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Regulation (EC) No 1005/2009 of the European Parliament and of the Council

of 16 September 2009

on substances that deplete the ozone layer

(recast)

(Text with EEA relevance)

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Regulation (EC) No 1005/2009 of the European Parliament and of the Council

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(recast)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175(1) thereof,

Having regard to the proposal from the Commission,

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

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

(1) Regulation (EC) No 2037/2000 of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer has been substantially amended several times. Since further amendments are to be made, it should be recast in the interests of clarity.

(2) It is established that continued emissions of ozone-depleting substances (ODS) cause significant damage to the ozone layer. There is clear evidence of a decrease in the atmospheric burden of ODS and some early signs of stratospheric ozone recovery have been observed. However, the recovery of the ozone layer to the concentrations level existing before 1980 is not projected to take place before the middle of the 21st century. Increased UV-B radiation resulting from ozone depletion therefore persists as a significant threat to health and environment. At the same time, most of these substances have high global warming potential and are contributory factors towards increasing the temperature of the planet. Further efficient measures need therefore to be taken in order to protect human health and the environment against adverse effects resulting from such emissions and to avoid risking further delay in the recovery of the ozone layer.

(3) In view of its responsibilities for the environment and trade, the Community, pursuant to Council Decision 88/540/EEC, has become a Party to the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer (hereinafter ‘the Protocol’).

(4) Many ODS are greenhouse gases but are not controlled under the United Nations Framework Convention for Climate Change and its Kyoto Protocol on the assumption that the Protocol will phase out ODS. Despite progress made by the Protocol, the task of phasing out ODS still needs to be completed in the European Union and globally, whilst bearing in mind that at present many alternatives to ODS have a high global warming potential. It is therefore necessary to minimise and eliminate the production and use of ODS wherever technically feasible alternatives with low global warming potential are available.

(5) Additional measures for the protection of the ozone layer were adopted by the Parties to the Protocol, most recently at their meeting in Montreal in September 2007 and in Doha in November 2008. It is

necessary for action to be taken at Community level to comply with the Community's obligations under the Protocol and in particular to implement the accelerated phase out of hydrochlorofluorocarbons with due consideration to the risks of phasing in alternatives with high global warming potential.

(6) Following the concerns stated in the 2006 Report of the Scientific Assessment Panel related to the accelerating growth of production and consumption of hydrochlorofluorocarbons in developing countries, the Parties to the Protocol in 2007 adopted Decision XIX/6 at their 19th Meeting providing for an accelerated phase-out schedule for hydrochlorofluorocarbons. Following that Decision the production phase-out date should be brought forward from 2025 to 2020.

(7) Under Regulation (EC) No 2037/2000, as from 2010, virgin hydrochlorofluorocarbons can no longer be used for the maintenance or servicing of refrigeration and air conditioning equipment. In order to minimise the risk of illegal use of virgin hydrochlorofluorocarbons as recycled or reclaimed material, only reclaimed or recycled material should be used in maintenance or servicing operations. The re-selling of recycled hydrochlorofluorocarbons should be prohibited, and recycled hydrochlorofluorocarbons should only be used when recovered from such equipment and only by the undertaking which carried out or mandated the recovery. For consistency this exemption should also apply to heat pump equipment.

(8) In view of the wide availability of technologies and alternative substances for replacing ODS, it is appropriate in certain cases to provide for control measures which are stricter than those provided for in Regulation (EC) No 2037/2000 and stricter than those in the Protocol.

(9) Under Regulation (EC) No 2037/2000 the production and placing on the market of chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride, 1,1,1-trichloroethane, hydrobromofluorocarbons, bromochloromethane and methyl bromide have been phased out and the placing on the market of those substances and of products and equipment containing those substances is thus prohibited. It is now also appropriate to progressively generalise the ban on the use of those substances for the maintenance or servicing of such equipment.

(10) Even after the phase out of controlled substances the Commission should, under certain conditions, grant exemptions for essential laboratory and analytical uses. In particular, Decision X/14 of the Parties to the Protocol establishes criteria for granting of exemptions for those uses. The Commission should be empowered to establish conditions for essential laboratory and analytical uses. To avoid an increase in the quantities used for these purposes, producers and importers should not be allowed to significantly increase the quantities placed on the market. Specific conditions decided by the Parties for the placing on the market of substances for those uses should be integrated into this Regulation to ensure compliance with them.

(11) The availability of alternatives to methyl bromide has been reflected in more substantial reductions in its production and consumption compared to the Protocol, as well as in Commission Decision 2008/753/EC of 18 September 2008 concerning the non-inclusion of methyl bromide in Annex I to Council Directive 91/414/EEC and the withdrawal of authorisations for plant protection products containing that substance and in Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market. The exemption for critical uses of methyl bromide should cease completely whilst temporarily allowing the possibility to grant a derogation in emergency situations in the case of unexpected pests or disease outbreaks where such emergency use is to be permitted under Council Directive 91/414/EEC of 15 July 1991 concerning the placing of plant protection products on the market and Directive 98/8/EC. In such cases measures to minimise emissions, such as the use of virtually impermeable films for soil fumigation, should be specified.

(12) In view of Commission Regulation (EC) No 2032/2003 of 4 November 2003 on the second phase of the 10-year work programme referred to in Article 16(2) of Directive 98/8/EC of the European Parliament and of the Council concerning the placing of biocidal products on the market, which banned the use of methyl bromide as a biocide by 1 September 2006, and Decision 2008/753/EC, which banned the use of methyl bromide as a plant protection product by 18 March 2010, the use of methyl bromide for quarantine and pre-shipment applications should also be banned by 18 March 2010.

(13) The Protocol, in Article 2F(7), requires the Parties to endeavour to ensure that the use of hydrochlorofluorocarbons is limited to those applications where more environmentally suitable alternative substances or technologies are not available. In view of the availability of alternative and substitute technologies, the placing on the market and use of hydrochlorofluorocarbons as well as of products and equipment containing or relying on hydrochlorofluorocarbons can be further limited. Decision VI/13 of the Parties to the Protocol provides that the evaluation of alternatives to

hydrochlorofluorocarbons should take into account such factors as ozone-depleting potential, energy efficiency, potential flammability, toxicity, global warming potential and the potential impacts on the effective use and phase out of chlorofluorocarbons and halons. The Parties concluded in that decision that hydrochlorofluorocarbon controls under the Protocol should be considerably tightened to protect the ozone layer and to reflect the availability of alternatives.

(14) Control measures regarding products and equipment containing controlled substances should be extended to products and equipment relying on those substances in order to prevent circumventions of the restrictions under this Regulation. By covering additionally products and equipment for which the design, the use or the proper functioning requires the presence of a controlled substance, a potential opportunity to place on the market, import or export products or equipment which do not contain controlled substances at that moment, but which would have to be refilled at a later date, is eliminated. Furthermore, exemptions for products and equipment manufactured before the entry into force of the control measures should be removed as they are no longer relevant and might constitute a risk of illegal placing on the market or trade.

(15) Controlled substances as well as products and equipment containing or relying on controlled substances from States not party to the Protocol should not be imported. Furthermore, the export of products and equipment containing or relying on hydrochlorofluorocarbons after the entry into force of a ban on use of those products and equipment or of controlled substances for their maintenance or servicing in the Community should be prohibited in order to avoid the building-up of banks of those substances in countries where sufficient destruction facilities are not available.

(16) The licensing system for controlled substances includes the authorisation of exports of controlled substances, in order to improve the monitoring of and control of trade in ODS and to allow for exchange of information between Parties. That licensing system should be extended to products and equipment containing or relying on controlled substances.

(17) To improve the monitoring and control of trade the licensing should cover not only the entry of goods into the customs territory for release for free circulation in the Community but also the entry under other customs procedures or for customs-approved treatments and uses. Transit through the customs territory of the Community, temporary storage, customs warehousing and the free zone procedure should still be possible without licensing in order to avoid unnecessary burdens on operators and customs authorities. Shipments to or from a territory of a Member State that is not part of the customs territory of the Community or not covered by this Regulation, but which is covered by the Member State’s ratification of the Protocol should not create unnecessary burdens to Member States in relation to licensing and reporting provided that the obligations of this Regulation and the Protocol are complied with.

(18) Before issuing import and export licences the Commission should be enabled to verify with the competent authorities of the third country concerned whether the intended transaction would comply with the requirements applicable in that country, in order to avoid illegal and unwanted trade.

(19) Council Directive 67/548/EEC of 27 June 1967 on the approximation of laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances, Directive 1999/45/EC of the European Parliament and of the Council of 31 May 1999 concerning the approximation of the laws, regulations and administrative provisions of the Member States relating to the classification, packaging and labelling of dangerous preparations and Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures provide for the labelling of substances classified as ODS and the labelling of mixtures containing such substances. As ODS produced for feedstock, process agent, laboratory and analytical uses can be released for free circulation in the Community, they should be distinguished from those substances produced for other uses, in order to avoid any diversions of controlled substances intended for feedstock, as a process agent or for laboratory and analytical uses to other uses which are controlled under this Regulation. Furthermore, in order to inform end users and to facilitate the enforcement of this Regulation also products and equipment containing or relying on such substances should be so labelled during maintenance or servicing.

(20) To reduce the release of controlled substances into the atmosphere, provision should be made for the recovery of used controlled substances and the prevention of leakages of controlled substances.

(21) The Protocol requires reporting on trade in ODS. Annual reporting should therefore be required from producers, importers and exporters of controlled substances. In order to enable the Commission to streamline the reporting procedures to comply with the Protocol and avoid duplications in the process, destruction facilities should also report directly to the Commission. To ensure compliance with

reporting obligations under the Protocol and to improve their practical application the Commission should be empowered to modify the reporting requirements for Member States and undertakings. In view of the envisaged development of Internet-based reporting tools the Commission should, as appropriate, draft measures to adapt the reporting requirements as soon as the relevant reporting tools are in place.

