and in each 12-month period thereafter does not exceed 5 % of the sum referred to in the first indent,

— it does not place on the market or use for its own account hydrochlorofluorocarbons after 31 December 2014.

By way of derogation from this paragraph, an individual producer may be permitted to exceed the above levels on the conditions laid down in paragraph 10.

9. The quantities referred to in paragraphs 1 to 8 apply to the amounts of virgin substances which the producer places on the market or uses for its own account within the Community from Community production or releases into free circulation from imports into the Community.

10. Any producer having the right to place on the market or use for its own account the substances referred to in this Article may transfer its right in respect of all or any quantities fixed in accordance with this Article to any other producer within the Community. The producer acquiring the right shall immediately notify the Commission. A transfer of the right to place on the market or use does not imply an additional right to produce.

At the request of a producer, the Commission may adopt measures to respond to any shortfalls in its right to place on the market or use for its own account hydrochlorofluorocarbons to the extent permitted by the Protocol.

*Article 5*

**Control of use of hydrochlorofluorocarbons**

1. Commencing on the first day of the sixth month following the entry into force of this Regulation, the use of hydrochlorofluorocarbons shall be banned, except

— as solvents,

— as refrigerants,

— for the production of plastic foams,

— in laboratory uses, including research and development, and

— in the medical field.

2. With effect from 1 January 1995, the use of hydrochlorofluorocarbons shall be banned

— in aerosol containers,

— in non-contained solvent uses including open-top cleaners and open-top dewatering systems, aerosols, adhesives, mould release agent and drain cleaning,

— as refrigerants in open equipment,

— as refrigerants in home refrigeration equipment, automotive and passenger transport air conditioning, in public and distribution cold stores and warehouses, and in industrial food processing, cooling and freezing within industrial installations if produced after 31 December 1994,

— for the production of flexible or rigid non-insulating foams except for the production of integral skin foams for safety applications, and

— as sterilants.

3. The Commission, in accordance with the procedure set out in Article 16 shall define the areas of application referred to in paragraphs 1 and 2 and may, in the light of technical progress, amend the list set out in paragraph 2.

4. Without prejudice to the provisions of Council Directive 83/189/EEC [1], Member States shall notify the drafts of the measures they intend to adopt to the Commission in order to allow it to examine them in the light of existing provisions and, if required, to ask Member States to suspend their adoption.

[1] OJ No L 109, 26. 4. 1983, p. 8.

CHAPTER III

**TRADE REGIME**

*Article 6*

**Licence to import from third countries**

1. The release into free circulation in the Community of controlled substances which are subject to the quotas referred to in Article 7 shall be subject to presentation of an import licence, be the substances virgin, used or recycled. This licence shall be issued by the Commission upon verification of the respect of Articles 6, 7, 8 and 12. The Commission shall forward a copy of this licence to the competent authority of the Member State into which the importation is expected to take place. To this end, each Member State shall determine its competent authority.

2. A request for a licence shall contain:

(a) the name and the address of the importer and the exporter;

(b) the country of exportation;

(c) the description of each controlled substance stating:

— the commercial description,

— the heading and the CN code,

— the nature of the substance (virgin, used or recycled),

— the quantity of the substance in kilograms;

(d) a statement of the purpose of the proposed import (destruction by technologies approved by the Parties, recycling, feedstock use or other use of the controlled substance);

(e) the place and date of proposed importation, if known.

*Article 7*

**Importation from third countries of controlled substances**

1. Without prejudice to Article 4 (9) and unless the substances are used, recycled or destined for destruction by a technology approved by the Parties or for feedstock use in the manufacture of other chemicals, the release into free circulation in the Community of controlled substances imported from third countries shall be subject to quantitative limits.

2. The Community shall open the quotas set out in Annex II, which shall be applicable for each 12-month period laid down in that Annex, and allocate them to undertakings in accordance with the procedure set out in Article 16.

3. The Commission, in accordance with the procedure set out in Article 16, may modify the quotas set out in Annex II.

*Article 8*

**Importation from non-Parties of controlled substances**

1. The release into free circulation in the Community of virgin, used or recycled chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride or 1,1,1-trichloroethane imported from any State which is not a Party shall be prohibited.

