



Ozone Protection Amendment Act 1992

No. 46 of 1992

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AMENDMENTS RELATING TO PENALTIES



Ozone Protection Amendment Act 1992

No. 46 of 1992

An Act to amend the *Ozone Protection Act 1989*, and for related purposes

[Assented to 11 June 1992]

The Parliament of Australia enacts:

Short title etc.

1.(1) This Act may be cited as the *Ozone Protection Amendment Act 1992*.

5 (2) In this Act, “Principal Act” means the *Ozone Protection Act 1989*¹.

Commencement

2.(1) Subject to this section, this Act commences on a day to be fixed by Proclamation.

10 (2) The day fixed under subsection (1) must not be earlier than the day (in this section called the ‘Protocol amendment day’) on which the

amendment of the Protocol adopted on 29 June 1990 at the Second Meeting of the Parties to the Protocol enters into force for Australia.

(3) If this Act does not commence under subsection (1) within the period of 6 months beginning on the Protocol amendment day, it commences on the first day after the end of that period.

5

Definitions

3. Section 7 of the Principal Act is amended:

(a) by inserting in subsection (1) the following definitions:

“ **‘base year’** means:

(a) in relation to a stage-1 CFC or a halon—1986; or 10

(b) in relation to a stage-2 CFC, carbon tetrachloride, methyl chloroform or a transitional substance—1989;

‘carbon tetrachloride’ means the substance referred to in Part III of Schedule 1, whether existing alone or in a mixture;

‘feedstock’ means an intermediate substance which is used to manufacture other chemicals; 15

‘methyl chloroform’ means the substance referred to in Part IV of Schedule 1 (that is, 1,1,1-trichloroethane), whether existing alone or in a mixture;

‘methyl chloroform quota’ means a quota allocated or renewed under Part IV that permits the manufacture or import of methyl chloroform; 20

‘methyl chloroform quota period’ means a methyl chloroform quota period as defined in section 8;

‘reduce’, in relation to the size of a quota, includes reduce to nil; 25

‘restricted licence’ means a licence under section 16 that is subject to conditions;

‘stage-1 CFC’ means a substance referred to in Division 1 of Part I of Schedule 1, whether existing alone or in a mixture; 30

‘stage-2 CFC’ means a substance referred to in Division 2 of Part I of Schedule 1, whether existing alone or in a mixture;

‘stage-1 scheduled substance’ means:

(a) a stage-1 CFC; or

(b) a halon; 35

‘stage-2 scheduled substance’ means:

(a) a stage-2 CFC; or

(b) carbon tetrachloride; or

(c) methyl chloroform;

‘transitional substance’ means a substance referred to in Annex C to the Protocol, whether existing alone or in a mixture.”; 40

- (b) by inserting “stage-1” before “CFCs” in paragraphs (a), (b) and (c) of the definition of “quota activity” in subsection (1);
- (c) by omitting “or” from the end of paragraph (d) of the definition of “quota activity” in subsection (1);
- 5 (d) by adding at the end of the definition of “quota activity” in subsection (1) the following paragraphs:
 - “(f) the manufacture of stage-2 CFCs;
 - (g) the import of stage-2 CFCs;
 - (h) the manufacture of methyl chloroform; or
 - 10 (i) the import of methyl chloroform;”;
- (e) by omitting “or a halon quota period” from the definition of “quota period” in subsection (1) and substituting “, a halon quota period or a methyl chloroform quota period”.

Quota periods

- 15 4. Section 8 of the Principal Act is amended:
 - (a) by omitting from subsection (1) “or a halon quota period” and substituting “, a halon quota period or a methyl chloroform quota period”;
 - (b) by omitting from subsection (2) “and”;
 - 20 (c) by adding at the end of subsection (2) “, and each methyl chloroform quota period (other than the first) commences at the end of the previous methyl chloroform quota period”;
 - (d) by inserting in subsection (3) “in relation to a stage-1 CFC” after “period”;
 - 25 (e) by inserting after subsection (4) the following subsections:
 - “(4A) The first CFC quota period in relation to a stage-2 CFC commences on the first 1 July after the commencement of the *Ozone Protection Amendment Act 1992*.
 - “(4B) The first methyl chloroform quota period commences on the later of the following days:
 - 30 (a) 1 January 1993;
 - (b) the first day of the first quarter commencing after the commencement of the *Ozone Protection Amendment Act 1992*.”.

35 Scheduled substances and transitional substances not to include manufactured products

- 5. Section 9 of the Principal Act is amended:
 - (a) by inserting in subsection (1) “or a transitional substance” before “does not include”;
 - 40 (b) by adding at the end of paragraph (1)(a) “or a transitional substance, as the case may be”;
 - (c) by inserting in paragraph (1)(b) and subsection (2) “or a

transitional substance, as the case may be,” after “scheduled substance”.

6. After section 10 of the Principal Act the following section is inserted:

Quantity—in relation to transitional substances 5

“10A. A reference in this Act to a quantity of a transitional substance or transitional substances is a reference to the mass of the substance or substances expressed in kilograms.”.

Recycling of scheduled substances and transitional substances

7. Section 12 of the Principal Act is amended: 10

(a) by inserting in subsections (1) and (2) “or transitional substances” after “scheduled substances” (first occurring);

(b) by inserting in subsection (1) “or transitional substances, as the case may be,” after “scheduled substances” (second and third occurring); 15

(c) by inserting in subsection (2) “or transitional substances, as the case may be,” after “scheduled substances” (second, third and fourth occurring).

8. After section 12 of the Principal Act the following section is inserted: 20

Feedstocks

“12A. A reference in this Act (other than Part VII) to the manufacture or import of a scheduled substance does not include a reference to the manufacture or import of a scheduled substance exclusively for use as a feedstock.”. 25

9. Before section 13 of the Principal Act the following section is inserted:

Part does not apply to export of CFCs for use on board ships or aircraft

“12B. This Part does not apply to the export of a CFC if all of the following conditions are satisfied: 30

(a) the CFC is on board a ship or aircraft;

(b) the ship or aircraft has air conditioning or refrigeration equipment;

(c) the CFC is exclusively for use in meeting the reasonable servicing requirements of that equipment during, or in connection with, one or more periods when the ship or aircraft is or will be engaged in a journey between: 35

(i) a place in Australia and a place outside Australia; or

(ii) 2 places outside Australia.”. 40

Unlicensed manufacture, import or export of scheduled substances

10. Section 13 of the Principal Act is amended:

(a) by inserting in subsection (1) “applicable to a stage-1 CFC” after “period”;

5 (b) by inserting in paragraphs (1)(a), (b) and (c) “stage-1” before “CFC”;

(c) by omitting “or” from the end of paragraph (2)(b);

(d) by omitting paragraph (2)(c);

(e) by adding at the end the following subsections:

10 “(3) A person must not export a halon unless the person holds a restricted licence under section 16.