(22) The protection of individuals with regard to the processing of personal data by the Member States is governed by Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and the protection of individuals with regard to the processing of personal data by the Commission is governed by Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data in particular as regards the requirements of confidentiality and security of processing, the transfer of personal data from the Commission to the Member States, the lawfulness of processing, and the rights of data subjects to information, access to and rectification of their personal data.

(23) Member States should carry out inspections, taking a risk-based approach in order to ensure compliance with all provisions of this Regulation and thus targeting those activities representing the highest risk of illegal trade or emission of controlled substances. Recommendation 2001/331/EC of the European Parliament and of the Council of 4 April 2001 providing for minimum criteria for environmental inspections in the Member States should provide guidance for the carrying out of inspections by Member States.

(24) In view of the continuing innovation in the sectors covered by this Regulation, the Commission should regularly review this Regulation and, if appropriate, make proposals, in particular on the exemptions and derogations provided for when technically and economically feasible alternatives to the use of controlled substances become available, to further strengthen the protection of the ozone layer and simultaneously reduce greenhouse gases emissions. In order to ensure compliance with the Protocol, the Commission should be empowered to align Annexes to this Regulation with decisions of the Parties, in particular with those concerning approved destruction methods, conditions for the placing on the market of controlled substances for essential laboratory and analytical uses, and processes in which controlled substances may be used as process agents.

(25) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission.

(26) In particular, the Commission should be empowered to determine the form and content of labels for controlled substances produced, placed on the market or used as feedstock, as process agent or for laboratory and analytical uses; to amend Annex III on processes for which controlled substances may be used as process agents; to amend the maximum amount of controlled substances that may be used as process agents or emitted from process agents uses; to amend Annex V on conditions for placing on the market and further distribution of controlled substances for laboratory and analytical uses; to determine a mechanism for the allocation of quotas for controlled substances for laboratory and analytical uses; to amend Annex VI; to adopt modifications and time frames for the phasing out of the critical uses of halons; to amend the list of items required to be stated in an application for a licence; to adopt additional monitoring measures on trade in controlled substances or new substances and of products and equipment containing or relying on controlled substances; to adopt rules applicable to the release for free circulation in the Community of products and equipment imported from any State not party to the Protocol which were produced using controlled substances; to amend Annex VII on destruction technologies; to establish a list with products and equipment for which the recovery for destruction or destruction without prior recovery of controlled substances should be considered technically and economically feasible and therefore mandatory; to adopt minimum qualification requirements for personnel; to establish a list of technologies and practices to be used by undertakings to prevent and minimise any leakage and emission of controlled substances; to include new substances in Annex II and to amend reporting requirements for Member States and undertakings. Since those measures are of general scope and are designed to amend non-essential elements of this Regulation, inter alia, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

(27) Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste and Council Directive 91/689/EEC of 12 December 1991 on hazardous waste provide for measures on the environmentally sound disposal and recovery of waste and controls on hazardous waste. In this regard,

special attention should be paid to ODS in construction and demolition waste and in equipment falling within the scope of Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment (WEEE). In accordance with the Protocol only technologies approved by the Parties may be applied to the destruction of controlled substances. The relevant decisions of the Parties should therefore be incorporated in this Regulation to ensure that only those technologies are applied, provided that their application is compatible with Community and national legislation on waste.

(28) A flexible mechanism should be established to introduce reporting obligations for substances identified as ozone depleting, to allow for assessing the magnitude of their environmental impact and to ensure that those new substances which have been identified as having a significant ozone-depleting potential are subject to control measures. In this context, special attention should be paid to the role of very short-lived substances, having regard, in particular, to the 2006 United Nations Environment Programme/World Meteorological Organisation (UNEP/WMO) ozone assessment, which concluded that the ozone-depleting potential of those substances is greater than previously assessed.

(29) Member States should lay down rules on penalties applicable to infringements of the provisions of this Regulation and ensure that they are implemented. Those penalties should be effective, proportionate and dissuasive.

(30) Since the objectives of this Regulation, namely to ensure compliance with the Community's obligations as party to the Protocol and to address a transboundary environmental problem with global impact whilst regulating intra-Community and external trade in ODS and products and equipment containing or relying on those substances, cannot be sufficiently achieved by the Member States acting individually and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity, as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation lays down rules on the production, import, export, placing on the market, use, recovery, recycling, reclamation and destruction of substances that deplete the ozone layer, on the reporting of information related to those substances and on the import, export, placing on the market and use of products and equipment containing or relying on those substances.

Article 2

Scope

This Regulation shall apply to controlled substances, to new substances and to products and equipment containing or relying on controlled substances.

Article 3

Definitions

For the purposes of this Regulation:

1. ‘Protocol’ means the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer, as last amended and adjusted;

2. ‘Party’ means any party to the Protocol;

3. ‘State not party to the Protocol’ means, with respect to a particular controlled substance, any State or regional economic integration organisation that has not agreed to be bound by the provisions of the Protocol applicable to that substance;

4. ‘controlled substances’ means substances listed in Annex I, including their isomers, whether alone or in a mixture, and whether they are virgin, recovered, recycled or reclaimed;

5. ‘chlorofluorocarbons’ means the controlled substances listed in Group I of Annex I, including their isomers;

6. ‘halons’ means the controlled substances listed in Group III of Annex I, including their isomers;

7. ‘carbon tetrachloride’ means the controlled substance specified in Group IV of Annex I;

8. ‘methyl bromide’ means the controlled substance specified in Group VI of Annex I;

9. ‘hydrochlorofluorocarbons’ means the controlled substances listed in Group VIII of Annex I, including their isomers;

10. ‘new substances’ means substances listed in Annex II, whether alone or in a mixture, and whether they are virgin, recovered, recycled or reclaimed;

11. ‘feedstock’ means any controlled substance or new substance that undergoes chemical transformation in a process in which it is entirely converted from its original composition and whose emissions are insignificant;

12. ‘process agents’ means controlled substances used as chemical process agents in the applications listed in Annex III;

13. ‘producer’ means any natural or legal person producing controlled substances or new substances within the Community;

14. ‘production’ means the amount of controlled substances or new substances produced, including the amount produced, intentionally or inadvertently, as a by-product unless that by-product is destroyed as part of the manufacturing process or following a documented procedure ensuring compliance with this Regulation and the Community and national legislation on waste. No amount recovered, recycled or reclaimed shall be considered as ‘production’, nor shall any insignificant amount unavoidably incorporated in products in trace quantities or emitted during manufacturing;

15. ‘ozone-depleting potential’ or ‘ODP’ means the figure specified in Annexes I and II representing the potential effect of each controlled substance or new substance on the ozone layer;

16. ‘calculated level’ means a quantity determined by multiplying the quantity of each controlled substance by its ozone-depleting potential and by adding together, for each group of controlled substances in Annex I separately, the resulting figures;

17. ‘industrial rationalisation’ 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 optimising economic efficiency or responding to anticipated shortfalls in supply as a result of plant closures;

18. ‘import’ means the entry of substances, products and equipment covered by this Regulation into the customs territory of the Community as far as the territory is covered by a Member State’s ratification of the Protocol and this Regulation applies;

19. ‘export’ means the exit from the customs territory of the Community, in so far as the territory is covered by a Member State’s ratification of the Protocol and by this Regulation, of substances, products and equipment covered by this Regulation which have the status of Community goods or the re-export of

substances, products and equipment covered by this Regulation if they have the status of non-Community goods;

20. ‘placing on the market’ means the supplying or making available to third persons within the Community for payment or free of charge, and includes the release for free circulation in the Community as referred to in Regulation (EC) No 450/2008. In respect of products and equipment being part of immovable property or part of means of transport this refers only to the supplying or making available within the Community for the first time;

21. ‘use’ means the utilisation of controlled substances or new substances in the production, maintenance or servicing, including refilling, of products and equipment or in other processes;

22. ‘heat pump’ means a device or installation that extracts heat at low temperatures from air, water or earth and supplies heat;

23. ‘recovery’ means the collection and the storage of controlled substances from products and equipment or containers during maintenance or servicing or before disposal;

24. ‘recycling’ means the reuse of a recovered controlled substance following a basic cleaning process;

25. ‘reclamation’ means the reprocessing of a recovered controlled substance in order to meet the equivalent performance of a virgin substance, taking into account its intended use;

26. ‘undertaking’ means any natural or legal person which:

(a) produces, recovers, recycles, reclaims, uses or destroys controlled substances or new substances;

(b) imports such substances;

(c) exports such substances;

(d) places such substances on the market; or

(e) operates refrigeration, air conditioning or heat pump equipment, or fire protection systems, which contain controlled substances;

27. ‘quarantine applications’ means treatments to prevent the introduction, establishment or spread of quarantine pests (including diseases), or to ensure their official control, where:

- official control is that performed by, or authorised by, a national plant, animal or environmental protection or health authority,
- quarantine pests are pests of potential importance to the areas endangered thereby and not yet present there, or present but not widely distributed, and being officially controlled;

28. ‘pre-shipment applications’ means those non-quarantine applications applied no more than 21 days prior to export to meet the official requirements of the importing country or official requirements of the exporting country existing before 7 December 1995. Official requirements are those which are performed by, or authorised by, a national plant, animal, environmental, health or stored product authority;

29. ‘products and equipment relying on controlled substances’ means products and equipment which do not function without controlled substances, not including those products and equipment used for the production, processing, recovery, recycling, reclamation or destruction of controlled substances;

30. ‘virgin substances’ means substances which have not previously been used;

31. ‘products and equipment’ means all products and equipment except containers used for the transportation or storage of controlled substances.

CHAPTER II

PROHIBITIONS

Article 4

Production of controlled substances

The production of controlled substances shall be prohibited.

Article 5

Placing on the market and use of controlled substances

1. The placing on the market and the use of controlled substances shall be prohibited.

2. Controlled substances shall not be placed on the market in non-refillable containers, except for laboratory and analytical uses as referred to in Article 10 and Article 11(2).

