

**Proposal for a Council Decision concerning the conclusion of the amendment to the Montreal Protocol on substances that deplete the ozone layer**

(2000/C 21 E/03)

(Text with EEA relevance)

COM(1999) 392 final — 1999/0157(CNS)

(Submitted by the Commission on 27 July 1999)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 174(4) in conjunction with the first sentence of Article 300(2) and first subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

(1) Whereas the Community, in view of its responsibilities for the environment has, by Decision 88/540/EEC <sup>(1)</sup> 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, and by Decision 91/690/EEC <sup>(2)</sup> has approved the first amendment to the said Protocol and by Decision 94/68/EC has approved the second amendment to the said Protocol;

(2) Whereas recent evidence indicates that for the adequate protection of the ozone layer a higher degree of control of trade in ozone depleting substances is required than is provided by the Montreal Protocol as amended in 1992; whereas the same evidence indicates that there should be additional monitoring and control of trade in controlled ozone-depleting substances and in particular on methyl bromide;

(3) Whereas a third amendment to the Montreal Protocol introducing these controls has been adopted in Montreal in September 1997; whereas the Commission, on behalf of the Community, took part in the negotiation and agreement of this amendment;

(4) Whereas the Community has adopted measures in the area covered by the amendment and should therefore undertake international commitments in that area;

(5) Whereas it is necessary for the Community to approve the third amendment to the Montreal Protocol because its provisions relate to trade in controlled substances between the Community and other Parties, the implementation of which is the responsibility of the Community;

HAS DECIDED AS FOLLOWS:

*Article 1*

The third amendment to the Montreal Protocol on substances that deplete the ozone layer is hereby approved on behalf of the Community.

The text of this amendment is attached to this Decision.

*Article 2*

The President of the Council is hereby authorised to designate the person or persons empowered to deposit the instrument of approval of this third amendment on behalf of the Community with the Secretary-General of the United Nations in accordance with Article 13 of the Vienna Convention for the Protection of the Ozone Layer as read in conjunction with Article 3 of the third amendment to the Montreal Protocol.

*Article 3*

This decision shall be published in the *Official Journal of the European Communities*.

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<sup>(1)</sup> OJ L 297, 31.10.1988, p. 8.

<sup>(2)</sup> OJ L 377, 31.12.1991, p. 28.

## Amendment to the Montreal Protocol adopted by the ninth meeting of the parties

### Article 1

#### Amendment

##### A. Article 4, paragraph 1 *qua*.

The following paragraph shall be inserted after paragraph 1 *ter* of Article 4 of the Protocol:

'1 *qua*. Within one year of the date of entry into force of this paragraph, each Party shall ban the import of the controlled substance in Annex E from any State not party to this Protocol.'

##### B. Article 4, paragraph 2 *qua*.

The following paragraph shall be inserted after paragraph 2 *ter* of Article 4 of the Protocol:

'2 *qua*. Commencing one year after the date of entry into force of this paragraph, each Party shall ban the export of the controlled substance in Annex E to any State not party to this Protocol.'

##### C. Article 4, paragraphs 5, 6 and 7

In paragraphs 5, 6 and 7 of Article 4 of the Protocol, for the words:

'and Group II of Annex C'

there shall be substituted:

'Group II of Annex C and Annex E'

##### D. Article 4, paragraph 8

In paragraph 8 of Article 4 of the Protocol, for the words:

'Article 2G'

there shall be substituted:

'Article 2G and 2H'

### E. Article 4A

#### Control of trade with Parties

The following Article shall be added to the Protocol as Article 4A:

1. Where, after the phase-out date applicable to it for a controlled substance, a Party is unable, despite having taken all practicable steps to comply with its obligation under the Protocol, to cease production of that substance for domestic consumption, other than for uses agreed by the Parties to be essential, it shall ban the export of used, recycled and reclaimed quantities of that substance, other than for the purpose of destruction.

2. Paragraph 1 of this Article shall apply without prejudice to the operation of Article 11 of the Convention and the non-compliance procedure developed under Article 8 of the Protocol.'

### F. Article 4B

#### Licensing

The following Article shall be added to the Protocol as Article 4B:

'6. Each Party shall, by 1 January 2000 or within three months of the date of entry into force of this Article for it, whichever is the later, establish and implement a system for licensing the import and export of new, used, recycled and reclaimed controlled substances in Annexes A, B, C and E.

7. Notwithstanding paragraph 1 of this Article, any Party operating under paragraph 1 of Article 5 which decides it is not in a position to establish and implement a system for licensing the import and export of controlled substances in Annexes C and E, may delay taking those actions until 1 January 2005 and 1 January 2002, respectively.

8. Each Party shall, within three months of the date of introducing its licensing system, report to the Secretariat on the establishment and operation of that system.

9. The Secretariat shall periodically prepare and circulate to all Parties a list of the Parties that have reported to it on their licensing systems and shall forward this information to the Implementation Committee for consideration and appropriate recommendations to the Parties.'

### Article 2

#### Relationship to the 1992 amendment

No State or regional economic integration organisation may deposit an instrument of ratification, acceptance, approval or accession to this Amendment unless it has previously, or simultaneously, deposited such an instrument to the Amendment adopted at the Fourth Meeting of the Parties in Copenhagen, 25 November 1992.

### Article 3

#### Entry into force

1. This Amendment shall enter into force on 1 January 1999, provided that at least twenty instruments of ratification, acceptance or approval of the Amendment have been deposited by States or regional economic integration organisations 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. For the purposes of paragraph 1, any such instrument deposited by a regional economic integration organisation shall not be counted as additional to those deposited by member States of such organisation.

3. After the entry into force of this Agreement, as provided under paragraph 1, 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.