Penalty: \$50,000.

“ (4) After the beginning of the first CFC quota period applicable to a stage-2 CFC, a person must not:

15 (a) manufacture a stage-2 CFC; or

(b) import a stage-2 CFC; or

(c) export a stage-2 CFC;

unless the person holds a licence under section 16.

Penalty: \$50,000.

20 “(5) A person must not:

(a) manufacture carbon tetrachloride; or

(b) import carbon tetrachloride;

unless the person holds a restricted licence under section 16.

Penalty: \$50,000.

25 “(6) After the beginning of the first methyl chloroform quota period, a person must not:

(a) manufacture methyl chloroform; or

(b) import methyl chloroform;

unless the person holds a licence under section 16.

30 Penalty: \$50,000.

“ (7) After the beginning of the first methyl chloroform quota period, a person must not export methyl chloroform unless the person holds a restricted licence under section 16.

Penalty: \$50,000.”.

35 Grant of licence

11.(1) Section 16 of the Principal Act is amended:

(a) by omitting from subsection (1) “(3)” and substituting “(3C), (3D), (3E)”;

40 (b) by omitting subsection (3) and substituting the following subsections:

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“(3A) A licence granted after the commencement of this subsection must specify the activity to which it relates (for example: the manufacture of stage-2 CFCs; the export of a halon or the import of carbon tetrachloride).

“(3B) 2 or more licences granted to the same person may be set out in the same document. 5

“(3C) The Minister must not grant a licence (other than a restricted licence) to a person for the manufacture, import or export of a stage-2 CFC unless:

- (a) at any time during the period commencing on 1 January 1989 and ending immediately before the commencement of this subsection, the person conducted an enterprise in the course of which stage-2 CFCs were manufactured, imported or exported; and 10
- (b) the person applies for the licence within 6 months after the commencement of this subsection. 15

“(3D) The Minister must not grant a licence to a person for the manufacture or import of carbon tetrachloride unless:

- (a) at any time during the period commencing on 1 January 1989 and ending immediately before the commencement of this subsection, the person conducted an enterprise in the course of which: 20
 - (i) carbon tetrachloride was manufactured or imported; or
 - (ii) carbon tetrachloride was purchased from an Australian manufacturer of carbon tetrachloride; and 25
- (b) the person applies for the licence within 6 months after the commencement of this subsection.

“(3E) The Minister must not grant a licence to a person for the manufacture, import or export of methyl chloroform unless: 30

- (a) at any time during the period commencing on 1 January 1989 and ending immediately before the commencement of this subsection, the person conducted an enterprise in the course of which methyl chloroform was manufactured, imported or exported; and 35
- (b) the person applies for the licence within 6 months after the commencement of this subsection.”;
- (c) by adding at the end the following subsections:

“(8) A licence that was in force immediately before the commencement of this subsection and which permitted the manufacture, import or export of stage-1 CFCs has effect, after the commencement of this subsection, as if it also permitted 40

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the manufacture, import or export, as the case may be, of stage-2 CFCs.

5 “(9) A licence that was in force immediately before the commencement of this subsection is taken, after the commencement of this subsection, not to relate to carbon tetrachloride or methyl chloroform.

10 “(10) A licence that was in force immediately before the commencement of this subsection is taken, after the commencement of this subsection, not to permit the export of a halon.”.

(2) The repeal of subsection 16(3) of the Principal Act effected by subsection (1) of this section does not affect a licence granted before the commencement of this section.

15 12. After section 17 of the Principal Act the following section is inserted:

Licence may be granted subject to conditions

“17A.(1) A licence under section 16 may be granted subject to such conditions as are specified in the licence.

“(2) Such a licence is in this Act called a ‘**restricted licence**’.

20 “(3) A restricted licence may relate to any activity mentioned in section 13.

“(4) The Minister may, by written notice given to the holder of a restricted licence:

25 (a) impose one or more further conditions to which the licence is subject; or

(b) revoke or vary any condition:

(i) imposed under paragraph (a); or

(ii) specified in the licence.

30 “(5) Without limiting the kinds of conditions to which a restricted licence may be subject, a restricted licence may be subject to conditions of the following kinds:

35 (a) conditions relating to the nature and quantity of particular scheduled substances that the holder may manufacture, import or export, as the case may be, during a quarter to which the licence relates;

(b) in the case of an export licence—conditions relating to the countries to which particular scheduled substances may be exported;

40 (c) in the case of an import licence—conditions relating to the countries from which particular scheduled substances may be imported;

- (d) conditions prohibiting the person from doing anything that would otherwise be covered by the licence unless the person also holds another type of licence;
- (e) conditions relating to the purpose or purposes for which particular scheduled substances may be manufactured, imported or exported, as the case may be; 5
- (f) conditions requiring the licensee to give written reports to the Minister.

“(6) A licensee who, without reasonable excuse, contravenes a condition of a restricted licence is guilty of an offence punishable on conviction by a fine not exceeding \$50,000.”. 10

Duration of licence

13. Section 18 of the Principal Act is amended:

- (a) by inserting in subsection (1) “(other than a restricted licence)” after “licence”; 15

- (b) by inserting after subsection (1) the following subsection:

“(1A) A restricted licence remains in force for such period, not exceeding 10 years, as is specified in the licence.”;

- (c) by inserting in subsection (2) “applicable to stage-1 CFCs” after “period” (first occurring); 20

- (d) by adding at the end the following subsections:

“(3) A licence relating to stage-2 CFCs that is granted before the beginning of the first CFC quota period applicable to stage-2 CFCs comes into force at the beginning of that quota period. 25

“(4) A licence relating to methyl chloroform that is granted before the beginning of the first methyl chloroform quota period comes into force at the beginning of that quota period.”.