3. This Article shall not apply to controlled substances in products and equipment.

Article 6

Placing on the market of products and equipment containing or relying on controlled substances

1. The placing on the market of products and equipment containing or relying on controlled substances shall be prohibited, with the exception of products and equipment for which the use of the respective controlled substance is authorised in accordance with Article 10, Article 11(2) or Article 13 or has been authorised on the basis of Article 3(1) of Regulation (EC) No 2037/2000.

2. Except for uses referred to in Article 13(1), fire protection systems and fire extinguishers containing halons shall be prohibited and shall be decommissioned.

CHAPTER III

EXEMPTIONS AND DEROGATIONS

Article 7

Production, placing on the market and use of controlled substances as feedstock

1. By way of derogation from Articles 4 and 5, controlled substances may be produced, placed on the market and used as feedstock.

2. Controlled substances produced or placed on the market as feedstock may only be used for that purpose. As of 1 July 2010, containers of such substances shall be labelled with a clear indication that the substance may only be used as feedstock. Where such substances are required to be labelled in accordance with Directive 67/548/EEC, Directive 1999/45/EC or Regulation (EC) No 1272/2008, such indication shall be included in the label referred to in those Directives or in the supplemental information part of the label as referred to in Article 25(3) of that Regulation.

The Commission may determine the form and content of the label to be used. Those measures, designed to amend non-essential elements of this Regulation, inter alia, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

Article 8

Production, placing on the market and use of controlled substances as process agents

1. By way of derogation from Articles 4 and 5, controlled substances may be produced, placed on the market and used as process agents.

2. Controlled substances may only be used as process agents in installations existing on 1 September 1997, and where emissions are insignificant.

3. Controlled substances produced or placed on the market as process agents may only be used for that purpose. As of 1 July 2010, containers of such substances shall be labelled with a clear indication that those substances may only be used as process agents. Where such substances are required to be labelled in accordance with Directive 67/548/EEC, Directive 1999/45/EC or Regulation (EC) No 1272/2008, such indication shall be included in the label referred to in those Directives or in the supplemental information part of the label as referred to in Article 25(3) of that Regulation.

The Commission may determine the form and content of the label to be used. Those measures, designed to amend non-essential elements of this Regulation, inter alia, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

4. The Commission shall, if appropriate, in accordance with the management procedure referred to in Article 25(2), establish a list of undertakings in which the use of controlled substances as process agents shall be permitted, laying down maximum quantities that may be used for make-up or for consumption as process agents and emission levels for each of the undertakings concerned.

The maximum amount of controlled substances that may be used as process agents within the Community shall not exceed 1 083 metric tonnes per year.

The maximum amount of controlled substances that may be emitted from process agent uses within the Community shall not exceed 17 metric tonnes per year.

5. In the light of new information or technical developments or decisions taken by the Parties, the Commission shall, if appropriate:

(a) amend Annex III;

(b) amend the maximum amount of controlled substances that may be used as process agents or emitted from process agent uses as referred to in the second and third subparagraphs of paragraph 4.

Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

Article 9

Placing on the market of controlled substances for destruction or reclamation and of products and equipment containing or relying on controlled substances for destruction

By way of derogation from Articles 5 and 6, controlled substances and products and equipment containing or relying on controlled substances may be placed on the market for destruction within the Community in accordance with the requirements for destruction referred to in Article 22(1). Controlled substances may also be placed on the market for reclamation within the Community.

Article 10

Essential laboratory and analytical uses of controlled substances other than hydrochlorofluorocarbons

1. By way of derogation from Articles 4 and 5, controlled substances other than hydrochlorofluorocarbons may be produced, placed on the market and used for essential laboratory and analytical uses, subject to registration and licensing in accordance with this Article.

2. The Commission shall, if appropriate, in accordance with the management procedure referred to in Article 25(2), determine any essential laboratory and analytical uses for which the production and import of controlled substances other than hydrochlorofluorocarbons may be permitted in the Community, the respective quantities, the period for which the exemption shall be valid and those users which may take advantage of those essential laboratory and analytical uses.

3. Controlled substances produced or placed on the market for essential laboratory and analytical uses may only be used for that purpose. As of 1 July 2010, containers containing such substances shall be labelled with a clear indication that the substance may only be used for laboratory and analytical uses. Where such substances are required to be labelled in accordance with Directive 67/548/EEC, Directive 1999/45/EC or Regulation (EC) No 1272/2008, such indication shall be included in the label referred to in those Directives or in the supplemental information part of the label as referred to in Article 25(3) of that Regulation.

The Commission may determine the form and content of the label to be used. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

Controlled substances referred to in the first subparagraph shall only be placed on the market and further distributed under the conditions set out in Annex V. The Commission may amend that Annex. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

4. Any undertaking using controlled substances other than hydrochlorofluorocarbons for essential laboratory and analytical uses shall register with the Commission, indicating the substances being used, the purpose, the estimated annual consumption and the suppliers of those substances, and shall update that information when changes occur.

5. By the date specified in a notice issued by the Commission, producers and importers supplying the undertaking referred to in paragraph 4 or using controlled substances for their own account shall declare to the Commission the foreseen demand for the period specified in the notice, specifying the nature and quantities of controlled substances needed.

6. The Commission shall issue licences to producers and importers of controlled substances, other than hydrochlorofluorocarbons, produced or imported for essential laboratory and analytical uses and shall notify them of the use for which they have authorisation and the substances and quantities thereof that they are authorised to place on the market or to use for their own account. The quantity annually authorised under licences for individual producers and importers shall not exceed 130 % of the annual average of the calculated level of controlled substances licensed for the producer or importer for essential laboratory and analytical uses in the years 2007 to 2009.

The total quantity annually authorised under licences, including licences for hydrochlorofluorocarbons under Article 11(2), shall not exceed 110 ODP tonnes. Remaining quantities may be allocated to producers and importers which did not place on the market or use controlled substances, for their own account for essential laboratory and analytical uses in the years 2007 to 2009.

The Commission shall determine a mechanism for the allocation of quotas to producers and importers. Those measures, designed to amend non-essential elements of this Regulation, inter alia, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

7. A producer may be authorised by the competent authority of the Member State in which that producer's relevant production is situated to produce the controlled substances referred to in paragraph 1 for the purpose of meeting the requests licensed in accordance with paragraph 6.

The competent authority of the Member State concerned shall notify the Commission in advance of its intention to issue any such authorisation.

8. To the extent permitted by the Protocol, the competent authority of the Member State in which a producer's relevant production is situated may authorise that producer to produce or to exceed the calculated levels of production laid down in paragraph 6 in order to satisfy any essential laboratory and analytical uses of Parties at their request.

The competent authority of the Member State concerned shall notify the Commission in advance of its intention to issue any such authorisation.

Article 11

Production, placing on the market and use of hydrochlorofluorocarbons and placing on the market of products and equipment containing or relying on hydrochlorofluorocarbons

1. By way of derogation from Article 4, hydrochlorofluorocarbons may be produced provided that each producer ensures the following:

(a) the calculated level of its production of hydrochlorofluorocarbons in the period from 1 January 2010 to 31 December 2010 and in each 12-month period thereafter until 31 December 2013 does not exceed 35 % of the calculated level of its production of hydrochlorofluorocarbons in 1997;

(b) the calculated level of its production of hydrochlorofluorocarbons in the period from 1 January 2014 to 31 December 2014 and in each 12-month period thereafter until 31 December 2016 does not exceed 14 % of the calculated level of its production of hydrochlorofluorocarbons in 1997;

(c) the calculated level of its production of hydrochlorofluorocarbons in the period from 1 January 2017 to 31 December 2017 and in each 12-month period thereafter until 31 December 2019 does not exceed 7 % of the calculated level of its production of hydrochlorofluorocarbons in 1997;

(d) it produces no hydrochlorofluorocarbons after 31 December 2019.

2. By way of derogation from Article 4 and Article 5(1), hydrochlorofluorocarbons may be produced, placed on the market and used for laboratory and analytical uses.

Article 10(3) to (7) shall apply mutatis mutandis.

3. By way of derogation from Article 5, until 31 December 2014, reclaimed hydrochlorofluorocarbons may be placed on the market and used for the maintenance or servicing of existing refrigeration, air-conditioning and heat pump equipment, provided that the container is labelled with an indication that the substance has been reclaimed and with information on the batch number and name and address of the reclamation facility.

4. Until 31 December 2014, recycled hydrochlorofluorocarbons may be used for the maintenance or servicing of existing refrigeration, air-conditioning and heat pump equipment provided that they have been recovered from such equipment and may only be used by the undertaking which carried out the recovery as part of maintenance or servicing or for which the recovery as part of maintenance or servicing was carried out.

5. By way of derogation from Article 5, until 31 December 2019, hydrochlorofluorocarbons may be placed on the market for repackaging and subsequent export. Any undertaking carrying out the repackaging and subsequent export of hydrochlorofluorocarbons shall register with the Commission, indicating the controlled substances concerned, their estimated annual demand and the suppliers of those substances, and shall update this information when changes occur.

6. When reclaimed or recycled hydrochlorofluorocarbons are used for maintenance or servicing, the refrigeration, air-conditioning and heat pump equipment concerned shall be labelled with an indication of the type of substance, its quantity contained in the equipment and the label elements set out in Annex I to Regulation (EC) No 1272/2008 for substances or mixtures classified as Hazardous to the Ozone Layer.

7. Undertakings operating the equipment referred to in paragraph 4 containing a fluid charge of 3 kg or more shall keep a record of the quantity and type of substance recovered and added, and of the company or technician which performed the maintenance or servicing.

Undertakings using reclaimed or recycled hydrochlorofluorocarbons for maintenance or servicing shall keep a record of the undertakings that have supplied reclaimed hydrochlorofluorocarbons and of the source of recycled hydrochlorofluorocarbons.

8. By way of derogation from Articles 5 and 6, the Commission may, following a request by a competent authority of a Member State and in accordance with the management procedure referred to in Article 25(2), authorise a time-limited exemption to allow the use and placing on the market of hydrochlorofluorocarbons and of products and equipment containing or relying on hydrochlorofluorocarbons where it is demonstrated that, for a particular use, technically and economically feasible alternative substances or technologies are not available or cannot be used.

