**[Text inserted since version 1, 11 October 2016 highlighted in yellow.]**

**Section A: Consolidation of proposed amendment text considered by Legal Drafting Group**

**[Amendment proposals also include amendments to the second and fourth preambular paragraphs.]**

**Article 1: Definitions**

For the purposes of this Protocol:

…

4. “Controlled substance” means a substance in Annex A, Annex B, Annex C **[~~or~~ ,]** Annex E **[or Annex F][, Annex F or Annex G]** to this Protocol, whether existing alone or in a mixture. It includes the isomers of any such substance, except as specified in the relevant Annex, but excludes any controlled substance or mixture which is in a manufactured product other than a container used for the transportation or storage of that substance.

…

**[Amendment proposals also include definitions of “full conversion costs”, “UNFCCC” and “Kyoto Protocol” in Article 1.]**

**Article 2: Control Measures**

*…*

5. Any Party may, for one or more control periods, transfer to another Party any portion of its calculated level of production set out in Articles 2A to 2F, [**~~and~~**] Article**[s]** 2H [**and 2J][, 2J and 2K]**, provided that the total combined calculated levels of production of the Parties concerned for any group of controlled substancesdo not exceed the production limits set out in those Articles for that group. Such transfer of production shall be notified to the Secretariat by each of the Parties concerned, stating the terms of such transfer and the period for which it is to apply.

…

8. (a) Any Parties which are Member States of a regional economic integration organization as defined in Article 1 (6) of the Convention may agree that they shall jointly fulfil their obligations respecting consumption under this Article and Articles 2A to 2**[~~I~~ J]** **[~~I~~ K]** provided that their total combined calculated level of consumption does not exceed the levels required by this Article and Articles 2A to 2**[~~I~~ J]** **[~~I~~ K]**.

**[Amendment proposals also include further amendments to this paragraph.]**

…

9. (a) Based on the assessments made pursuant to Article 6, the Parties may decide whether:

(i) Adjustments to the ozone depleting potentials specified in Annex A, Annex B, Annex C and/or Annex E should be made and, if so, what the adjustments should be; **~~and~~**

**(ii) Adjustments to the global warming potentials specified in Annexes C [and F] [, F and G] should be made and, if so, what the adjustments should be; and**

**~~(ii)-~~(iii)**  Further adjustments and reductions of production or consumption of the controlled substances should be undertaken and, if so, what the scope, amount and timing of any such adjustments and reductions should be;

**[Amendment proposals also include further amendments to this paragraph.]**

…

11. Notwithstanding the provisions contained in this Article and Articles 2A to 2**[~~I~~ J] [~~I~~ K]** Parties may take more stringent measures than those required by this Article and Articles 2A to 2**[~~I~~ J] [~~I~~ K]**.

**[Amendment proposals also include amendments to paragraphs 8(a) and (b), and 9(a) and (c) of Article 2.]**

**[Article 2J: Hydrofluorocarbons**

…

**This paragraph will apply save to the extent that the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by the Parties to be exempted uses.**

…

**Paragraphs [RELEVANT HFC CONSUMPTION OBLIGATIONS] of this Article will apply to calculated levels of production and consumption save to the extent that a high ambient temperature exemption applies based on criteria decided by the Parties.**

…]

**[Amendment proposals also include the insertion of further provisions in Article 2J and the insertion of Article 2K and amendments to Article 3.]**

Article 4: Control of trade with non-Parties

…

**1 *sept*. Within one year of the date of entry into force of this paragraph, each Party shall ban the import of the controlled substances in Annex F [and Annex G] from any State not party to this Protocol.**

…

**2 *sept*. Within one year of the date of entry into force of this paragraph, each Party shall ban the export of the controlled substances in Annex F [and Annex G] to any State not party to this Protocol.**

…

5. Each Party undertakes to the fullest practicable extent to discourage the export to any State not party to this Protocol of technology for producing and for utilizing controlled substances in Annexes A, B, C **[, ~~and~~]** E **[and F][, F and G]**.