14. After section 18 of the Principal Act the following section is inserted: 30

Termination of licence by regulation

“18A.(1) For the purposes of giving effect to an adjustment or amendment of the Protocol, the regulations may provide that specified kinds of licences:

- (a) are to cease to be in force on a date that is: 35
 - (i) specified in the regulations; and
 - (ii) later than 6 months after the regulations are made; and
- (b) are not to be renewed after that date.

“(2) Regulations made by virtue of subsection (1) in relation to an adjustment or amendment of the Protocol that has not entered into 40

force for Australia must not specify a date earlier than the date on which the adjustment or amendment entered into force for Australia.”.

Cancellation of licence

5 15. Section 20 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

“ (1) The Minister may cancel a licence if:

- (a) in any case—the Minister is satisfied that the licensee is no longer a fit and proper person to hold a licence; or
- 10 (b) in the case of a restricted licence—there has been a contravention of any of the conditions to which it is subject.”.

16. Before section 23 of the Principal Act the following sections are inserted:

Quota system does not apply to manufacture, import or export covered by restricted licence

15 “22A. This Part does not apply to the manufacture, import or export of scheduled substances if the manufacture, import or export, as the case may be, is permitted under a restricted licence.

Quota system does not apply to export of CFCs for use on board ships or aircraft

20 “22B. This Part does not apply to the export of a CFC if all of the following conditions are satisfied:

- (a) the CFC is on board a ship or aircraft;
- (b) the ship or aircraft has air conditioning or refrigeration equipment;
- 25 (c) the CFC is exclusively for use in meeting the reasonable servicing requirements of that equipment during, or in connection with, one or more periods when the ship or aircraft is or will be engaged in a journey between:
 - (i) a place in Australia and a place outside Australia; or
 - 30 (ii) 2 places outside Australia.

Meaning of ‘type’ of CFCs

“22C. For the purposes of this Part, the only types of CFC are as follows:

- (a) stage-1 CFCs are one type of CFCs;
- 35 (b) stage-2 CFCs are the other type of CFCs.”.

Manufacture in excess of quota

17. Section 23 of the Principal Act is amended:

- (a) by inserting in subsection (1) “particular type of” before “CFC” (first occurring);

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- (b) by inserting in subsection (1) “applicable to that type of CFC” before “unless”;
- (c) by inserting in paragraph (1)(a) “that type of” before “CFCs”;
- (d) by inserting in paragraph (1)(b) “type of” before “CFC”;
- (e) by inserting in paragraph (1)(b) “that type of” before “CFCs” 5
(wherever occurring);
- (f) by adding at the end the following subsection:

“(3) A licensee must not manufacture methyl chloroform in a methyl chloroform quota period unless:

- (a) the licensee is the holder of a quota permitting the manufacture of methyl chloroform in the quota period; 10
and
- (b) the quantity of the methyl chloroform manufactured, together with all other quantities of methyl chloroform manufactured by the licensee in the quota period, does 15
not exceed the quota held by the licensee for the manufacture of methyl chloroform in the quota period.

Penalty: \$50,000.”.

Import in excess of quota

18. Section 24 of the Principal Act is amended: 20

- (a) by inserting in subsection (1) “particular type of” before “CFC” (first occurring);
- (b) by inserting in subsection (1) “applicable to that type of CFC” before “unless”;
- (c) by inserting in paragraph (1)(a) “that type of” before “CFCs”; 25
- (d) by inserting in paragraph (1)(b) “type of” before “CFC”;
- (e) by inserting in paragraph (1)(b) “that type of” before “CFCs” (wherever occurring);
- (f) by adding at the end the following subsection:

“(3) A licensee must not import methyl chloroform in a methyl chloroform quota period unless: 30

- (a) the licensee is the holder of a quota permitting the importation of methyl chloroform in the quota period; and
- (b) the quantity of the methyl chloroform imported, together with all other quantities of methyl chloroform imported by the licensee in the quota period, does not exceed the 35
quota held by the licensee for the importation of methyl chloroform in the quota period.

Penalty: \$50,000.”. 40

Export of stage-1 CFCs in excess of quota

19. Section 25 of the Principal Act is amended:

- (a) by inserting “stage-1” before “CFC” (first occurring);
- (b) by inserting “applicable to stage-1 CFCs” before “unless”;
- 5 (c) by inserting in paragraph (a) “stage-1” before “CFCs”;
- (d) by inserting in paragraph (b) “stage-1” before “CFC”;
- (e) by inserting in paragraph (b) “stage-1” before “CFCs” (wherever occurring).

Nature of quotas

10 20. Section 26 of the Principal Act is amended:

- (a) by inserting in paragraphs (1)(a) and (b) and subsection (2) “of a particular type” after “CFCs” (wherever occurring);
- (b) by inserting in paragraph (1)(c) “stage-1” before “CFCs”;
- (c) by adding at the end the following subsections:

15 “(5) A methyl chloroform quota may be allocated in respect of one or both of the following:

- (a) manufacture of methyl chloroform;
- (b) import of methyl chloroform.

20 “(6) The size of a methyl chloroform quota is the quantity of methyl chloroform that the holder may manufacture or import, as the case may be, during a quota period to which the quota relates.”.

Application for quota

21. Section 27 of the Principal Act is amended by omitting from
25 subsection (4) all the words after “CFC quota” and substituting “relating to a particular type of CFC, an application for a halon quota and an application for a methyl chloroform quota must be made separately”.

Allocation of quota

22. Section 28 of the Principal Act is amended:

- 30 (a) by omitting from paragraphs (1)(a) and (4)(a) “commencement of this Act” and substituting “relevant commencing time”;
- (b) by omitting from paragraph (3)(a) “or a halon quota” and substituting “, a halon quota or a methyl chloroform quota”;
- (c) by inserting after paragraph (3)(a) the following paragraph:
35 “(aa) if the quota is a CFC quota allocated after the commencement of this paragraph—the type of CFCs to which the quota relates;”;
- (d) by omitting from paragraph (3)(c) “or (4)” and substituting “, (4) or (6)”;
- 40 (e) by inserting in paragraphs (5)(a) and (b) “stage-1” before “CFCs”;

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(f) by adding at the end the following subsections:

“(7) A CFC quota allocated or renewed before the commencement of this subsection is taken, after the commencement of this subsection, not to relate to stage-2 CFCs.

“(8) In this section:

5

‘relevant commencing time’ means:

(a) in relation to stage-1 CFCs or halons—the beginning of 16 March 1989; or

(b) in relation to stage-2 CFCs or methyl chloroform—the commencement of the *Ozone Protection Amendment Act 1992*.”.

