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ELEVENTH MEETING OF THE PARTIES TO  
THE MONTREAL PROTOCOL ON  
SUBSTANCES THAT DEplete  
THE OZONE LAYER

Beijing, 29 November-3 December 1999

THE REPORT OF THE LEGAL DRAFTING GROUP ON POSSIBLE ADJUSTMENTS AND  
AMENDMENT OF THE MONTREAL PROTOCOL

1. The Legal Drafting Group has considered the proposals for adjustments and amendment of the Protocol presented to the Open-ended Working Group at its nineteenth meeting. This report contains texts for consideration by the Eleventh Meeting of the Parties, as follows:

Section A: Draft decisions;

Section B: Proposed adjustments; and

Section C: Proposed amendment.

2. The Legal Drafting Group regarded its task as purely technical and, therefore, the content and merits of the draft proposals were not assessed.

3. With regard to the proposals to control production and consumption of methyl bromide for quarantine and pre-shipment applications for both Article 5 and non-Article 5 Parties (in Annex III of Section B), the Legal Drafting Group is still considering whether such proposals would need to take the form of an amendment, rather than an adjustment. For the time being, the proposals have been reflected as adjustments, as has been proposed by the European Community.

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Section A

[Decision XI/1: Further adjustments with regard to Annex A substances

To adopt, in accordance with the procedure laid down in paragraph 9 of Article 2 of the Montreal Protocol and on the basis of the assessments made pursuant to Article 6 of the Protocol, the adjustments regarding the controlled substances in Annex A to the Protocol, as set out in Annex I to the report of the Eleventh Meeting of the Parties.

Decision XI/2: Further adjustments with regard to Annex B substances

To adopt, in accordance with the procedure laid down in paragraph 9 of Article 2 of the Montreal Protocol and on the basis of the assessments made pursuant to Article 6 of the Protocol, the adjustments regarding the controlled substances in Annex B to the Protocol, as set out in Annex II to the report of the Eleventh Meeting of the Parties.

Decision XI/3: Further adjustments with regard to Annex C and E substances

To adopt, in accordance with the procedure laid down in paragraph 9 of Article 2 of the Montreal Protocol and on the basis of the assessments made pursuant to Article 6 of the Protocol, the adjustments regarding the controlled substances in Annexes C and E to the Protocol, as set out in Annex III to the report of the Eleventh Meeting of the Parties.

Decision XI/4: Further Amendment of the Protocol

To adopt, in accordance with the procedure laid down in paragraph 4 of Article 9 of the Vienna Convention for the Protection of the Ozone Layer, the Amendment to the Montreal Protocol as set out in Annex IV to the report of the Eleventh Meeting of the Parties.

Section B

Annex I

PROPOSED ADJUSTMENTS TO THE MONTREAL PROTOCOL ON SUBSTANCES THAT  
DEplete THE OZONE LAYER RELATING TO CONTROLLED  
SUBSTANCES IN ANNEX A

Article 2A: CFCs

1. The third sentence of paragraph 4 of Article 2A shall be replaced by the following sentence:

However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by a quantity equal to the annual average of its production of the controlled substances in Group I of Annex A for basic domestic needs for the period 1995 to 1997 inclusive.

2. The following paragraphs shall be added after paragraph 4 of Article 2A:

5. Each Party shall ensure that for the twelve-month period commencing on 1 January 2005, and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex A for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed fifty percent of the annual average of its production of those substances for basic domestic needs for the period 1995 to 1997 inclusive.

6. Each Party shall ensure that for the twelve-month period commencing on 1 January 2007, and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex A for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed fifteen percent of the annual average of its production of those substances for basic domestic needs for the period 1995 to 1997 inclusive.

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

Article 2B: Halons

1. The third sentence of paragraph 2 of Article 2B shall be replaced by the following sentence:

However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may, until 1 January 2002, exceed that limit by up to fifteen percent of its calculated level of production in 1986; thereafter, it may exceed that limit by a quantity equal to the annual average of its production of the controlled substances in Group II of Annex A for basic domestic needs for the period 1995 to 1997 inclusive.