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 **[and F][, F and G]**.

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 **[and F][, F and G]**.

8. Notwithstanding the provisions of this Article, imports and exports referred to in paragraphs 1 to 4 *ter* of this Article may be permitted from, or to, any State not party to this Protocol, if that State is determined, by a meeting of the Parties, to be in full compliance with Article 2, Articles 2A to 2**[~~I~~ J]** **[~~I~~ K]** and this Article, and have submitted data to that effect as specified in Article 7.

…

Article 4B: Licensing

…

**2 *bis*. Each Party shall, by 1 January [DATE] or within three months of the date of entry into force of this paragraph for it, whichever is later, establish and implement a system for licensing the import and export of new, used, recycled and reclaimed controlled****substances in Annex F [and G].**

**Any Party operating under paragraph 1 of Article 5 that decides it is not in a position to establish and implement such a system by 1 January [DATE] may delay taking those actions until 1 January [DATE].**

…

Article 5: Special situation of developing countries

…

4. If a Party operating under paragraph 1 of this Article, at any time before the control measures obligations in Articles 2A to 2**[~~I~~ J][K]** become applicable to it, finds itself unable to obtain an adequate supply of controlled substances, it may notify this to the Secretariat. The Secretariat shall forthwith transmit a copy of such notification to the Parties, which shall consider the matter at their next Meeting, and decide upon appropriate action to be taken.

5. Developing the capacity to fulfil the obligations of the Parties operating under paragraph 1 of this Article to comply with the control measures set out in Articles 2A to 2E and Article**[s]** 2I **[and 2J] [, 2J and 2K]**, and **with** any control measures in Articles 2F to 2H that are decided pursuant to paragraph 1 *bis* of this Article, and their implementation by those same Parties will depend upon the effective implementation of the financial co-operation as provided by Article 10 and the transfer of technology as provided by Article 10A.

6. Any Party operating under paragraph 1 of this Article may, at any time, notify the Secretariat in writing that, having taken all practicable steps it is unable to implement any or all of theobligations laid down in Articles 2A to 2E and Article**[s]** 2I **[and 2J] [, 2J and 2K]**, or any or all obligations in Articles 2F to 2H that are decided pursuant to paragraph 1 *bis* of this Article, due to the inadequate implementation of Articles 10 and 10A. The Secretariat shall forthwith transmit a copy of the notification to the Parties, which shall consider the matter at their next Meeting, giving due recognition to paragraph 5 of this Article and shall decide upon appropriate action to be taken.

…

**[Amendment proposals also include other amendments to Article 5.]**

**Article 6: Assessment and review of control measures**

Beginning in 1990, and at least every four years thereafter, the Parties shall assess the control measures provided for in Article 2 and Articles 2A to 2**[~~I~~ J]** **[~~I~~ K]** on the basis of available scientific, environmental, technical and economic information. At least one year before each assessment, the Parties shall convene appropriate panels of experts qualified in the fields mentioned and determine the composition and terms of reference of any such panels. Within one year of being convened, the panels will report their conclusions, through the Secretariat, to the Parties.

**Article 7: Reporting of data**

…

2. Each Party shall provide to the Secretariat statistical data on its production, imports and exports of each of the controlled substances

– in Annex B and Groups I and II of Annex C for the year 1989;

– in Annex E, for the year 1991**;**

**[**– **in Annex F, for the years [INSERT BASELINE YEARS], [except that Parties operating under paragraph 1 of Article 5 shall provide such data for the year [INSERT BASELINE YEAR(S).]];]**

**[**– **in Annex G, for the years [INSERT BASELINE YEARS]]**

or the best possible estimates of such data where actual data are not available, not later than three months after the date when the provisions set out in the Protocol with regard to the substances in Annexes B, C **[, ~~and~~ E and F][, E, F and G]** respectively enter into force for that Party.