2. Commencing one year after the date of the entry into force of the amendment to the Protocol as adopted by the Parties in Copenhagen, the release into free circulation in the Community of virgin, used or recycled hydrobromofluorocarbons imported from any State which is not a Party shall be prohibited. The Commission shall publish the date of the entry into force of this amendment in the *Official Journal of the European Communities.*

*Article 9*

**Importation from non-Parties of products containing controlled substances**

1. Subject to the decision referred to in paragraph 4, the release into free circulation in the Community of products imported from any State which is not a Party containing chlorofluorocarbons or halons shall be prohibited.

2. Subject to the decision referred to in paragraph 4, the release into free circulation in the Community of products imported from any State which is not a Party containing other fully halogenated chlorofluorocarbons, carbon tetrachloride or 1,1,1-trichloroethane shall be prohibited.

3. Subject to the decision referred to in paragraph 4, the release into free circulation in the Community of products imported from any State which is not a Party containing hydrobromofluorocarbons shall be prohibited.

4. The Commission, in accordance with the procedure set out in Article 16, shall adopt the lists of the products referred to in paragraphs 1, 2 and 3 in the light of the lists established by the Parties.

*Article 10*

**Importation from non-Parties of products produced with controlled substances**

In the light of the decision of the Parties, the Council, on a proposal from the Commission, shall adopt rules applicable to the release into free circulation in the Community of products imported from any State which is not a Party which are produced with controlled substances but which do not contain these substances. The Council shall act by a qualified majority.

*Article 11*

**Exportation to non-Parties of controlled substances**

1. The exportation from the Community of virgin, used or recycled chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride or 1,1,1-trichloroethane to any State which is not a Party shall be prohibited.

2. Commencing one year after the date published in the *Official Journal of the European Communities* pursuant to Article 8 (2), the exportation from the Community of virgin, used or recycled hydrobromofluorocarbons to any State which is not a Party shall be prohibited.

*Article 12*

**Exceptional authorization to trade with non-Parties**

By derogation from Article 8, Article 9 (1), (2) and (3) and Article 11, the trade of controlled substances, as well as products which contain and/or are produced with one or several of these substances, with any non-Party may be permitted by the Commission, to the extent that the non-Party is determined by a meeting of the Parties to be in full compliance with Article 2, Articles 2 a to 2 e, Article 2 g and Article 4 of the Protocol and has submitted data to that effect as specified in Article 7 of the Protocol. The Commission shall act in accordance with the procedure set out in Article 16.

*Article 13*

**Trade with territories not covered by the Protocol**

The trade of controlled substances as well as products which contain and/or are produced with one or several substances with a territory not covered by the Protocol is prohibited according to the provisions of Article 8, Article 19 (1) and Article 11.

In accordance with the procedure set out in Article 16, the Commission may derogate from the rule referred to in the first paragraph to the extent that the authorities of the territories in question provide guarantees which the Commission is satisfied are equivalent to those set out in Article 12.

CHAPTER IV

EMISSIONS CONTROL

*Article 14*

**Recovery of used controlled substances**

Commencing on the first day of the fourth month following the date of the entry into force of this Regulation, chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride,

1,1,1-trichloroethane, hydrobromofluorocarbons and hydrochlorofluorocarbons contained in

— stationary commercial and industrial refrigeration equipment and air conditioning,

— mobile refrigeration and mobile air-conditioning equipment,

— fire protection systems, and

— cleaning machinery containing solvents

shall be recovered as appropriate for destruction by technologies approved by the Parties or for recycling purposes during the servicing and maintenance of equipment as well as prior to equipment dismantling or disposal.

The Commission, in accordance with the procedure set out in Article 16, shall define the areas of application referred to in the first paragraph.

*Article 15*

**Leakages of controlled substances**

Commencing on the first day of the fourth month following the date of the entry into force of this Regulation, all precautionary measures should be taken to avoid leakages of chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, hydrobromofluorocarbons and hydrochlorofluorocarbons from commercial and industrial air-conditioning and refrigeration equipment during manufacture, installation, operation and servicing.

CHAPTER V

**MANAGEMENT, DATA REPORTING AND FINAL PROVISIONS**

*Article 16*

**Management**

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

The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the committee, they shall be communicated by the Commission to the Council forthwith. In that event, the Commission may defer application of the measures which it has decided for a period of not more than one month from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within the limit referred to in the third paragraph.