This exemption may not be authorised for a period which extends beyond 31 December 2019.

Article 12

Quarantine and pre-shipment applications and emergency uses of methyl bromide

1. By way of derogation from Article 5(1), until 18 March 2010, methyl bromide may be placed on the market and used for quarantine and for pre-shipment applications for treatment of goods for export provided that the placing on the market and use of methyl bromide are allowed respectively under national legislation in accordance with Directive 91/414/EEC and Directive 98/8/EC.

Methyl bromide may only be used on sites approved by the competent authorities of the Member State concerned and, if economically and technically feasible, subject to the condition that at least 80 % of methyl bromide released from the consignment is recovered.

2. The calculated level of methyl bromide which undertakings place on the market or use for their own account in the period from 1 January 2010 to 18 March 2010 shall not exceed 45 ODP tonnes.

Each undertaking shall ensure that the calculated level of methyl bromide which it places on the market or uses for its own account for quarantine and pre-shipment applications shall not exceed 21 % of the average of the calculated level of methyl bromide which it placed on the market or used for its own account for quarantine and pre-shipment in the years 2005 to 2008.

3. In an emergency, where unexpected outbreaks of particular pests or diseases so require, the Commission may, at the request of the competent authority of a Member State, authorise the temporary production, placing on the market and use of methyl bromide, provided that the placing on the market and use of methyl bromide are allowed respectively under Directive 91/414/EEC and Directive 98/8/EC.

Such authorisation shall apply for a period not exceeding 120 days and to a quantity not exceeding 20 metric tonnes and shall specify measures to be taken to reduce emissions during use.

Article 13

Critical uses of halons and decommissioning of equipment containing halons

1. By way of derogation from Article 5(1), halons may be placed on the market and used for critical uses set out in Annex VI. Halons may only be placed on the market by undertakings authorised by the competent authority of the Member State concerned to store halons for critical uses.

2. The Commission shall review Annex VI and, if appropriate, adopt modifications and time-frames for the phasing out of the critical uses by defining cut-off dates for new applications and end dates for existing applications, taking into account the availability of technically and economically feasible alternatives or technologies that are acceptable from the standpoint of environment and health.

Those measures, designed to amend non-essential elements of this Regulation, inter alia, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

3. Fire protection systems and fire extinguishers containing halons applied in uses referred to in paragraph 1 shall be decommissioned by the end dates to be specified in Annex VI.

4. The Commission may, at the request of the competent authority of a Member State and in accordance with the management procedure referred to in Article 25(2), grant derogations from end dates for existing applications or cut-off dates for new applications, provided those dates have been specified in Annex VI in accordance with paragraph 2, for specific cases where it is demonstrated that no technically and economically feasible alternative is available.

Article 14

Transfer of rights and industrial rationalisation

1. Any producer or importer entitled to place controlled substances on the market or use them for its own account may transfer that right in respect of all or any quantities of the respective group of substances fixed in accordance with this Article to any other producer or importer of that group of substances within the Community. Any such transfer shall be notified in advance to the Commission. The transfer of the right to place on the market or use shall not imply the further right to produce or to import.

2. To the extent permitted by the Protocol, the competent authority of the Member State in which a producer's relevant production is situated may authorise that producer to exceed the calculated levels of production laid down in Article 10 and Article 11(2) for the purpose of industrial rationalisation 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 as laid down in Article 10 and Article 11(2) for the periods in question. The competent authority of the Member State concerned shall notify the Commission in advance of its intention to issue any such authorisation.

3. To the extent permitted by the Protocol, the Commission may, in agreement with the competent authority of the Member State in which a producer's relevant production is situated, authorise that producer to exceed the calculated levels of production laid down in Article 10 and Article 11(2) for the purpose of industrial rationalisation 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 as laid down in Article 10 and Article 11(2) 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.

4. To the extent permitted by the Protocol, the Commission may, in agreement with both the competent authority of the Member State in which a producer's relevant production is situated and the government of the third country Party concerned, authorise a producer to combine the calculated levels of production laid down in Article 10 and Article 11(2) with the calculated levels of production allowed to a producer in a third country Party under the Protocol and that producer's national legislation for the purpose of industrial rationalisation with a third country 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 to the Community producer under Article 10 and Article 11(2) and the calculated levels of production allowed to the third country Party producer under the Protocol and any relevant national legislation.

CHAPTER IV

TRADE

Article 15

Imports of controlled substances or of products and equipment containing or relying on controlled substances

1. Imports of controlled substances or of products and equipment other than personal effects containing or relying on those substances, shall be prohibited.

2. The prohibition set out in paragraph 1 shall not apply to imports of:

(a) controlled substances to be used for laboratory and analytical uses referred to in Article 10 and Article 11(2);

(b) controlled substances to be used as feedstock;

(c) controlled substances to be used as process agents;

(d) controlled substances for destruction by technologies referred to in Article 22(2);

(e) until 31 December 2019, hydrochlorofluorocarbons to be repackaged and subsequently re-exported no later than 31 December of the following calendar year to a Party where the consumption or import of that hydrochlorofluorocarbon is not prohibited;

(f) methyl bromide for emergency uses referred to in Article 12(3) or, until 31 December 2014, for repackaging and subsequent re-export for quarantine and pre-shipment applications provided that the re-export takes place during the year of import;

(g) recovered, recycled or reclaimed halons, under the condition that they are only imported for critical uses referred to in Article 13(1), by undertakings authorised by the competent authority of the Member State concerned to store halons for critical uses;

(h) products and equipment containing or relying on controlled substances for destruction, where applicable by technologies referred to in Article 22(2);

(i) products and equipment containing or relying on controlled substances to satisfy laboratory and analytical uses referred to in Article 10 and Article 11(2);

(j) products and equipment containing or relying on halon to satisfy critical uses referred to in Article 13(1);

(k) products and equipment containing hydrochlorofluorocarbons for which the placing on the market has been authorised in accordance with Article 11(5).

3. Imports referred to in paragraph 2, with the exception of imports for transit through the customs territory of the Community or imports under the temporary storage, customs warehousing or free zone procedure as referred to in Regulation (EC) No 450/2008, provided that they remain in the customs territory of the Community no longer than 45 days and that they are not subsequently presented for release for free circulation in the Community, destroyed or processed, shall be subject to the presentation of an import licence. Those licences shall be issued by the Commission after verification of compliance with Articles 16 and 20.

Article 16

Release for free circulation in the Community of imported controlled substances

1. The release for free circulation in the Community of imported controlled substances shall be subject to quantitative limits. The Commission shall determine those limits and allocate quotas to undertakings for the period from 1 January to 31 December 2010 and for each 12-month period thereafter in accordance with the management procedure referred to in Article 25(2).

The quotas referred to in the first subparagraph shall be allocated only for the following substances:

(a) controlled substances if they are used for laboratory and analytical, or critical uses, referred to in Article 10, Article 11(2) and Article 13;

(b) controlled substances if they are used as feedstock;

(c) controlled substances if they are used as process agents.

2. By the date specified in a notice issued by the Commission, importers of substances referred to in points (a), (b) and (c) of paragraph 1 shall declare to the Commission the anticipated demand, specifying the nature and quantities of controlled substances needed. On the basis of those declarations the Commission shall establish quantitative limits to the imports of substances referred to in points (a), (b) and (c) of paragraph 1.

Article 17

Export of controlled substances or of products and equipment containing or relying on controlled substances

1. Exports of controlled substances or of products and equipment other than personal effects containing or relying on those substances, shall be prohibited.

2. The prohibition set out in paragraph 1 shall not apply to exports of:

(a) controlled substances to be used for essential laboratory and analytical uses referred to in Article 10;

(b) controlled substances to be used as feedstock;

(c) controlled substances to be used as process agents;

(d) products and equipment containing or relying on controlled substances produced in accordance with Article 10(7) or imported under point (h) or (i) of Article 15(2);

(e) recovered, recycled or reclaimed halons stored for critical uses referred to in Article 13(1) by undertakings authorised by the competent authority of a Member State and products and equipment containing or relying on halon to satisfy critical uses;

(f) virgin or reclaimed hydrochlorofluorocarbons for uses other than destruction;

(g) until 31 December 2014, methyl bromide re-exported for quarantine and pre-shipment applications;

(h) metered dose inhalers manufactured with chlorofluorocarbon the use of which has been authorised on the basis of Article 3(1) of Regulation (EC) No 2037/2000.

3. By way of derogation from paragraph 1, the Commission may, following a request by a competent authority of a Member State and in accordance with the management procedure referred to in Article 25(2), authorise the export of products and equipment containing hydrochlorofluorocarbons where it is demonstrated that in view of the economic value and the expected remaining lifetime of the specific good, the prohibition of export would impose a disproportionate burden on the exporter. Such export requires prior notification by Commission to the importing country.

4. Exports referred to in paragraphs 2 and 3 shall be subject to licensing, with the exception of re-exports subsequent to transit through the customs territory of the Community, temporary storage, customs-warehousing or free zone procedure, as referred to in Regulation (EC) No 450/2008, provided that the re-export takes place not later than 45 days after the import. That export licence shall be issued by the Commission to undertakings after verification of compliance with Article 20.

Article 18

Licensing of imports and exports

1. The Commission shall set up and operate an electronic licensing system and shall decide on applications for licences within 30 days of receipt.

2. Applications for licences referred to in Articles 15 and 17 shall be submitted using the system referred to in paragraph 1. Before submitting an application for a licence undertakings shall register in that system.