10

Ascertainment of size of quota—initial allocation in respect of manufacture or import

23. Section 29 of the Principal Act is amended:

(a) by inserting in subsection (1) “of a particular type” after “CFCs” (first occurring);

15

(b) by inserting in subsection (1) “applicable to CFCs of that type” after “period” (first occurring);

(c) by inserting in subsection (1) “of that type” after “CFCs” (second and third occurring);

20

(d) by omitting from subsections (1), (2) and (5) “during 1986” and substituting “during the base year”;

(e) by adding at the end of subsection (1) “or 46A(2), as the case requires”;

(f) by inserting after subsection (2) the following subsection:

25

“(2A) The size of quotas in respect of the manufacture or import of methyl chloroform during the first methyl chloroform quota period is to be worked out under this section in such manner that the total quantity of methyl chloroform represented by the quotas does not exceed the total quantity of methyl chloroform manufactured in Australia or imported, as the case may be, during the base year, being the total quantity specified in respect of such manufacture or import, as the case may be, in the report published under subsection 46A(2).”;

30

(g) by omitting from subsection (3) “The size” and substituting “Subject to subsection (10) (which deals with general reductions), the size”;

35

(h) by omitting from subsections (3), (5) and (6) “the 1986” and substituting “the base year”;

(i) by omitting from subsections (4), (5) and (8) “CFCs or halons” and substituting “CFCs of a particular type, halons or methyl chloroform”;

40

- (j) by omitting from subsections (5) and (9) “commencement of this Act” and substituting “relevant commencing time”;
- (k) by omitting from subsection (6) “1986 components” and substituting “the base year components”;
- 5 (l) by omitting from subsection (7) “1986 components” and substituting “The base year components”;
- (m) by omitting from subsection (7) “each 1986” and substituting “each base year”;
- 10 (n) by omitting from subsection (8) “and (2)” and substituting “, (2) and (2A)”.
- (o) by omitting from subsection (9) “1986” and substituting “the base year”;
- (p) by adding at the end the following subsections:
 - 15 “(10) The Minister may reduce the size of a quota mentioned in subsection (3) where the quota relates to stage-2 CFCs or methyl chloroform.
 - “ (11) The Minister, in exercising the powers conferred by subsection (10):
 - 20 (a) must have regard to:
 - (i) Australia’s international obligations in relation to the manufacture, importation or consumption of scheduled substances; and
 - (ii) the policies of the Commonwealth Government in relation to the manufacture, importation or consumption of scheduled substances; and
 - 25 (b) may have regard to such other matters (if any) as the Minister considers relevant.
 - “ (12) In this section:
‘relevant commencing time’ means:
 - 30 (a) in relation to a stage-1 CFC or a halon—the beginning of 16 March 1989; or
 - (b) in relation to a stage-2 CFC or methyl chloroform —the commencement of the *Ozone Protection Amendment Act 1992*.”.

35 Ascertainment of size of quota—initial allocation in respect of export of stage-1 CFCs

24. Section 30 of the Principal Act is amended:

- (a) by inserting in subsections (1), (2), (3), (4) and (5) “stage-1” before “CFCs” (wherever occurring);
- 40 (b) by omitting from subsection (1) “the first CFC quota period” and substituting “the first CFC quota period applicable to stage-1 CFCs”;

- (c) by omitting from subsections (2) and (3) “1986 component” and substituting “base year component”;
- (d) by omitting from subsection (3) “during 1986” and substituting “during the base year”;
- (e) by omitting from subsection (5) “1986” and substituting “the base year”. 5

Renewal of quota

25. Section 31 of the Principal Act is amended:

- (a) by omitting from subsection (4) all the words after “CFC quota” and substituting “of a particular type, an application for renewal of a halon quota and an application for renewal of a methyl chloroform quota must be made separately”; 10
- (b) by adding “and” at the end of paragraph (5)(b);
- (c) by inserting after paragraph (5)(b) the following paragraph:
“(c) the size of the current quota held by the applicant exceeds nil;”;
- (d) by omitting from paragraph (7)(a) “or a halon quota” and substituting “, a halon quota or a methyl chloroform quota”; 15
- (e) by inserting after paragraph (7)(a) the following paragraph:
“(aa) if the quota is a CFC quota renewed after the commencement of this paragraph—the type of CFCs to which the quota relates;”;
- (f) by omitting from paragraph (7)(c) “or (4)” and substituting “, (4) or (6)”;
- (g) by inserting in paragraphs (9)(a) and (b) “stage-1” before “CFCs”. 25

Ascertainment of size of quota on renewal

26.(1) Section 32 of the Principal Act is amended:

- (a) by omitting from subsection (1) “The size” and substituting “Subject to subsection (7) (which deals with general reductions and increases), the size”; 30
- (b) by omitting from subsections (2) and (3) “or halons” and substituting “of a particular type, halons or methyl chloroform”;
- (c) by adding at the end the following subsections:
“(7) The Minister may reduce or increase the size of a quota mentioned in subsection (1). 35
“(8) The Minister, in exercising the powers conferred by subsection (7):
(a) must have regard to:
(i) Australia’s international obligations in relation to the manufacture, importation or consumption of scheduled substances; and 40

- (ii) the policies of the Commonwealth Government in relation to the manufacture, importation or consumption of scheduled substances; and

(b) may have regard to:

- (i) the likely effect of the size of the quota on Australian demand for individual scheduled substances (insofar as that likely effect is not covered by subparagraph (a)(i) or (ii)); and
- (ii) such other matters (if any) as the Minister considers relevant.”.

(2) The amendments made by paragraphs (1)(a) and (c) apply in relation to quota periods commencing after the commencement of this subsection.

Ascertainment of size of quota in respect of export of stage-1 CFCs on renewal

27.(1) Section 33 of the Principal Act is amended:

- (a) by omitting “The” and substituting “Subject to subsection (2) (which deals with general reductions and increases), the”;
- (b) by inserting “stage-1” before “CFCs” (wherever occurring);
- (c) by adding at the end the following subsections:

“(2) The Minister may reduce or increase the size of a quota mentioned in subsection (1).

“(3) The Minister, in exercising the powers conferred by subsection (2):

(a) must have regard to:

- (i) Australia’s international obligations in relation to the export or consumption of scheduled substances; and
- (ii) the policies of the Commonwealth Government in relation to the export or consumption of scheduled substances; and

(b) may have regard to such other matters (if any) as the Minister considers relevant.”.