*Article 17*

**Data reporting**

1. Each producer, importer and/or exporter of controlled substances shall communicate to the Commission, with a copy to the competent authority of the Member State concerned, not later than 31 March of any year, beginning in 1995, its:

— total production,

— increase in production in terms of Article 3 (8) to satisfy basic domestic needs of Parties operating under Article 5 of the Protocol,

— increase in production in terms of Article 3 (9), (10) and (11) upon authorized industrial rationalizations,

— quantities recycled,

— quantities destroyed in accordance with technologies approved by the Parties,

— stocks,

— release into free circulation in the Community of imported virgin substances, separately from Parties and non-Parties,

— exports of production from the Community, separately to Parties and non-Parties,

— exports of recycled quantities from the Community, separately to Parties and non-Parties,

— production placed on the market or used for the producer's own account inside the Community,

— recycled quantities placed on the market or used for the undertaking's own account inside the Community,

— amounts used for feedstocks,

of each of the controlled substances in respect of the previous period 1 January to 31 December.

Notwithstanding these obligations, the communication referred to in this paragraph for the period 1 January to 31 December 1993 shall be done not later than the last day of the fourth month following the date of the entry into force of this Regulation.

2. Each producer, importer and/or exporter of methyl bromide in 1991 shall communicate to the Commission, with a copy to the competent authority of the Member State concerned, the data referred to in paragraph 1 in respect of that year not later than the last day of the fourth month following the date of the entry into force of this Regulation.

3. The Commission shall take the appropriate measures to protect the confidentiality of the data submitted.

*Article 18*

**Inspection**

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

2. When sending a request for information to an undertaking the Commission shall at the same time forward a copy of the request to the competent authority of the Member State is whose territory the seat of the undertaking is situated, together with a statement of why this information is required.

3. The competent authorities of the Member States shall undertake the investigations which the Commission considers to be necessary under this Regulation.

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

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

*Article 19*

**Sanctions**

Each Member State shall determine the penalties to be imposed in the event of failure to comply with this Regulation or with any national measures taken to secure its implementation; such penalties shall be effective, shall be commensurate with their purpose and shall have adequate deterrent effect.

*Article 20*

Regulation (EEC) No 594/91 is repealed.

*Article 21*

**Entry into force**

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities.*

This Regulation shall be binding in its entirety and directly applicable in all Member States.

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*ANNEX I*

**Substances covered by the Regulation**

| Group | Substance | | Ozone-depleting potential (1) |
|---|---|---|---|
| Group I | $CFCl_3$ | (CFC-11) | 1,0 |
| | $CF_2Cl_2$ | (CFC-12) | 1,0 |
| | $C_2F_3Cl_3$ | (CFC-113) | 0,8 |
| | $C_2F_4Cl_2$ | (CFC-114) | 1,0 |
| | $C_2F_5Cl$ | (CFC-115) | 0,6 |
| Group II | $CF_3Cl$ | (CFC-13) | 1,0 |
| | $C_2FCl_5$ | (CFC-111) | 1,0 |
| | $C_2F_2Cl_4$ | (CFC-112) | 1,0 |
| | $C_3FCl_7$ | (CFC-211) | 1,0 |
| | $C_3F_2Cl_6$ | (CFC-212) | 1,0 |
| | $C_3F_3Cl_5$ | (CFC-213) | 1,0 |
| | $C_3F_4Cl_4$ | (CFC-214) | 1,0 |
| | $C_3F_5Cl_3$ | (CFC-215) | 1,0 |
| | $C_3F_6Cl_2$ | (CFC-216) | 1,0 |
| | $C_3F_7Cl$ | (CFC-217) | 1,0 |