3. An application for a licence shall state the following:

(a) the names and the addresses of the importer and the exporter;

(b) the country of import and export;

(c) in the case of imports or exports of controlled substances, a description of each controlled substance, including:

  (i) the commercial description;

  (ii) the description and the Combined Nomenclature code as laid down in Annex IV;

  (iii) whether the substance is virgin, recovered, recycled or reclaimed;

  (iv) the quantity of the substance in metric kilograms;

  (v) in the case of halons, a declaration that they are to be imported or exported to satisfy a critical use referred to in Article 13(1), specifying which use;

(d) in the case of imports or exports of products and equipment containing or relying on controlled substances:

  (i) the type and nature of the products and equipment;

  (ii) for countable items the number of units, the description and the quantity per unit in metric kilograms of each controlled substance;

  (iii) for uncountable items the total quantity of the product, the description and the total net quantity, in metric kilograms, of each controlled substance;

  (iv) the country/countries of final destination of the products and equipment;

  (v) whether the controlled substance contained is virgin, recycled, recovered or reclaimed;

  (vi) in the case of imports or exports of products and equipment containing or relying on halon, a declaration that they are to be imported or exported to satisfy a critical use referred to in Article 13(1), specifying which use;

  (vii) in the case of products and equipment containing or relying on hydrochlorofluorocarbons, the reference to the Commission authorisation referred to in Article 17(3);

  (viii) the Combined Nomenclature code of the product or equipment to be imported or exported;

(e) the purpose of the proposed import, including the intended customs treatment and use, specifying where relevant the intended customs procedure;

(f) the place and expected date of the proposed import or export;

(g) the customs office where the goods will be declared;

(h) in the case of imports of controlled substances or products and equipment for destruction, the name and address of the facility where they will be destroyed;

(i) any further information deemed necessary by the competent authority of a Member State;

(j) by way of derogation from points (a) to (h), in the case of imports and exports of products and equipment containing or relying on halons for critical uses in aircraft set out in points 4.1 to 4.6 of Annex VI:

  (1) the purpose and type of the products and equipment to be imported or exported as described in points 4.1 to 4.6 of Annex VI;

  (2) the types of halons that the products and equipment to be imported or exported contains or relies on;

  (3) the Combined Nomenclature code of the products and equipment to be imported or exported.

4. Each importer or exporter shall notify the Commission of any changes which might occur during the period of validity of the licence in relation to the data notified under paragraph 3.

5. The Commission may require a certificate attesting the nature or composition of substances to be imported or exported and may request a copy of the licence issued by the country from which the import or to which the export takes place.

6. The Commission may share the submitted data so far as necessary in specific cases with competent authorities of the Parties concerned and may reject the licence application if any relevant obligations set out in this Regulation are not complied with, or on the following grounds:

(a) in the case of an import licence, where it is established based on information from the competent authorities of the country concerned that the exporter is not an undertaking authorised to trade in the respective substance in that country;

(b) in the case of an export licence, where the competent authorities of the importing country have informed the Commission that the import of the controlled substance would constitute a case of illegal trade, or would adversely impact on the implementation of control measures of the importing country in place to comply with its obligations under the Protocol or would lead to an excess of the quantitative limits under the Protocol for that country.

7. The Commission shall make available a copy of each licence to the competent authority of the Member State concerned.

8. The Commission shall, as soon as possible, inform the applicant and the Member State concerned of any licence application rejected pursuant to paragraph 6, specifying the reason for the rejection.

9. The Commission may amend the list of items mentioned in paragraph 3 and Annex IV. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

Article 19

Measures for monitoring of illegal trade

The Commission may adopt additional measures for the monitoring of controlled substances or new substances and of products and equipment containing or relying on controlled substances placed under temporary storage, customs warehousing or free zone procedure or in transit through the customs territory of the Community and subsequently re-exported, on the basis of an evaluation of the potential risks of illegal trade linked to such movements, taking into account the environmental benefits and socioeconomic impacts of such measures.

Those measures, designed to amend non-essential elements of this Regulation, inter alia, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

Article 20

Trade with a State not party to the Protocol and a territory not covered by the Protocol

1. Import and export of controlled substances and of products and equipment containing or relying on controlled substances from and to any State not party to the Protocol shall be prohibited.

2. The Commission may adopt rules applicable to the release for free circulation in the Community of products and equipment imported from any State not party to the Protocol which were produced using

controlled substances but do not contain substances which can be positively identified as controlled substances. The identification of such products and equipment shall comply with periodical technical advice given to the Parties. Those measures, designed to amend non-essential elements of this Regulation, inter alia, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

3. By way of derogation from paragraph 1, trade with any State not party to the Protocol in controlled substances and products and equipment containing or relying on such substances or which are produced by means of one or more such substances may be authorised by the Commission, to the extent that the State not party to the Protocol is determined by a meeting of the Parties pursuant to Article 4(8) of the Protocol to be in full compliance with 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 management procedure referred to in Article 25(2) of this Regulation.

4. Subject to any decision taken under the second subparagraph, paragraph 1 shall apply to any territory not covered by the Protocol as they apply to any State not party to the Protocol.

Where the authorities of a territory not covered by the Protocol are in full compliance with the Protocol and have submitted data to that effect as specified in Article 7 of the Protocol, the Commission may decide that some or all of the provisions of paragraph 1 of this Article shall not apply in respect of that territory.

The Commission shall act in accordance with the management procedure referred to in Article 25(2).

Article 21

List of products and equipment containing or relying on controlled substances

No later than 1 January 2010, the Commission shall make available a list of products and equipment which might contain or rely on controlled substances and of Combined Nomenclature codes for guidance of the Member States' customs authorities.

CHAPTER V

EMISSION CONTROL

Article 22

Recovery and destruction of used controlled substances

1. Controlled substances contained in refrigeration, air-conditioning and heat pump equipment, equipment containing solvents or fire protection systems and fire extinguishers shall, during the maintenance or servicing of equipment or before the dismantling or disposal of equipment, be recovered for destruction, recycling or reclamation.

2. Controlled substances and products containing such substances shall only be destroyed by approved technologies listed in Annex VII or, in the case of controlled substances not referred to in that Annex, by the most environmentally acceptable destruction technology not entailing excessive costs, provided that the use of those technologies complies with Community and national legislation on waste and that additional requirements under such legislation are met.

3. The Commission may amend Annex VII in order to take new technological developments into account.

Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

4. Controlled substances contained in products and equipment other than those mentioned in paragraph 1 shall, if technically and economically feasible, be recovered for destruction, recycling or reclamation, or shall be destroyed without prior recovery, applying the technologies referred to in paragraph 2.

The Commission shall establish an Annex to this Regulation with a list of products and equipment for which the recovery of controlled substances or destruction of products and equipment without prior recovery of controlled substances shall be considered technically and economically feasible, specifying, if appropriate, the technologies to be applied. Any draft measure to establish such an Annex shall be accompanied and supported by a full economic assessment of costs and benefits, taking into account the individual circumstances of Member States.

Those measures, designed to amend non-essential elements of this Regulation, inter alia, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

5. Member States shall take steps to promote the recovery, recycling, reclamation and destruction of controlled substances and shall define the minimum qualification requirements for the personnel involved.

The Commission shall evaluate the measures taken by the Member States and may in the light of this evaluation and of technical and other relevant information, as appropriate, adopt measures regarding those minimum qualification requirements.

Those measures, designed to amend non-essential elements of this Regulation, inter alia, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

Article 23

Leakages and emissions of controlled substances

1. Undertakings shall take all precautionary measures practicable to prevent and minimise any leakages and emissions of controlled substances.

2. Undertakings operating refrigeration, air conditioning or heat pump equipment, or fire protection systems, including their circuits, which contain controlled substances shall ensure that the stationary equipment or systems:

(a) with a fluid charge of 3 kg or more of controlled substances are checked for leakage at least once every 12 months; this shall not apply to equipment with hermetically sealed systems, which are labelled as such and contain less than 6 kg of controlled substances;

(b) with a fluid charge of 30 kg or more of controlled substances are checked for leakage at least once every 6 months;

(c) with a fluid charge of 300 kg or more of controlled substances are checked for leakage at least once every 3 months;

and that any detected leakage is repaired as soon as possible and in any event within 14 days.

The equipment or system shall be checked for leakage within 1 month after a leak has been repaired to ensure that the repair has been effective.

3. Undertakings referred to in paragraph 2 shall maintain records on the quantity and type of controlled substances added and the quantity recovered during maintenance, servicing and final disposal of the equipment or system referred to in that paragraph. They shall also maintain records of other relevant information including the identification of the company or technician which performed the maintenance or servicing, as well as the dates and results of the leakage checks carried out. These records shall be made available on request to the competent authority of a Member State and to the Commission.

4. Member States shall define the minimum qualification requirements for the personnel carrying out activities referred to in paragraph 2. In the light of an evaluation of these measures taken by the Member

States and of technical and other relevant information, the Commission may adopt measures regarding the harmonisation of those minimum qualification requirements.

Those measures, designed to amend non-essential elements of this Regulation, inter alia, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

5. Undertakings shall take all precautionary measures practicable to prevent and minimise any leakages and emissions of controlled substances used as feedstock and as process agents.

6. Undertakings shall take all precautionary measures practicable to prevent and minimise any leakage and emissions of controlled substances inadvertently produced in the course of the manufacture of other chemicals.

7. The Commission may establish a list of technologies or practices to be used by undertakings to prevent and minimise any leakage and emissions of controlled substances.

Those measures, designed to amend non-essential elements of this Regulation, inter alia, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

CHAPTER VI

NEW SUBSTANCES

Article 24

New substances

1. The production, import, placing on the market, use and export of new substances in Part A of Annex II are prohibited. This prohibition does not apply to new substances if they are used as feedstock or for laboratory and analytical uses, to imports for transit through the customs territory of the Community or imports under the temporary storage, customs warehousing or free zone procedure as referred to in Regulation (EC) No 450/2008, unless such imports have been assigned another customs-approved treatment or use as referred to in that Regulation, or to exports subsequent to imports already exempted.

2. The Commission shall, if appropriate, include in Part A of Annex II substances that are included in Part B of that Annex that are found to be exported, imported, produced or put on the market in significant quantities and that are found by the Scientific Assessment Panel under the Protocol to have a significant ozone-depleting potential, and shall, if appropriate, determine possible exemptions from paragraph 1.

Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

3. In the light of relevant scientific information, the Commission shall, if appropriate, include in Part B of Annex II any substances that are not controlled substances but that are found by the Scientific Assessment Panel under the Protocol or another recognised authority of equivalent stature to have a significant ozone-depleting potential. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

CHAPTER VII

COMMITTEE, REPORTING, INSPECTION AND PENALTIES

Article 25

Committee

1. The Commission shall be assisted by a Committee.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at 1 month.

3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

Article 26

Reporting by the Member States

1. Each year by 30 June Member States shall report the following information in an electronic format to the Commission, for the previous calendar year:

(a) *Deleted*

(b) the quantities of halons installed, used and stored for critical uses, pursuant to Article 13(1), the measures taken to reduce their emissions and an estimate of such emissions, and progress in evaluating and using adequate alternatives;

(c) cases of illegal trade, in particular those detected during the inspections carried out pursuant to Article 28.

2. The Commission shall, in accordance with the management procedure referred to in Article 25(2), determine the format for the submission of the information referred to in paragraph 1.

3. The Commission may amend paragraph 1.

Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

Article 27

Reporting by undertakings

1. Each year by 31 March, each undertaking shall communicate to the Commission, sending a copy to the competent authority of the Member State concerned, the data listed in paragraphs 2 to 6 for each controlled substance and each new substance listed in Annex II for the previous calendar year.

2. Each producer shall communicate the following data:

(a) its total production of each substance referred to in paragraph 1;

(b) any production placed on the market or used for the producer’s own account within the Community, separately identifying production for feedstock, process agent and other uses;

(c) any production to meet the essential laboratory and analytical uses in the Community, licensed in accordance with Article 10(6);

(d) any production authorised under Article 10(8) to satisfy essential laboratory and analytical uses of Parties;

(e) any increase in production authorised under Article 14(2), (3) and (4) in connection with industrial rationalisation;

(f) any quantity recycled, reclaimed or destroyed and the technology used for the destruction, including amounts produced and destroyed as by-product as referred to in Article 3(14);

(g) any stocks;

(h) any purchases from and sales to other producers in the Community.

3. Each importer shall communicate for each substance referred to in paragraph 1 the following data:

(a) any quantities released for free circulation in the Community, separately identifying imports for feedstock and process agent uses, for essential laboratory and analytical uses licensed in accordance with Article 10(6), for use in quarantine and pre-shipment applications and for destruction. Importers which imported controlled substances for destruction shall also communicate the actual final destination or destinations of each of the substances, providing separately for each destination the quantity of each of the substances and the name and address of destruction facility where the substance was delivered;

(b) any quantities imported under other customs procedures, separately identifying the customs procedure and the designated uses;

(c) any quantities of used substances referred to in paragraph 1 imported for recycling or reclamation;

(d) any stocks;

(e) any purchases from and sales to other undertakings in the Community;

(f) the exporting country.

4. Each exporter shall communicate for each substances referred to in paragraph 1 the following data:

(a) any quantities of such substances exported, separately identifying quantities exported to each country of destination and quantities exported for feedstock and process agent uses, essential laboratory and analytical uses, critical uses and for quarantine and pre-shipment applications;

(b) any stocks;

(c) any purchases from and sales to other undertakings in the Community;

(d) the country of destination.

5. Each undertaking destroying controlled substances referred to in paragraph 1 and not covered by paragraph 2 shall communicate the following data:

(a) any quantities of such substances destroyed, including quantities contained in products or equipment;

(b) any stocks of such substances waiting to be destroyed, including quantities contained in products or equipment;

(c) technology used for the destruction.

6. Each undertaking using controlled substances as feedstock or process agents shall communicate the following data:

(a) any quantities of such substances used as feedstock or process agents;

(b) any stocks of such substances;

(c) the processes and emissions involved.

7. Each year before 31 March, each producer or importer which holds a licence under Article 10(6) shall, for each substance for which an authorisation has been received, report to the Commission, sending a copy to the competent authority of the Member State concerned, the nature of the use, the quantities used during the previous year, the quantities held in stock, any quantities recycled, reclaimed or destroyed, and the quantity of products and equipment containing or relying on those substances placed on the Community market and/or exported.

8. The Commission shall take appropriate steps to protect the confidentiality of the information submitted to it.

9. The format of the reports referred to in paragraphs 1 to 7 shall be established in accordance with the management procedure referred to in Article 25(2).

10. The Commission may amend the reporting requirements laid down in paragraphs 1 to 7.

Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 25(3).

Article 28

Inspection

1. Member States shall conduct inspections on the compliance of undertakings with this Regulation, following a risk-based approach, including inspections on imports and exports of controlled substances as well as of products and equipment containing or relying on those substances. The competent authorities of the Member States shall carry out the investigations which the Commission considers necessary under this Regulation.

2. Subject to the agreement of the Commission and of the competent authority of the Member State within the territory of which the investigations are to be made, the officials of the Commission shall assist the officials of that authority in the performance of their duties.

3. 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. When requesting information from an undertaking the Commission shall at the same time forward a copy of the request to the competent authority of the Member State within the territory of which the undertaking's seat is situated.

4. The Commission shall take appropriate action to promote an adequate exchange of information and cooperation between national authorities and between national authorities and the Commission.

The Commission shall take appropriate steps to protect the confidentiality of information obtained under this Article.

5. At the request of another Member State, a Member State may conduct inspections of undertakings or investigations of undertakings suspected of being engaged in the illegal movement of controlled substances and which are operating on the territory of that Member State.

Article 29

Penalties

Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive. Member States shall notify those provisions to the Commission by 30 June 2011 at the latest and shall also notify it without delay of any subsequent amendment affecting them.

CHAPTER VIII

FINAL PROVISIONS

Article 30

Repeal

Regulation (EC) No 2037/2000 shall be repealed as from 1 January 2010.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in Annex VIII.

Article 31

Entry into force

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2010.

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

ANNEX I

CONTROLLED SUBSTANCES

[a] The figures relating to ozone-depleting potential are estimates based on existing knowledge and will be reviewed and revised periodically in the light of decisions taken by the Parties.

[b] This formula does not refer to 1,1,2-trichloroethane.

[c] Identifies the most commercially viable substance as prescribed in the Protocol.

Group	Substance			Ozone-depleting potentiala
Group I	$CFCl_3$	CFC-11	Trichlorofluoromethane	1,0
	CF_2Cl_2	CFC-12	Dichlorodifluoromethane	1,0
	$C_2F_3Cl_3$	CFC-113	Trichlorotrifluoroethane	0,8
	$C_2F_4Cl_2$	CFC-114	Dichlorotetrafluoroethane	1,0
	C_2F_5Cl	CFC-115	Chloropentafluoroethane	0,6
Group II	CF_3Cl	CFC-13	Chlorotrifluoromethane	1,0
	C_2FCl_5	CFC-111	Pentachlorofluoroethane	1,0

$C_2F_2Cl_4$	CFC-112	Tetrachlorodifluoroethane	1,0	
C_3FCl_7	CFC-211	Heptachlorofluoropropane	1,0	
$C_3F_2Cl_6$	CFC-212	Hexachlorodifluoropropane	1,0	
$C_3F_3Cl_5$	CFC-213	Pentachlorotrifluoropropane	1,0	
$C_3F_4Cl_4$	CFC-214	Tetrachlorotetrafluoropropane	1,0	
$C_3F_5Cl_3$	CFC-215	Trichloropentafluoropropane	1,0	
$C_3F_6Cl_2$	CFC-216	Dichlorohexafluoropropane	1,0	
C_3F_7Cl	CFC-217	Chloroheptafluoropropane	1,0	
Group III	CF_2BrCl	halon-1211	Bromochlorodifluoromethane	3,0
	CF_3Br	halon-1301	Bromotrifluoromethane	10,0
	$C_2F_4Br_2$	halon-2402	Dibromotetrafluoroethane	6,0
Group IV	CCl_4	CTC	Tetrachloromethane (carbon tetrachloride)	1,1
Group V	$C_2H_3Cl_3$ [b]	1,1,1-TCA	1,1,1-Trichloroethane (methylchloroform)	0,1
Group VI	CH_3Br	methyl bromide	Bromomethane	0,6
Group VII	$CHFBr_2$	HBFC-21 B2	Dibromofluoromethane	1,00
	CHF_2Br	HBFC-22 B1	Bromodifluoromethane	0,74
	CH_2FBr	HBFC-31 B1	Bromofluoromethane	0,73
	C_2HFBr_4	HBFC-121 B4	Tetrabromofluoroethane	0,8
	$C_2HF_2Br_3$	HBFC-122 B3	Tribromodifluoroethane	1,8
	$C_2HF_3Br_2$	HBFC-123 B2	Dibromotrifluoroethane	1,6
	C_2HF_4Br	HBFC-124 B1	Bromotetrafluoroethane	1,2
	$C_2H_2FBr_3$	HBFC-131 B3	Tribromofluoroethane	1,1
	$C_2H_2F_2Br_2$	HBFC-132 B2	Dibromodifluoroethane	1,5
	$C_2H_2F_3Br$	HBFC-133 B1	Bromotrifluoroethane	1,6
	$C_2H_3FBr_2$	HBFC-141 B2	Dibromofluoroethane	1,7
	$C_2H_3F_2Br$	HBFC-142 B1	Bromodifluoroethane	1,1
	C_2H_4FBr	HBFC-151 B1	Bromofluoroethane	0,1
	C_3HFBr_6	HBFC-221 B6	Hexabromofluoropropane	1,5
	$C_3HF_2Br_5$	HBFC-222 B5	Pentabromodifluoropropane	1,9
	$C_3HF_3Br_4$	HBFC-223 B4	Tetrabromotrifluoropropane	1,8