(2) The amendments made by paragraphs (1)(a) and (c) apply in relation to quota periods commencing after the commencement of this subsection.

Publishing of quota levels

28. Section 36 of the Principal Act is amended by adding at the end the following subsection:

“(3) Within one month after the beginning of each methyl chloroform quota period, the Minister must cause to be published in the *Gazette* a notice setting out:

- (a) the total quantity of methyl chloroform permitted to be manufactured under methyl chloroform quotas during the period; and
- (b) the total quantity of methyl chloroform permitted to be manufactured under methyl chloroform quotas during the period as part of an activity that is essential for purposes connected with Australia's defence; and 5
- (c) the total quantity of methyl chloroform permitted to be imported under methyl chloroform quotas during the period; and
- (d) the total quantity of methyl chloroform permitted to be imported under methyl chloroform quotas during the period as part of an activity that is essential for purposes connected with Australia's defence." 10

Exemptions

29. Section 40 of the Principal Act is amended: 15
- (a) by inserting after subsection (6) the following subsection:

"(6A) An exemption may be granted subject to such conditions as are specified in the notice.";
 - (b) by adding at the end the following subsections:

"(9) The Minister may, by written notice given to the holder of an exemption, cancel the exemption if there has been a contravention of any of the conditions to which it is subject. 20

"(10) It is not an offence to contravene a condition to which an exemption is subject."

Protocol countries 25

30. Section 41 of the Principal Act is amended:
- (a) by omitting from subsection (7) "this section" and substituting "subsection (2) or (4)";
 - (b) by adding at the end the following subsection:

"(8) The regulations may specify countries that, although parties to the Protocol, are taken, for the purposes of this Part, not to be parties to the Protocol." 30

Import of scheduled substances from non-Protocol countries

31. Section 42 of the Principal Act is amended:
- (a) by omitting from subsection (1) "this section" and substituting "this subsection"; 35
 - (b) by inserting in subsection (1) "stage-1" before "scheduled substance";
 - (c) by omitting from subsection (2) "this section" and substituting "subsection (1)"; 40
 - (d) by adding at the end the following subsection:

“(4) On and after the first anniversary of the commencement of this subsection, a person must not import a stage-2 scheduled substance from a non-Protocol country.

Penalty: \$10,000.”.

5 Export of scheduled substances to non-Protocol countries

32. Section 43 of the Principal Act is amended:

(a) by inserting “stage-1” before “scheduled substance”;

(b) by adding at the end the following subsection:

10 “(2) On and after the first anniversary of the commencement of this subsection, a person must not export a stage-2 scheduled substance to a non-Protocol country.

Penalty: \$10,000.”.

Import of products containing scheduled substances from non-Protocol countries

15 **33.(1)** Section 44 of the Principal Act is amended:

(a) by omitting from subsection (1) “this section” (first occurring) and substituting “this subsection”;

(b) by inserting in subsection (1) “from a non-Protocol country” after “import”;

20 (c) by inserting in subsection (1) “stage-1” before “scheduled substance”;

(d) by omitting from subsection (1) “, being a product to which this section applies, from a non-Protocol country”;

25 (e) by omitting from subsection (2) “this section” and substituting “subsection (1)”;

(f) by omitting from subsection (3) “A product to which this section applies is” and substituting “Subsection (1) applies to”;

(g) by omitting from subsection (3) “this section” (last occurring) and substituting “subsection (1)”;

30 (h) by adding at the end the following subsections:

“(5) On and after the 3rd anniversary of the commencement of this subsection, a person must not import from a non-Protocol country a product containing a stage-2 scheduled substance.

35 Penalty: \$10,000.

“(6) Subsection (5) applies to a product declared by the Minister to be a product to which subsection (5) applies, being a product listed in the annex referred to in paragraph 3 *bis* of Article 4 of the Protocol.

40 “(7) The declaration of a product under subsection (6) is to be by notice published in the *Gazette*.”.

(2) A declaration of a product under subsection 44(3) of the Principal Act that was in force immediately before the commencement of this section has effect, after the commencement of this subsection, as if it were a declaration that the product is to be a product to which subsection 44(1) of the Principal Act as amended by this Act applies. 5

Import of products manufactured using scheduled substances from non-Protocol countries

34.(1) Section 45 of the Principal Act is amended:

- (a) by omitting from subsection (1) “this section” (first occurring) and substituting “this subsection”; 10
- (b) by inserting in subsection (1) “from a non-Protocol country” after “import”;
- (c) by inserting in subsection (1) “stage-1” before “scheduled substance”;
- (d) by omitting from subsection (1) “, being a product to which this section applies, from a non-Protocol country”; 15
- (e) by omitting from subsection (2) “this section” and substituting “subsection (1)”;
- (f) by omitting from subsection (3) “A product to which this section applies is” and substituting “Subsection (1) applies to”; 20
- (g) by omitting from subsection (3) “this section” (last occurring) and substituting “subsection (1)”;
- (h) by inserting after subsection (3) the following subsections:
 - “(3A) On and after the 5th anniversary of the commencement of this subsection, a person must not import from a non-Protocol country a product in the manufacture of which a stage-2 scheduled substance was used. 25
 - Penalty: \$10,000.
 - “(3B) Subsection (3A) applies to a product declared by the Minister to be a product to which subsection (3A) applies, being a product listed in the annex referred to in paragraph 4 *bis* of Article 4 of the Protocol.”; 30
- (i) by omitting from subsection (4) “Subsection (1) does not” and substituting “Subsections (1) and (3A) do not”;
- (j) by omitting from subsection (4) “(1)” (last occurring) and substituting “(3) or (3B), as the case requires”; 35
- (k) by inserting in subsection (6) “or (3B)” after “(3)”.

(2) A declaration of a product under subsection 45(3) of the Principal Act that was in force immediately before the commencement of this section has effect, after the commencement of this subsection, as if it were a declaration that the product is to be a product to which subsection 45(1) of the Principal Act as amended by this Act applies. 40

Initial report on base year activity—stage-1 scheduled substances

35. Section 46 of the Principal Act is amended:

- (a) by omitting “1986” (wherever occurring) and substituting “the base year”;
- 5 (b) by omitting from subsection (1) “scheduled substance” and substituting “stage-1 scheduled substance”;
- (c) by inserting “stage-1” before “CFCs” (wherever occurring).