| Group | Substance | | Ozone-depleting potential (1) |
|---|---|---|---|
| Group III | $CF_2BrCl$ | (halon-1211) | 3,0 |
| | $CF_3Br$ | (halon-1301) | 10,0 |
| | $C_2F_4Br_2$ | (halon-2402) | 6,0 |
| Group IV | $CCl_4$ | (carbon tetrachloride) | 1,1 |
| Group V | $C_2H_3Cl_3$ (2) | (1,1,1-trichloroethane) | 0,1 |
| Group VI | $CH_3Br$ | (methyl bromide) | 0,7 |
| Group VII | $CHFBr_2$ | | 1,00 |
| | $CHF_2Br$ | | 0,74 |
| | $CH_2FBr$ | | 0,73 |
| | $C_2HFBr_4$ | | 0,8 |
| | $C_2HF_2Br_3$ | | 1,8 |
| | $C_2HF_3Br_2$ | | 1,6 |
| | $C_2HF_4Br$ | | 1,2 |
| | $C_2H_2FBr_3$ | | 1,1 |
| | $C_2H_2F_2Br_2$ | | 1,5 |
| | $C_2H_2F_3Br$ | | 1,6 |
| | $C_2H_3FBr_2$ | | 1,7 |
| | $C_2H_3F_2Br$ | | 1,1 |
| | $C_2H_4FBr$ | | 0,1 |
| | $C_3HFBr_6$ | | 1,5 |
| | $C_3HF_2Br_5$ | | 1,9 |
| | $C_3HF_3Br_4$ | | 1,8 |
| | $C_3HF_4Br_3$ | | 2,2 |
| | $C_3HF_5Br_2$ | | 2,0 |
| | $C_3HF_6Br$ | | 3,3 |
| | $C_3H_2FBr_5$ | | 1,9 |
| | $C_3H_2F_2Br_4$ | | 2,1 |
| | $C_3H_2F_3Br_3$ | | 5,6 |
| | $C_3H_2F_4Br_2$ | | 7,5 |
| | $C_3H_2F_5Br$ | | 14 |
| | $C_3H_3FBr_4$ | | 1,9 |
| | $C_3H_3F_2Br_3$ | | 3,1 |
| | $C_3H_3F_3Br_2$ | | 2,5 |
| | $C_3H_3F_4Br$ | | 4,4 |
| | $C_3H_4FBr_3$ | | 0,3 |
| | $C_3H_4F_2Br_2$ | | 1,0 |
| | $C_3H_4F_3Br$ | | 0,8 |
| | $C_3H_5FBr_2$ | | 0,4 |
| | $C_3H_5F_2Br$ | | 0,8 |
| | $C_3H_6FBr$ | | 0,7 |
| Gruppe VIII | $CHFCl_2$ | (HCFC-21) | 0,04 |
| | $CHF_2Cl$ | (HCFC-22) | 0,055 |
| | $CH_2FCl$ | (HCFC-31) | 0,02 |
| | $C_2HFCl_4$ | (HCFC-121) | 0,04 |
| | $C_2HF_2Cl_3$ | (HCFC-122) | 0,08 |
| | $C_2HF_3Cl_2$ | (HCFC-123) | 0,06 |
| | $C_2HF_4Cl$ | (HCFC-124) | 0,04 |
| | $C_2H_2FCl_3$ | (HCFC-131) | 0,05 |
| | $C_2H_2F_2Cl_2$ | (HCFC-132) | 0,05 |
| | $C_2H_2F_3Cl$ | (HCFC-133) | 0,06 |
| | $C_2H_3FCl_2$ | (HCFC-141) | 0,07 |
| | $C_2H_3F_2Cl$ | (HCFC-142) | 0,07 |
| | $C_2H_4FCl$ | (HCFC-151) | 0,005 |
| | $C_3HFCl_6$ | (HCFC-221) | 0,07 |
| | $C_3HF_2Cl_5$ | (HCFC-222) | 0,09 |
| | $C_3HF_3Cl_4$ | (HCFC-223) | 0,08 |
| | $C_3HF_4Cl_3$ | (HCFC-224) | 0,09 |
| | $C_3HF_5Cl_2$ | (HCFC-225) | 0,07 |

| Group | Substance | | Ozone-depleting potential (1) |
|---|---|---|---|
| Group VIII *(cont.)* | $C_3HF_6Cl$ | (HCFC-226) | 0,10 |
| | $C_3H_2FCl_5$ | (HCFC-231) | 0,09 |
| | $C_3H_2F_2Cl_4$ | (HCFC-232) | 0,10 |
| | $C_3H_2F_3Cl_3$ | (HCFC-233) | 0,23 |
| | $C_3H_2F_4Cl_2$ | (HCFC-234) | 0,28 |
| | $C_3H_2F_5Cl$ | (HCFC-235) | 0,52 |
| | $C_3H_3FCl_4$ | (HCFC-241) | 0,09 |
| | $C_3H_3F_2Cl_3$ | (HCFC-242) | 0,13 |
| | $C_3H_3F_3Cl_2$ | (HCFC-243) | 0,12 |
| | $C_3H_3F_4Cl$ | (HCFC-244) | 0,14 |
| | $C_3H_4FCl_3$ | (HCFC-251) | 0,01 |
| | $C_3H_4F_2Cl_2$ | (HCFC-252) | 0,04 |
| | $C_3H_4F_3Cl$ | (HCFC-253) | 0,03 |
| | $C_3H_5FCl_2$ | (HCFC-261) | 0,02 |
| | $C_3H_5F_2Cl$ | (HCFC-262) | 0,02 |
| | $C_3H_6FCl$ | (HCFC-271) | 0,03 |