$C_3HF_4Br_3$	HBFC-224 B3	Tribromotetrafluoropropane	2,2	
$C_3HF_5Br_2$	HBFC-225 B2	Dibromopentafluoropropane	2,0	
C_3HF_6Br	HBFC-226 B1	Bromohexafluoropropane	3,3	
$C_3H_2FBr_5$	HBFC-231 B5	Pentabromofluoropropane	1,9	
$C_3H_2F_2Br_4$	HBFC-232 B4	Tetrabromodifluoropropane	2,1	
$C_3H_2F_3Br_3$	HBFC-233 B3	Tribromotrifluoropropane	5,6	
$C_3H_2F_4Br_2$	HBFC-234 B2	Dibromotetrafluoropropane	7,5	
$C_3H_2F_5Br$	HBFC-235 B1	Bromopentafluoropropane	1,4	
$C_3H_3FBr_4$	HBFC-241 B4	Tetrabromofluoropropane	1,9	
$C_3H_3F_2Br_3$	HBFC-242 B3	Tribromodifluoropropane	3,1	
$C_3H_3F_3Br_2$	HBFC-243 B2	Dibromotrifluoropropane	2,5	
$C_3H_3F_4Br$	HBFC-244 B1	Bromotetrafluoropropane	4,4	
$C_3H_4FBr_3$	HBFC-251 B1	Tribromofluoropropane	0,3	
$C_3H_4F_2Br_2$	HBFC-252 B2	Dibromodifluoropropane	1,0	
$C_3H_4F_3Br$	HBFC-253 B1	Bromotrifluoropropane	0,8	
$C_3H_5FBr_2$	HBFC-261 B2	Dibromofluoropropane	0,4	
$C_3H_5F_2Br$	HBFC-262 B1	Bromodifluoropropane	0,8	
C_3H_6FBr	HBFC-271 B1	Bromofluoropropane	0,7	
Group VIII	$CHFCl_2$	HCFC-21c	Dichlorofluoromethane	0,040
	CHF_2Cl	HCFC-22c	Chlorodifluoromethane	0,055
	CH_2FCl	HCFC-31	Chlorofluoromethane	0,020
	C_2HFCl_4	HCFC-121	Tetrachlorofluoroethane	0,040
	$C_2HF_2Cl_3$	HCFC-122	Trichlorodifluoroethane	0,080
	$C_2HF_3Cl_2$	HCFC-123c	Dichlorotrifluoroethane	0,020
	C_2HF_4Cl	HCFC-124c	Chlorotetrafluoroethane	0,022
	$C_2H_2FCl_3$	HCFC-131	Trichlorofluoroethane	0,050
	$C_2H_2F_2Cl_2$	HCFC-132	Dichlorodifluoroethane	0,050
	$C_2H_2F_3Cl$	HCFC-133	Chlorotrifluoroethane	0,060
	$C_2H_3FCl_2$	HCFC-141	Dichlorofluoroethane	0,070
	CH_3CFCl_2	HCFC-141bc	1,1-Dichloro-1-fluoroethane	0,110
	$C_2H_3F_2Cl$	HCFC-142	Chlorodifluoroethane	0,070

CH_3CF_2Cl	HCFC-142bc	1-Chloro-1,1-difluoroethane	0,065	
C_2H_4FCl	HCFC-151	Chlorofluoroethane	0,005	
C_3HFCl_6	HCFC-221	Hexachlorofluoropropane	0,070	
$C_3HF_2Cl_5$	HCFC-222	Pentachlorodifluoropropane	0,090	
$C_3HF_3Cl_4$	HCFC-223	Tetrachlorotrifluoropropane	0,080	
$C_3HF_4Cl_3$	HCFC-224	Trichlorotetrafluoropropane	0,090	
$C_3HF_5Cl_2$	HCFC-225	Dichloropentafluoropropane	0,070	
$CF_3CF_2CHCl_2$	HCFC-225cac	3,3-Dichloro-1,1,1,2,2-pentafluoropropane	0,025	
CF_2ClCF_2CHClF	HCFC-225cbc	1,3-Dichloro-1,1,2,2,3-pentafluoropropane	0,033	
C_3HF_6Cl	HCFC-226	Chlorohexafluoropropane	0,100	
$C_3H_2FCl_5$	HCFC-231	Pentachlorofluoropropane	0,090	
$C_3H_2F_2Cl_4$	HCFC-232	Tetrachlorodifluoropropane	0,100	
$C_3H_2F_3Cl_3$	HCFC-233	Trichlorotrifluoropropane	0,230	
$C_3H_2F_4Cl_2$	HCFC-234	Dichlorotetrafluoropropane	0,280	
$C_3H_2F_5Cl$	HCFC-235	Chloropentafluoropropane	0,520	
$C_3H_3FCl_4$	HCFC-241	Tetrachlorofluoropropane	0,090	
$C_3H_3F_2Cl_3$	HCFC-242	Trichlorodifluoropropane	0,130	
$C_3H_3F_3Cl_2$	HCFC-243	Dichlorotrifluoropropane	0,120	
$C_3H_3F_4Cl$	HCFC-244	Chlorotetrafluoropropane	0,140	
$C_3H_4FCl_3$	HCFC-251	Trichlorofluoropropane	0,010	
$C_3H_4F_2Cl_2$	HCFC-252	Dichlorodifluoropropane	0,040	
$C_3H_4F_3Cl$	HCFC-253	Chlorotrifluoropropane	0,030	
$C_3H_5FCl_2$	HCFC-261	Dichlorofluoropropane	0,020	
$C_3H_5F_2Cl$	HCFC-262	Chlorodifluoropropane	0,020	
C_3H_6FCl	HCFC-271	Chlorofluoropropane	0,030	
Group IX	CH_2BrCl	BCM	Bromochloromethane	0,12

ANNEX II

NEW SUBSTANCES

Part A: Substances restricted under Article 24(1)

Substance		Ozone-depleting potential
CBr_2F_2	Dibromodifluoromethane (halon-1202)	1,25

Part B: Substances to be reported on under Article 27

[a] The figures relating to ozone-depleting potential are estimates based on existing knowledge and will be reviewed and revised periodically in the light of decisions taken by the Parties.

Substance		Ozone-depleting potentiala
C_3H_7Br	1-Bromopropane (n-propyl bromide)	0,02 — 0,10
C_2H_5Br	Bromoethane (ethyl bromide)	0,1 — 0,2
CF_3I	Trifluoroiodomethane (trifluoromethyl iodide)	0,01 — 0,02
CH_3Cl	Chloromethane (methyl chloride)	0,02

ANNEX III

Processes in which controlled substances are used as process agents as referred to in Article 3(12):

(a) use of carbon tetrachloride for the elimination of nitrogen trichloride in the production of chlorine and caustic soda;

(b) use of carbon tetrachloride in the recovery of chlorine in tail gas from production of chlorine;

(c) use of carbon tetrachloride in the manufacture of chlorinated rubber;

(d) use of carbon tetrachloride in the manufacture of poly-phenylene-terephthalamide;

(e) use of CFC-12 in the photochemical synthesis of perfluoropolyetherpolyperoxide precursors of Z-perfluoropolyethers and difunctional derivatives;

(f) use of CFC-113 in the preparation of perfluoropolyether diols with high functionality;

(g) use of carbon tetrachloride in production of Cyclodime;

(h) use of hydrochlorofluorocarbons in the processes set out in points (a) to (g) when used to replace the chlorofluorocarbon or carbon tetrachloride.

(i)

ANNEX IV

Groups, Combined Nomenclature codes[a] and descriptions for the substances referred to in Annex I

[a] An 'ex' before a code implies that substances other than those referred to in the column 'Description' may also fall under that subheading.

Group	CN code	Description
Group I	2903 41 00	Trichlorofluoromethane
	2903 42 00	Dichlorodifluoromethane
	2903 43 00	Trichlorotrifluoroethanes
	2903 44 10	Dichlorotetrafluoroethanes
	2903 44 90	Chloropentafluoroethane
Group II	2903 45 10	Chlorotrifluoromethane
	2903 45 15	Pentachlorofluoroethane
	2903 45 20	Tetrachlorodifluoroethanes
	2903 45 25	Heptachlorofluoropropanes
	2903 45 30	Hexachlorodifluoropropanes
	2903 45 35	Pentachlorotrifluoropropanes
	2903 45 40	Tetrachlorotetrafluoropropanes
	2903 45 45	Trichloropentafluoropropanes
	2903 45 50	Dichlorohexafluoropropanes
	2903 45 55	Chloroheptafluoropropanes
Group III	2903 46 10	Bromochlorodifluoromethane
	2903 46 20	Bromotrifluoromethane
	2903 46 90	Dibromotetrafluoroethanes
Group IV	2903 14 00	Carbon tetrachloride
Group V	2903 19 10	1,1,1-Trichloroethane (methyl chloroform)
Group VI	2903 39 11	Bromomethane (methyl bromide)
Group VII	2903 49 30	Hydrobromofluoromethanes, -ethanes or -propanes
Group VIII	2903 49 11	Chlorodifluoromethane (HCFC-22)

2903 49 15	1,1-Dichloro-1-fluoroethane (HCFC-141b)	
2903 49 19	Other Hydrochlorofluoromethanes, -ethanes or -propanes (HCFCs)	
Group IX	ex 2903 49 80	Bromochloromethane
Mixtures	3824 71 00	Mixtures containing chlorofluorocarbons (CFCs), whether or not containing hydrochlorofluorocarbons (HCFCs), perfluorocarbons (PFCs) or hydrofluorocarbons (HFCs)
	3824 72 00	Mixtures containing bromochlorodifluoromethane, bromotrifluoromethane or dibromotetrafluoroethanes
	3824 73 00	Mixtures containing hydrobromofluorocarbons (HBFCs)
	3824 74 00	Mixtures containing hydrochlorofluorocarbons (HCFCs), whether or not containing perfluorocarbons (PFCs) or hydrofluorocarbons (HFCs), but not containing chlorofluorocarbons (CFCs)
	3824 75 00	Mixtures containing carbon tetrachloride
	3824 76 00	Mixtures containing 1,1,1-trichloroethane (methyl chloroform)
	3824 77 00	Mixtures containing bromomethane (methyl bromide) or bromochloromethane

ANNEX V

Conditions for the placing on the market and further distribution of controlled substances for essential laboratory and analytical uses referred to in Article 10(3)

1. Controlled substances for essential laboratory and analytical uses shall contain only controlled substances manufactured to the following purities:

Substance	%
CTC (reagent grade)	99,5
1,1,1-trichloroethane	99,0
CFC 11	99,5
CFC 13	99,5

CFC 12	99,5
CFC 113	99,5
CFC 114	99,5
Other controlled substances with a boiling point > 20 °C	99,5
Other controlled substances with a boiling point < 20 °C	99,0

These pure controlled substances may be subsequently mixed by manufacturers, agents, or distributors with other chemicals controlled or not controlled by the Protocol as is customary for laboratory and analytical uses.