36. After section 46 of the Principal Act the following section is inserted:

10 **Initial report on base year activity—stage-2 scheduled substances and transitional substances**

“46A.(1) Each person who, during the base year, manufactured, imported or exported any stage-2.scheduled substance or any transitional substance must, within one month after the commencement of this
15 section, give the Minister a written report:

- (a) stating which of the following activities the person engaged in during the base year:
 - (i) the manufacture of stage-2 CFCs;
 - (ii) the import of stage-2 CFCs;
 - 20 (iii) the export of stage-2 CFCs;
 - (iv) the destruction of stage-2 CFCs;
 - (v) the manufacture of carbon tetrachloride;
 - (vi) the import of carbon tetrachloride;
 - (vii) the export of carbon tetrachloride;
 - 25 (viii) the destruction of carbon tetrachloride;
 - (ix) the manufacture of methyl chloroform;
 - (x) the import of methyl chloroform;
 - (xi) the export of methyl chloroform;
 - (xii) the destruction of methyl chloroform;
 - 30 (xiii) the manufacture of transitional substances;
 - (xiv) the import of transitional substances;
 - (xv) the export of transitional substances;
 - (xvi) the destruction of transitional substances; and
- 35 (b) in respect of each activity so engaged in, stating the quantity of stage-2 CFCs, carbon tetrachloride, methyl chloroform or transitional substances, as the case may be, that the person manufactured, imported, exported or destroyed, as the case may be, during the base year.

Penalty:

- 40 (c) if the offence relates solely to one or more transitional substances—\$5,000; or
- (d) in any other case—\$10,000.

“(2) Within 2 months after the commencement of this section, the Minister must publish in the *Gazette* a notice that, using the information given under subsection (1) and any other relevant information available to the Minister, specifies, in respect of each activity mentioned in paragraph (1)(a), the total quantity of stage-2 CFCs, carbon tetrachloride, methyl chloroform or transitional substances, as the case may be, that was manufactured, imported, exported or destroyed during the base year in the course of that activity.”. 5

37.(1) Section 47 of the Principal Act is repealed and the following section is substituted: 10

Quarterly reports by manufacturers, importers or exporters of scheduled substances

“47.(1) Each person who, during a quarter, manufactured, imported or exported a scheduled substance must give to the Minister a written report specifying: 15

(a) both:

- (i) the quantity of CFCs manufactured by the person during the quarter; and
- (ii) the quantity of CFCs manufactured by the person during the quarter for use as feedstock; and 20

(b) each of the following:

- (i) the quantity of CFCs imported by the person during the quarter;
- (ii) the quantity of CFCs imported by the person during the quarter, broken down by country of origin; 25
- (iii) the quantity of CFCs imported by the person during the quarter for use as feedstock; and

(c) both:

- (i) the quantity of CFCs exported by the person during the quarter; and 30
- (ii) the quantity of CFCs exported by the person during the quarter, broken down by country of destination; and

(d) the quantity of CFCs destroyed by the person during the quarter; and

(e) both: 35

- (i) the quantity of halons manufactured by the person during the quarter; and
- (ii) the quantity of halons manufactured by the person during the quarter for use as feedstock; and

(f) each of the following: 40

- (i) the quantity of halons imported by the person during the quarter;

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- (ii) the quantity of halons imported by the person during the quarter, broken down by country of origin;
 - (iii) the quantity of halons imported by the person during the quarter for use as feedstock; and
- 5 (g) both:
 - (i) the quantity of halons exported by the person during the quarter; and
 - (ii) the quantity of halons exported by the person during the quarter, broken down by country of destination; and
- 10 (h) the quantity of halons destroyed by the person during the quarter; and
 - (i) both:
 - (i) the quantity of carbon tetrachloride manufactured by the person during the quarter; and
 - 15 (ii) the quantity of carbon tetrachloride manufactured by the person during the quarter for use as feedstock; and
 - (j) each of the following:
 - (i) the quantity of carbon tetrachloride imported by the person during the quarter;
 - 20 (ii) the quantity of carbon tetrachloride imported by the person during the quarter, broken down by country of origin;
 - (iii) the quantity of carbon tetrachloride imported by the person during the quarter for use as feedstock; and
- 25 (k) both:
 - (i) the quantity of carbon tetrachloride exported by the person during the quarter; and
 - (ii) the quantity of carbon tetrachloride exported by the person during the quarter, broken down by country of destination; and
- 30 (l) the quantity of carbon tetrachloride destroyed by the person during the quarter; and
- (m) both:
 - (i) the quantity of methyl chloroform manufactured by the person during the quarter; and
 - 35 (ii) the quantity of methyl chloroform manufactured by the person during the quarter for use as feedstock; and
- (n) each of the following:
 - (i) the quantity of methyl chloroform imported by the person during the quarter;
 - 40 (ii) the quantity of methyl chloroform imported by the person during the quarter, broken down by country of origin;
 - (iii) the quantity of methyl chloroform imported by the person during the quarter for use as feedstock; and

- (o) both:
 - (i) the quantity of methyl chloroform exported by the person during the quarter; and
 - (ii) the quantity of methyl chloroform exported by the person during the quarter, broken down by country of destination; and 5
- (p) the quantity of methyl chloroform destroyed by the person during the quarter.

Penalty: \$10,000.

“(2) A report must be given to the Minister within 15 days after the end of the quarter to which it relates. 10

“(3) For the purposes of subsection (1), if the quantity of a particular thing is a nil amount, the report concerned must state that fact.

“(4) This section applies as follows:

- (a) in the case of stage-1 CFCs and halons—to quarters commencing after the commencement of this section; 15
- (b) in the case of stage-2 CFCs and carbon tetrachloride—to quarters commencing on or after the first 1 July after the commencement of this section;
- (c) in the case of methyl chloroform—to quarters included in a methyl chloroform quota period.”. 20

(2) In spite of the repeal of section 47 of the Principal Act effected by subsection (1), that section continues to have effect, in relation to a quarter commencing at or before the commencement of this subsection, as if that repeal had not been effected. 25

38. Before section 48 of the Principal Act the following section is inserted:

Annual reports by manufacturers, importers or exporters of transitional substances

“47A.(1) Each person who, during the year commencing on the first 1 January after the commencement of this section or during a later year, manufactured, imported or exported any transitional substance must give to the Minister a written report specifying: 30

- (a) both:
 - (i) the quantity of transitional substances manufactured by the person during the year; and 35
 - (ii) the quantity of transitional substances manufactured by the person during the year for use as feedstock; and
- (b) each of the following:
 - (i) the quantity of transitional substances imported by the person during the year; 40

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- (ii) the quantity of transitional substances imported by the person during the year, broken down by country of origin;
- (iii) the quantity of transitional substances imported by the person during the year for use as feedstock; and

5 (c) both:

- (i) the quantity of transitional substances exported by the person during the year; and
- (ii) the quantity of transitional substances exported by the person during the year, broken down by country of destination; and

10

- (d) the quantity of transitional substances destroyed by the person during the year.