2. The following paragraphs shall be added after paragraph 2 of Article 2B:

3. Each Party shall ensure that for the twelve-month period commencing on 1 January 2005, and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group II of Annex A for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed fifty percent of the annual average of its production of those substances for basic domestic needs for the period 1995 to 1997 inclusive.

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

Article 5: Special situation of developing countries

The following paragraph shall be added after paragraph 9 of Article 5:

10. Notwithstanding the provisions of paragraphs 1 and 8 bis above, a Party operating under paragraph 1 shall not be entitled:

- (a) to produce any of the controlled substances in Annex A in order to meet basic domestic needs after 2010;

Annex II

PROPOSED ADJUSTMENTS TO THE MONTREAL PROTOCOL ON SUBSTANCES THAT  
DEplete THE OZONE LAYER RELATING TO  
CONTROLLED SUBSTANCES IN ANNEX B

Article 2C: Other fully halogenated CFCs

1. The third sentence of paragraph 3 of Article 2C shall be replaced by the following sentence:

However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may, until 1 January 2003, exceed that limit by up to fifteen percent of its calculated level of production in 1989; thereafter, it may exceed that limit by a quantity equal to eighty percent of the annual average of its production of the controlled substances in Group I of Annex B for basic domestic needs for the period 1998 to 2000 inclusive.

2. The following paragraphs shall be added after paragraph 3 of Article 2C:

4. Each Party shall ensure that for the twelve-month period commencing on 1 January 2007, and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex B for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed fifteen percent of the annual average of its production of those substances for basic domestic needs for the period 1998 to 2000 inclusive.

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

Article 2D: Carbon tetrachloride

1. The third sentence of paragraph 2 of Article 2D shall be replaced by the following sentence:

However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may, until 1 January 2002, exceed that limit by up to fifteen percent of its calculated level of production in 1989; thereafter, it may exceed that limit by a quantity equal to the annual average of its production of the controlled substances in Group II of Annex B for basic domestic needs for the period 1998 to 2000 inclusive.

2. The following paragraphs shall be added after paragraph 2 of Article 2D:

3. Each Party shall ensure that for the twelve-month period commencing on 1 January 2005, and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group II of Annex B for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed fifteen percent of the annual average of its production of those substances for basic domestic needs for the period 1998 to 2000 inclusive.

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

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

1. The third sentence of paragraph 3 of Article 2E shall be replaced by the following sentence:

However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may, until 1 January 2003, exceed that limit by up to fifteen percent of its calculated level of production in 1989; thereafter, it may exceed that limit by a quantity equal to the annual average of its production of the controlled substances in Group III of Annex B for basic domestic needs for the period 1998 to 2000 inclusive.

2. The following paragraphs shall be added after paragraph 3 of Article 2E:

4. Each Party shall ensure that for the twelve-month period commencing on 1 January 2005, and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group III of Annex B for the basic domestic

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needs of the Parties operating under paragraph 1 of Article 5 does not exceed seventy percent of the annual average of its production of those substances for basic domestic needs for the period 1998 to 2000 inclusive.

5. Each Party shall ensure that for the twelve-month period commencing on 1 January 2010, and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group III of Annex B for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed thirty percent of the annual average of its production of those substances for basic domestic needs for the period 1998 to 2000 inclusive.

6. Each Party shall ensure that for the twelve-month period commencing on 1 January 2015, and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group III of Annex B for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed zero.

Article 5: Special situation of developing countries

The following subparagraphs shall be added after paragraph 10 (a) of Article 5:

- (b) to produce any of the controlled substances in Groups I and II of Annex B in order to meet basic domestic needs after 2010;
- (c) to produce the controlled substances in Group III of Annex B in order to meet basic domestic needs after 2015;

Annex III

PROPOSED ADJUSTMENTS TO THE MONTREAL PROTOCOL  
ON SUBSTANCES THAT DEplete THE OZONE LAYER  
RELATING TO CONTROLLED SUBSTANCES IN ANNEXES C AND E