2. These high purity substances and mixtures containing controlled substances shall be supplied only in re-closable containers or high pressure cylinders smaller than three litres or in 10 millilitre or smaller glass ampoules, marked clearly as substances that deplete the ozone layer, restricted to laboratory and analytical uses and specifying that used or surplus substances should be collected and recycled, if practical. The material should be destroyed if recycling is not practical.

ANNEX VI

CRITICAL USES OF HALONS

For the purposes of this Annex, the following definitions shall apply:

1. ‘ Cut-off date ’ means the date after which halons must not be used for fire extinguishers or fire protection systems in new equipment and new facilities for the application concerned.

2. ‘ New equipment ’ means equipment for which, by the cut-off date, neither of the following events has occurred:

(a) signature of the relevant procurement or development contract;

(b) submission of a request for type approval or type certification to the appropriate regulatory authority. For aircraft, submission of a request for type certification refers to a submission of a request for a new aircraft type certification.

3. ‘ New facilities ’ means facilities for which, by the cut-off date, neither of the following events has occurred:

(a) signature of the relevant development contract;

(b) submission of a request for planning consent to the appropriate regulatory authority.

4. ‘ End date ’ means the date after which halons shall not be used for the application concerned and by which date the fire extinguishers or fire protection systems containing halons shall be decommissioned.

5. ‘ Inerting ’ means preventing the initiation of combustion of a flammable or explosive atmosphere by means of the addition of an inhibiting or diluting agent.

6. ‘ Cargo ship ’ means a ship that is not a passenger ship, is over 500 tonnes gross weight, and embarks on an international voyage, in accordance with the definition of those terms in the Safety of Life at Sea (SOLAS) Convention. The SOLAS Convention defines a ‘ passenger ship ’ as ‘ a ship that carries more than 12 passengers ’ and an ‘ international voyage ’ as ‘ a voyage from a country to which the present Convention applies to a port outside such country, or conversely ’ .

7. A ‘ normally occupied ’ space means a protected space in which it is necessary for persons to be present most or all of the time in order for the equipment or facility to function effectively. For military applications, the occupancy status of the protected space would be that applicable during a combat situation.

8. A ‘ normally unoccupied ’ space means a protected space that is occupied for limited periods only, in particular for undertaking maintenance, and where the continual presence of persons is not necessary for the effective functioning of the equipment or facility.

Application	
Category of equipment or facility	Purpose
1. On military ground vehicles	1.1. For the protection of engin
	1.2. For the protection of crew
	1.3. For the protection of crew
2. On military surface ships	2.1. For the protection of normally occ
	2.2. For the protection of normally un

2.3. For the protection of normally unoccupied electrical compartments	Fixed system
2.4. For the protection of command centres	Fixed system
2.5. For the protection of fuel pump rooms	Fixed system
2.6. For the protection of flammable liquid storage compartments	Fixed system
2.7. For the protection of aircraft in hangars and maintenance areas	Portable extinguis
3. On military submarines	3.1. For the protection of mac
	3.2. For the protection of con
	3.3. For the protection of diesel
	3.4. For the protection of electri
4. On aircraft	4.1. For the protection of normally unocc
	4.2. For the protection of cabins and

4.3. For the protection of engine nacelles and auxiliary power units	Fixed system
4.4. For the inerting of fuel tanks	Fixed system
4.5. For the protection of lavatory waste receptacles	Fixed system
4.6. For the protection of dry bays	Fixed system
5. In oil, gas and petrochemicals facilities	5.1. For the protection of spaces where flam released
6. On commercial cargo ships	6.1. For the inerting of normally occupied sp or gas could be rele
7. In land-based command and communications facilities essential to national security	7.1. For the protection of normall
	7.2. For the protection of normall
	7.3. For the protection of normally

8. At airfields and airports	8.1. For crash rescue v
	8.2. For the protection of aircraft in hang
9. In nuclear power and nuclear research facilities	9.1. For the protection of spaces where ne dispersion of radioactiv
10. In the Channel Tunnel	10.1. For the protection of tec
	10.2. For the protection of power cars and Tunnel trains
11. Other	11.1. For initial extinguishing by fire brigad safety
	11.2. For the protection of persons by mil

ANNEX VII

DESTRUCTION TECHNOLOGIES REFERRED TO IN ARTICLE 22(1)

[a] Controlled substances not listed below shall be destroyed by the most environmentally acceptable destruction technology not entailing excessive costs.
[b] Concentrated sources refer to virgin, recovered and reclaimed ozone-depleting substances.
[c] Dilute sources refer to ozone-depleting substances contained in a matrix of a solid, for example foam.
[d] The DRE criterion presents technology capability on which approval of the technology is based. It does not always reflect the day-to-day performance achieved, which in itself will be controlled by national minimum standards.
[e] Approved by the Parties.

Applicability		
Technology	Controlled substances[a] [b]	Dilute sources[c]

	Controlled substances listed in Annex I, groups I, II, IV, V, VIII	Halons listed in Annex I group III	Foam
Destruction and removal efficiency (DRE)[d]	99,99 %	99,99 %	95 %
Cement kilns	Approved[e]	Not Approved	Not applicable
Liquid injection incineration	Approved	Approved	Not applicable
Gaseous/fume oxidation	Approved	Approved	Not applicable
Municipal solid waste incineration	Not applicable	Not applicable	Approved
Reactor cracking	Approved	Not Approved	Not applicable
Rotary kiln incineration	Approved	Approved	Approved
Argon plasma arc	Approved	Approved	Not applicable
Inductively coupled radio frequency plasma	Approved	Approved	Not applicable
Microwave plasma	Approved	Not Approved	Not applicable
Nitrogen plasma arc	Approved	Not Approved	Not applicable
Gas phase catalytic dehalogenation	Approved	Not Approved	Not applicable
Superheated steam reactor	Approved	Not Approved	Not applicable

ANNEX VIII

CORRELATION TABLE

Regulation (EC) No 2037/2000	This Regulation
Article 1	Article 1 and 2
Article 2	Article 3
Article 3(1) first subparagraph	Article 4(1)
Article 3(1) second subparagraph	Article 10(2) and (4)
Article 3(2) point (i)	Article 4
Article 3(2) point (ii) first subparagraph	—

Article 3(2) point (ii) second subparagraph	Article 12(3)
Article 3(3)	Article 11(1)
Article 3(4)	Article 10(6) first sentence
Article 3(5)	Article 10(7)
Article 3(6)	—
Article 3(7)	Article 10(8)
Article 3(8)	Article 14(2)
Article 3(9)	Article 14(3)
Article 3(10)	Article 14(4)
Article 4(1)	Article 5(1)
Article 4(2) point (i)	Article 5(1)
Article 4(2) point (ii)	—
Article 4(2) point (iii) first subparagraph	Article 12(1) and (2)
Article 4(2) point (iii) second subparagraph	Article 26(1) point (a)
Article 4(2) point (iii) third subparagraph	Article 12(2)
Article 4(2) point (iv)	—
Article 4(3) point (i)	Article 5(1)
Article 4(3) point (ii)	—
Article 4(3) point (iii)	—
Article 4(3) point (iv)	—
Article 4(4) point (i)(a)	Article 9
Article 4(4) point (i)(b) first indent	Article 7(1) and Article 8(1)
Article 4(4) point (i)(b) second indent	Article 10(1) and Article 12(3)
Article 4(4) point (ii)	—
Article 4(4) point (iii)	—
Article 4(4) point (iv) first sentence	Article 13(1)
Article 4(4) point (iv) second sentence	Article 27(1)
Article 4(4) point (v)	Article 6(2)
Article 4(5)	Article 14(1)
Article 4(6)	Article 6
Article 4(6)	—

Article 5(1)	Article 5(1)
Article 5(2) point (a)	Article 11(2)
Article 5(2) point (b)	Article 7(1)
Article 5(2) point (c)	Article 8(1)
Article 5(3)	—
Article 5(4) first sentence	Article 11(8)
Article 5(4) second sentence	—
Article 5(5)	—
Article 5(6)	—
Article 5(7)	Article 11(8)
Article 6(1) first sentence	Article 15(3)
Article 6(1) second sentence	—
Article 6(2)	—
Article 6(3)	Article 18(3)
Article 6(4)	Article 18(5)
Article 6(5)	Article 18(9)
Article 7	Article 16(1)
Article 8	Article 20(1)
Article 9(1)	Article 20(1)
Article 9(2)	Article 21
Article 10	Article 20(2)
Article 11(1)	Article 17(1) and (2)
Article 11(2)	Article 20(1)
Article 11(3)	Article 20(1)
Article 11(4)	—
Article 12(1)	Article 17(4)
Article 12(2)	Article 18(4)
Article 12(3)	Article 18(5)
Article 12(4)	Article 18(3) and (4)
Article 13	Article 20(3)
Article 14	Article 20(4)

Article 15	—
Article 16(1)	Article 22(1)
Article 16(2)	—
Article 16(3)	Article 22(3)
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Article 16(5)	Article 22(5)
Article 16(6)	—
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Article 20(2)	Article 28(3)
Article 20(3)	Article 28(1)
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