3. Each Party shall provide to the Secretariat statistical data on its annual production (as defined in paragraph 5 of Article 1) of each of the controlled substances listed in Annexes A, B, C **[, ~~and~~]** E **[and F][, F and G]** and, separately, for each substance,

– Amounts used for feedstocks,

– Amounts destroyed by technologies approved by the Parties, and

– Imports from and exports to Parties and non-Parties respectively,

for the year during which provisions concerning the substances in Annexes A, B, C **~~and~~ [, E** **and F] [, E, F and G]** respectively entered into force for that Party and for each year thereafter. Each Party shall provide to the Secretariat statistical data on the annual amount of the controlled substance listed in Annex E used for quarantine and pre-shipment applications. Data shall be forwarded not later than nine months after the end of the year to which the data relate.

**[Amendment proposals also include amendments to paragraphs 2, 3bis and 4 and the insertion of a paragraph 3ter.]**

**[Amendment proposals also include amendments to Article 9.]**

**Article 10: Financial mechanism**

1. The Parties shall establish a mechanism for the purposes of providing financial and technical co-operation, including the transfer of technologies, to Parties operating under paragraph 1 of Article 5 of this Protocol to enable their compliance with the control measures set out in Articles 2A to 2E **[, ~~and~~]** Article 2I, **[and Article 2J]** any control measures in Articles 2F to 2H that are decided pursuant to paragraph 1 *bis* of Article 5 of the Protocol…

**[Amendment proposals also include further amendments to this sentence, paragraph and other parts of Article 10.]**

**[Amendment proposals also include amendments to Article s 10A.]**

Article 17: Parties joining after entry into force

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

**Annex C: Controlled substances**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Group** | **Substance** | **Number of isomers** | **Ozone-Depleting Potential\*** | **100-Year Global Warming Potential[\*] [\*\*\*]** | |
| *Group I* |  |  |  |  |  |
| CHFCl2 | (HCFC‑21)\*\* | 1 | 0.04 | **[151]** | **[148]** |
| CHF2Cl | (HCFC‑22)\*\* | 1 | 0.055 | **[1810]** | **[1,760]** |
| CH2FCl | (HCFC‑31) | 1 | 0.02 |  |  |
| C2HFCl4 | (HCFC‑121) | 2 | 0.01–0.04 |  |  |
| C2HF2Cl3 | (HCFC‑122) | 3 | 0.02–0.08 |  |  |
| C2HF3Cl2 | (HCFC‑123) | 3 | 0.02–0.06 | **[77]** | **[79]** |
| CHCl2CF3 | (HCFC‑123)\*\* | – | 0.02 |  |  |
| C2HF4Cl | (HCFC‑124) | 2 | 0.02–0.04 | **[609]** | **[527]** |
| CHFClCF3 | (HCFC‑124)\*\* | – | 0.022 |  |  |
| C2H2FCl3 | (HCFC‑131) | 3 | 0.007–0.05 |  |  |
| C2H2F2Cl2 | (HCFC‑132) | 4 | 0.008–0.05 |  |  |
| C2H2F3Cl | (HCFC‑133) | 3 | 0.02–0.06 |  |  |
| C2H3FCl2 | (HCFC‑141) | 3 | 0.005–0.07 |  |  |
| CH3CFCl2 | (HCFC‑141b)\*\* | – | 0.11 | **[725]** | **[782]** |
| C2H3F2Cl | (HCFC‑142) | 3 | 0.008–0.07 |  |  |
| CH3CF2Cl | (HCFC‑142b)\*\* | – | 0.065 | **[2310]** | **[1,980]** |
| C2H4FCl | (HCFC‑151) | 2 | 0.003–0.005 |  |  |
| C3HFCl6 | (HCFC‑221) | 5 | 0.015–0.07 |  |  |
| C3HF2Cl5 | (HCFC‑222) | 9 | 0.01–0.09 |  |  |
| C3HF3Cl4 | (HCFC‑223) | 12 | 0.01–0.08 |  |  |
| C3HF4Cl3 | (HCFC‑224) | 12 | 0.01–0.09 |  |  |
| C3HF5Cl2 | (HCFC‑225) | 9 | 0.02–0.07 |  |  |
| CF3CF2CHCl2 | (HCFC‑225ca)\*\* | – | 0.025 | **[122]** | **[127]** |
| CF2ClCF2CHClF | (HCFC‑225cb)\*\* | – | 0.033 | **[595]** | **[525]** |
| C3HF6Cl | (HCFC‑226) | 5 | 0.02–0.10 |  |  |
| C3H2FCl5 | (HCFC‑231) | 9 | 0.05–0.09 |  |  |
| C3H2F2Cl4 | (HCFC‑232) | 16 | 0.008–0.10 |  |  |
| C3H2F3Cl3 | (HCFC‑233) | 18 | 0.007–0.23 |  |  |
| C3H2F4Cl2 | (HCFC‑234) | 16 | 0.01–0.28 |  |  |
| C3H2F5Cl | (HCFC‑235) | 9 | 0.03–0.52 |  |  |
| C3H3FCl4 | (HCFC‑241) | 12 | 0.004–0.09 |  |  |
| C3H3F2Cl3 | (HCFC‑242) | 18 | 0.005–0.13 |  |  |
| C3H3F3Cl2 | (HCFC‑243) | 18 | 0.007–0.12 |  |  |
| C3H3F4Cl | (HCFC‑244) | 12 | 0.009–0.14 |  |  |
| C3H4FCl3 | (HCFC‑251) | 12 | 0.001–0.01 |  |  |
| C3H4F2Cl2 | (HCFC‑252) | 16 | 0.005–0.04 |  |  |
| C3H4F3Cl | (HCFC‑253) | 12 | 0.003–0.03 |  |  |
| C3H5FCl2 | (HCFC‑261) | 9 | 0.002–0.02 |  |  |
| C3H5F2Cl | (HCFC‑262) | 9 | 0.002–0.02 |  |  |
| C3H6FCl | (HCFC‑271) | 5 | 0.001–0.03 |  |  |