Article 2F: Hydrochlorofluorocarbons

1. In paragraph 1(a) of Article 2F, for the words:

two point eight

there shall be substituted:

two

2. In paragraph 2 of Article 2F, for the word:

sixty-five

there shall be substituted:

fifty

3. In paragraph 3 of Article 2F, for the word:

thirty-five

there shall be substituted:

thirty

Article 2H: Methyl bromide

1. The third sentence of paragraph 5 of Article 2H shall be replaced by the following sentence:

However, in order to satisfy the basic domestic needs of the Parties operating under

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paragraph 1 of Article 5, its calculated level of production may, until 1 January 2002, exceed that limit by up to fifteen percent of its calculated level of production in 1991; thereafter, it may exceed that limit by a quantity equal to the annual average of its production of the controlled substance in Annex E for basic domestic needs for the period 1995 to 1998 inclusive.

2. The following paragraphs shall be added after paragraph 5 of Article 2H:

*5 bis.* Each Party shall ensure that for the twelve-month period commencing on 1 January 2005, and in each twelve-month period thereafter, its calculated level of production of the controlled substance in Annex E for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed eighty percent of the annual average of its production of those substances for basic domestic needs for the period 1995 to 1998 inclusive.

*5 ter.* Each Party shall ensure that for the twelve-month period commencing on 1 January 2015, and in each twelve-month period thereafter, its calculated level of production of the controlled substance in Annex E for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed zero.

3. In paragraph 6 of Article 2H, after the word:

under

there shall be inserted:

paragraphs 1 to 5 of

4. After paragraph 6, a new paragraph shall be added as follows:

7. Each Party shall ensure that, for the twelve-month period commencing on 1 January [2001], and for each twelve-month period thereafter, the calculated levels of production and consumption of controlled substances in Annex E for quarantine and pre-shipment applications do not exceed the average of its annual calculated levels of production and consumption, respectively, for quarantine and pre-shipment applications for the period 1996 to 1998 inclusive. This paragraph will apply, save to the extent that a Party shall be permitted upon notification to the Secretariat, to use, in response to an emergency event, consumption of quantities not exceeding twenty tonnes of methyl bromide, in accordance with the terms of Decision IX/7 of the Meeting of the Parties.

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Article 5: Special situation of developing countries

1. In paragraph 8 *ter* (d), after the word:

under

there shall be inserted:

(i) to (iii) of

2. After subparagraph 8 *ter* (d)(iv), a new subparagraph shall be added as follows:

(v) Each Party shall ensure that, for the twelve-month period commencing on 1 January 2002, and for each twelve-month period thereafter, the calculated levels of production and consumption of controlled substances in Annex E for quarantine and pre-shipment applications do not exceed the average of its annual calculated levels of production and consumption, respectively, for quarantine and pre-shipment applications for the period 1995 to 1998 inclusive.

3. The following subparagraph shall be added after paragraph 10(c ) of Article 5:

(d) to produce the controlled substance in Annex E in order to meet basic domestic needs after 2015.

Section C

Annex IV

PROPOSED AMENDMENT TO THE MONTREAL PROTOCOL ON SUBSTANCES THAT  
DEplete THE OZONE LAYER

Article 2: Control Measures

Paragraph 10 of Article 2 shall be replaced by the following:

10.(a) Based on the assessments of the Scientific Assessment Panel, the Technology and Economic Assessment Panel, and any other available scientific, environmental, technical and economic information, the Parties may decide:

- (i) whether any substances, and if so which, should be added to [or removed from] any annex to this Protocol;
- (ii) the mechanism, scope and timing of the control measures that should apply to those substances; and
- (iii) whether any related reporting requirements should be added to Article 7.

(b) Proposals for such adjustments shall be communicated to the Parties by the Secretariat at least six months before the meeting of the Parties at which they are proposed for adoption.

(c) Decisions under this paragraph shall be made by consensus.

(d) The decisions, which shall be binding on all Parties except as otherwise provided in subparagraph (e) below, shall forthwith be communicated to the Parties by the Depositary. Unless otherwise provided in the decisions, they shall enter into force on the expiry of six months from the date of the circulation of the communication by the Depositary.

(e) In its instrument of ratification, acceptance, approval or accession to this amendment, any Party may declare that, with respect to it, any decision taken under this paragraph shall enter into force only upon the deposit of its instrument of ratification, acceptance, approval or accession with respect to any such decision.