(1) These ozone-depleting potentials are estimates based on existing knowledge and will be reviewed and revised periodically in the light of decisions taken by the Parties to the Montreal Protocol on substances that deplete the ozone layer.

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

*ANNEX II*

**Quantitative limits on imports from third countries**

(calculated levels expressed in tonnes)

| Substance | Group I | Group II | Group III | Group IV | Group V | Group VI (% of 1991 imports) (1) | Group VII | Group VIII |
|---|---|---|---|---|---|---|---|---|
| For 12-month periods from 1 January to 31 December | | | | | | | | |
| 1993 | 1 161 | 14 | 700 | 1 288 | 2 378 | | | |
| 1994 | 348 | 4 | 0 | 386 | 1 189 | | | |
| 1995 | 0 | 0 | | 0 | 1 189 | 100 % | | 60 |
| 1996 | | | | | 0 | 75 % | 0 | 60 |
| 1997 | | | | | | 75 % | | 60 |
| 1998 | | | | | | 75 % | | 60 |
| 1999 | | | | | | 75 % | | 60 |
| 2000 | | | | | | 75 % | | 45 |
| 2001 | | | | | | 75 % | | 45 |
| 2002 | | | | | | 75 % | | 45 |
| 2003 | | | | | | 75 % | | 45 |
| 2004 | | | | | | 75 % | | 24 |
| 2005 | | | | | | 75 % | | 24 |
| 2006 | | | | | | 75 % | | 24 |
| 2007 | | | | | | 75 % | | 24 |
| 2008 | | | | | | 75 % | | 12 |
| 2009 | | | | | | 75 % | | 12 |
| 2010 | | | | | | 75 % | | 12 |
| 2011 | | | | | | 75 % | | 12 |
| 2012 | | | | | | 75 % | | 3 |
| 2013 | | | | | | 75 % | | 3 |
| 2014 | | | | | | 75 % | | 3 |
| 2015 | | | | | | 75 % | | 0 |
| and thereafter | | | | | | 75 % | | |

(1) These percentages will be replaced by absolute figures as soon as these figures are available. They will be published by the Commission in the *Official Journal of the European Communities.*

*ANNEX III*

**Codes and descriptions of the combined nomenclature for the substances referred to in Annexes I and II**

| CN code | Description |
|---|---|
| 2903 40 10 | --- Trichlorofluoromethane |
| 2903 40 20 | --- Dichlorodifluoromethane |
| 2903 40 30 | --- Trichlorotrifluoroethane |
| 2903 40 40 | --- Dichlorotetrafluoroethane |
| 2903 40 50 | --- Chloropentafluoroethane |
| ex 2903 40 61 | ---- Chlorotrifluoromethane, pentachlorofluoroethane, tetrachlorodifluoroethane, heptachlorofluoropropane, hexachlorodifluoropropane, pentachlorotrifluoropropane, tetrachlorotetrafluoropropane, trichloropentafluoropropane, dichlorohexafluoropropane or chloroheptafluoropropane |
| 2903 40 70 | --- Bromotrifluoromethane |
| 2903 40 80 | --- Dibromotetrafluoroethane |
| 2903 40 91 | --- Bromochlorodifluoromethane |
| 2903 14 00 | -- Carbon tetrachloride |
| 2903 19 10 | --- 1,1,1-trichloroethane |
| ex 3823 90 96 | ---- Mixtures containing products falling within codes 2903 40 10, 2903 40 20, 2903 40 30, 2903 40 40, 2903 40 50 or 2903 40 61 |
| ex 3823 90 97 | ---- Mixtures containing products falling within codes 2903 40 70, 2903 40 80, 2903 40 91 or 3823 90 96 |
| ex 3823 90 98 | --- Mixtures containing products falling within codes 2903 14 00 or 2903 19 10 |