Penalty: \$5,000.

15 “(2) A report must be given to the Minister within 15 days after the end of the year to which it relates.

“(3) For the purposes of subsection (1), if the quantity of a particular thing is a nil amount, the report concerned must state that fact.”.

39. Before section 49 of the Principal Act the following section is inserted:

20 **Division does not apply to obligations relating to transitional substances**

“48A. A reference in this Division to this Act does not include a reference to:

- (a) section 46A or 62, in so far as that section relates to transitional substances; or

25 (b) section 47A.”.

Forfeitable goods

40. Section 57 of the Principal Act is amended:

- (a) by inserting in paragraph (1)(a) “, 17A” after “13”;
- (b) by inserting in paragraph (1)(b) “17A,” after “13,”;
- (c) by inserting in paragraph (1)(c) “17A,” after “13,”.

30

False statements

41. Section 62 of the Principal Act is amended by adding at the end the following subsection:

35 “(4) A person must not knowingly or recklessly include in a report given to the Minister in accordance with a condition of a restricted licence a statement that is false or misleading in a material particular.

Penalty: imprisonment for 2 years.”.

Review of decisions

42. Section 66 of the Principal Act is amended:

(a) by inserting after paragraph (a) the following paragraph:

“(aa) a decision to specify, impose, revoke or vary a licence condition under section 17A;”;

5

(b) by inserting after paragraph (f) the following paragraph:

“(fa) a decision reducing or increasing the size of a quota under subsection 29(10), 32(7) or 33(2);”;

(c) by adding at the end the following paragraphs:

“(h) a decision to specify an exemption condition under section 40;

10

(i) a decision to cancel an exemption under section 40.”.

43. After section 67 of the Principal Act the following section is inserted:

Delegation

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“67A.(1) The Minister may, by writing, delegate to a person holding or performing the duties of a Senior Executive Service office in the Department all or any of the Minister’s powers under section 19, 34, 49, 50 or 61.

“(2) Subsection (1) does not apply to the power conferred on the Minister by section 34 to increase the size of a quota.”.

20

44. After section 69 of the Principal Act the following sections are inserted:

Implementation of Protocol—supplementary regulations

“69A.(1) The regulations may make provision for and in relation to giving effect to an adjustment or amendment of the Protocol, in so far as the adjustment or amendment relates to a substance other than a scheduled substance (whether that substance exists alone or in a mixture).

25

“(2) Regulations made by virtue of subsection (1) in relation to an adjustment or amendment of the Protocol that has not entered into force for Australia must not come into operation on a date earlier than the date on which the adjustment or amendment entered into force for Australia.

30

Severability

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“69B.(1) This section applies if the enactment of one or more provisions of this Act (other than Part V or VI) goes beyond giving effect to the Convention and the Protocol.

“(2) The provisions are to be read so that their application is limited to, or in relation to:

40

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- (a) giving effect to the Convention and the Protocol; or
- (b) matters external to Australia; or
- (c) matters of international concern; or
- 5 (d) conduct engaged in by a corporation of a kind mentioned in paragraph 37(1)(a), (b), (c) or (d); or
- (e) activities of a kind mentioned in paragraph 37(2)(a), (b), (c), (d), (e) or (f).”.

Schedule 1

- 10 **45.** Schedule 1 to the Principal Act is amended as set out in Schedule 1 to this Act.

Schedule 3

- 46.** Schedule 3 to the Principal Act is repealed and the Schedule set out in Schedule 2 to this Act is substituted.

Schedule 4

- 15 **47.** Schedule 4 to the Principal Act is amended:
- (a) by omitting from clause 1 “After the commencement of this Act, a” and substituting “A”;
 - (b) by adding at the end of clause 1 the following subclause:

20 “(2) This clause applies as follows:
(a) in the case of a stage-1 scheduled substance—to the manufacture or import of machinery after the commencement of this Act;
(b) in the case of a stage-2 scheduled substance—to the manufacture or import of machinery after the commencement of the *Ozone Protection Amendment Act 1992*.”;
 - (c) by omitting from clause 2 “After 31 January 1989, a” and substituting “A”;
 - (d) by adding at the end of clause 2 the following subclause:

30 “(2) This clause applies as follows:
(a) in the case of a stage-1 scheduled substance—to the manufacture or import of equipment after 31 January 1989;
(b) in the case of a stage-2 scheduled substance—to the manufacture or import of equipment after the commencement of the *Ozone Protection Amendment Act 1992*.”;
 - (e) by omitting from clause 3 “After 30 June 1989, a” and substituting “A”;
 - 40 (f) by adding at the end of clause 3 the following subclause:

“ (2) This clause applies as follows:

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- (a) in the case of a stage-1 scheduled substance—to the manufacture or import of products after 30 June 1989;
- (b) in the case of a stage-2 scheduled substance—to the manufacture or import of products after the commencement of the *Ozone Protection Amendment Act 1992*.”; 5
- (g) by omitting from clause 4 “After 31 December 1989, a” and substituting “A”;
- (h) by inserting in paragraph 4(b) “thermal” before “insulating”;
- (i) by adding at the end of clause 4 the following subclause: 10
 - “(2) This clause applies as follows:
 - (a) in the case of a stage-1 scheduled substance—to the manufacture or import of products after 31 December 1989;
 - (b) in the case of a stage-2 scheduled substance—to the manufacture or import of products after the commencement of the *Ozone Protection Amendment Act 1992*.”; 15
- (j) by omitting from clause 5 “After 31 December 1989, a” and substituting “A”; 20
- (k) by adding at the end of clause 5 the following subclause:
 - “(2) This clause applies as follows:
 - (a) in the case of a stage-1 scheduled substance—to the manufacture or import of products after 31 December 1989; 25
 - (b) in the case of a stage-2 scheduled substance (other than methyl chloroform)—to the manufacture or import of products after the commencement of the *Ozone Protection Amendment Act 1992*;
 - (c) in the case of methyl chloroform—to the manufacture or import of products after whichever is the later of the following times: 30
 - (i) the commencement of the *Ozone Protection Amendment Act 1992*;
 - (ii) the end of 31 December 1992.”. 35