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

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

**[\*\*\* For substances for which no GWP is indicated, the default value 0 applies.]**

**[\* Source: Scientific Assessment of Ozone Depletion: 2014]**

**[Amendment proposals also include the insertion of Annexes F and G.]**

**Section B: Articles II to [IV] [V] of the Amendment proposals**

**Article II: Relationship to the 1999 Amendment**

No State or regional economic integration organization may deposit an instrument of ratification, acceptance or approval of or accession to this Amendment unless it has previously, or simultaneously, deposited such an instrument to the Amendment adopted at the Eleventh Meeting of the Parties in Beijing, 3 December 1999.

**[Amendment proposals also include Article III (Relationship to the United Nations Framework Convention on Climate Change and Its Kyoto Protocol).]**

**Article IV: Entry into force**

1. Except as noted in paragraph 2, below, this Amendment shall enter into force on 1 January **[YEAR]**, provided that at least twenty instruments of ratification, acceptance or approval of the Amendment have been deposited by States or regional economic integration organizations that are Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer. In the event that this condition has not been fulfilled by that date, the Amendment shall enter into force on the ninetieth day following the date on which it has been fulfilled.

2. The changes to Article 4 of the Protocol, Control of trade with non-Parties, set out in Article I of this Amendment shall enter into force on [**THE DATE 5 YEARS AFTER THE A5 FREEZE DATE**], provided that at least [**eighty**] [**seventy**] instruments of ratification, acceptance or approval of the Amendment have been deposited by States or regional economic integration organizations that are Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer. In the event that this condition has not been fulfilled by that date, the Amendment shall enter into force on the ninetieth day following the date on which it has been fulfilled.

3. For purposes of paragraphs 1 and 2, any such instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

4. After the entry into force of this Amendment, as provided under paragraphs 1 and 2, it shall enter into force for any other Party to the Protocol on the ninetieth day following the date of deposit of its instrument of ratification, acceptance or approval.

**[Amendment proposals also include Article V (Provisional application).]**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  |  |  |  |  |