Article 2F: Hydrochlorofluorocarbons

The following paragraphs shall be added after paragraph 7 of Article 2F:

8. Each Party shall ensure that for the twelve-month period commencing on 1 January of the year after this paragraph has entered into force for it, and for each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex C does not exceed, annually, its calculated level of production in 1997.
9. Each Party shall ensure that for the twelve-month period commencing on 1 January 2008, and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex C does not exceed, annually, thirty-five percent of its calculated level of production in 1997.
10. Each Party shall ensure that for the twelve-month period commencing on 1 January 2014, and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex C does not exceed, annually, twenty percent of its calculated level of production in 1997.
11. Each Party shall ensure that for the twelve-month period commencing on 1 January 2020, and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex C does not exceed, annually, fifteen percent of its calculated level of production in 1997.
12. Each Party shall ensure that for the twelve-month period commencing on 1 January 2025, and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex C does not exceed zero.

Article 2I: Bromochloromethane

1. The following article shall be inserted after Article 2H:

Article 2I: Bromochloromethane

Each Party shall ensure that for the twelve-month period commencing on 1 January of the year following the date on which this amendment enters into force for it, and in each twelve-month period thereafter, its calculated level of consumption and production of the controlled substance in Group II of Annex E does not exceed zero\*.

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\* There would need to be various consequential amendments, including, for example, making clear that obligations regarding methyl bromide apply to Group I of Annex E.

2. In Annex E, insert at the end:

Group II

BrClCH<sub>2</sub>      bromochloromethane      0.12

Article 4: Control of trade with non-Parties

1. The following sentence shall be added at the end of paragraph 1 *ter*:

Within one year of the date of entry into force of this sentence, each Party shall ban the import of any controlled substances in Group I of Annex C from any State not party to this Protocol.

2. The following sentence shall be added at the end of paragraph 2 *ter*:

Commencing one year after the date of entry into force of this sentence, each Party shall ban the export of any controlled substances in Group I of Annex C to any State not party to this Protocol.

3. The following paragraph shall be substituted for paragraph 5:

Each Party undertakes to the fullest practicable extent to discourage the export to any State not Party to this Protocol of technology for producing and for utilizing controlled substances in Annexes A, B, C and E.

4. The following paragraph shall be substituted for paragraph 6:

Each Party shall refrain from providing new subsidies, aid, credits, guarantees or insurance programmes for the export to States not party to this Protocol of products, equipment, plants or technology that would facilitate the production of controlled substances in Annexes A, B, C and E.

5. The following paragraph shall be substituted for paragraph 7:

Paragraphs 5 and 6 shall not apply to products, equipment, plants or technology that improve the containment, recovery, recycling or destruction of controlled substances, promote the

development of alternative substances, or otherwise contribute to the reduction of emissions of controlled substances in Annexes A, B, C and E.

Article 5: Special situation of developing countries

1. The following sentence shall be added at the end of subparagraph 8 *ter* (a):

Each Party operating under paragraph 1 of this Article shall ensure that for the twelve-month period commencing on 1 January 2016, and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex C does not exceed, annually, its calculated level of production in 2015;

2. The following sentence shall be added at the end of subparagraph 8 *ter* (b):

Each Party operating under paragraph 1 of this Article shall ensure that for the twelve-month period commencing on 1 January 2040, and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex C does not exceed zero;

Article 7: Reporting of Data

1. The following paragraph shall be added after paragraph 2 of Article 7:

2 *bis*. Each Party shall, not later than three months after the date when this paragraph enters into force for it, provide to the Secretariat statistical data on the quantities of the controlled substance in Annex E used both for quarantine and for pre-shipment applications for the period 1996 to 1998 inclusive, or the best possible estimates of such data, where actual data are not available.

2. The following sentence shall be added after the first sentence of paragraph 3 of Article 7:

Each Party shall provide to the Secretariat statistical data on the amount of the controlled substance listed in Annex E used both for quarantine and for pre-shipment applications for the year during which provisions concerning the control of quarantine and pre-shipment applications entered into force for it and for each year thereafter.]

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