Amendments relating to penalties

48. The Principal Act is amended as set out in Schedule 3 to this Act.

SCHEDULE 1

Section 45

AMENDMENTS OF SCHEDULE 1 TO THE PRINCIPAL ACT

Heading to Part I:Omit "CFCs", substitute "*Division 1—Stage-1 CFCs*".**Part I:**

Add at the end:

"Division 2—Stage-2 CFCs

Column 1	Column 2
Substance	Ozone depleting potential
CF ₃ Cl (CFC-13)	1.0
C ₂ FCl ₅ (CFC-111)	1.0
C ₂ F ₂ Cl ₄ (CFC-112)	1.0
C ₃ FCl ₇ (CFC-211)	1.0
C ₃ F ₂ Cl ₆ (CFC-212)	1.0
C ₃ F ₃ Cl ₅ (CFC-213)	1.0
C ₃ F ₄ Cl ₄ (CFC-214)	1.0
C ₃ F ₅ Cl ₃ (CFC-215)	1.0
C ₃ F ₆ Cl ₂ (CFC-216)	1.0
C ₃ F ₇ Cl (CFC-217)	1.0

”.

SCHEDULE 1—continued

After Part II:

Insert the following Parts:

“PART III

Carbon tetrachloride

Column 1	Column 2
Substance	Ozone depleting potential
Carbon tetrachloride (CCl ₄)	1.1

PART IV

Methyl chloroform

Column 1	Column 2
Substance	Ozone depleting potential
1,1,1-trichloroethane (C ₂ H ₃ Cl ₃ *)	0.1

* This formula does not refer to 1,1,2-trichloroethane”.

SCHEDULE 2

Section 46

SUBSTITUTION OF SCHEDULE 3 TO THE PRINCIPAL ACT

“SCHEDULE 3

Section 7

**MONTREAL PROTOCOL ON SUBSTANCES THAT DEplete
THE OZONE LAYER AS ADJUSTED AND AMENDED BY THE
SECOND MEETING OF THE PARTIES
LONDON, 27-29 JUNE 1990**

The parties to this Protocol,

Being Parties to the Vienna Convention for the Protection of the
Ozone Layer,

SCHEDULE 2—continued

Mindful of their obligation under that Convention to take appropriate measures to protect human health and the environment against adverse effects resulting or likely to result from human activities which modify or are likely to modify the ozone layer,

Recognizing that world-wide emissions of certain substances can significantly deplete and otherwise modify the ozone layer in a manner that is likely to result in adverse effects on human health and the environment,

Conscious of the potential climatic effects of emissions of these substances,

Aware that measures taken to protect the ozone layer from depletion should be based on relevant scientific knowledge, taking into account technical and economic considerations,

Determined to protect the ozone layer by taking precautionary measures to control equitably total global emissions of substances that deplete it, with the ultimate objective of their elimination on the basis of developments in scientific knowledge, taking into account technical and economic considerations and bearing in mind the developmental needs of developing countries,

Acknowledging that special provision is required to meet the needs of developing countries, including the provision of additional financial resources and access to relevant technologies, bearing in mind that the magnitude of funds necessary is predictable, and the funds can be expected to make a substantial difference in the world's ability to address the scientifically established problem of ozone depletion and its harmful effects,

Noting the precautionary measures for controlling emissions of certain chlorofluorocarbons that have already been taken at national and regional levels,

Considering the importance of promoting international co-operation in the research, development and transfer of alternative technologies relating to the control and reduction of emissions of substances that deplete the ozone layer, bearing in mind in particular the needs of developing countries,

HAVE AGREED AS FOLLOWS:

ARTICLE 1: DEFINITIONS

For the purposes of this Protocol:

1. "Convention" means the Vienna Convention for the Protection of the Ozone Layer, adopted on 22 March 1985.

SCHEDULE 2—continued

2. “Parties” means, unless the text otherwise indicates, Parties to this Protocol.

3. “Secretariat” means the secretariat of the Convention.

4. “Controlled substance” means a substance in Annex A or in Annex B 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.

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

6. “Consumption” means production plus imports minus exports of controlled substances.

7. “Calculated levels” of production, imports, exports and consumption means levels determined in accordance with Article 3.

8. “Industrial rationalization” means the transfer of all or a portion of the calculated level of production of one Party to another, for the purpose of achieving economic efficiencies or responding to anticipated shortfalls in supply as a result of plant closures.

9. “Transitional substance” means a substance in Annex C to this Protocol, whether existing alone or in a mixture. It includes the isomers of any such substance, except as may be specified in Annex C, but excludes any transitional substance or mixture which is in a manufactured product other than a container used for the transportation or storage of that substance.

ARTICLE 2: CONTROL MEASURES

1. (Incorporated in Article 2A as per the adjustments made in Second Meeting of the Parties in London in 1990).

2. Replaced by Article 2B.

3 and 4. Replaced in Article 2A.

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 2E, provided that the total combined calculated levels of production of the Parties concerned for any group of controlled substances do not exceed the production limits set out in those Articles for that group. Such transfer of production shall be notified to the

SCHEDULE 2—continued

Secretariat by each of the Parties concerned, stating the terms of such transfer and the period for which it is to apply.

6. Any Party not operating under Article 5, that has facilities for the production of Annex A or Annex B controlled substances under construction, or contracted for, prior to 16 September 1987, and provided for in national legislation prior to 1 January 1987, may add the production from such facilities to its 1986 production of such substances for the purposes of determining its calculated level of production for 1986, provided that such facilities are completed by 31 December 1990 and that such production does not raise that Party's annual calculated level of consumption of the controlled substances above 0.5 kilograms per capita.

7. Any transfer of production pursuant to paragraph 5 or any addition of production pursuant to paragraph 6 shall be notified to the secretariat, no later than the time of the transfer or addition.

8. (a) Any Parties which are Members 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 2E provided that their total combined calculated level of consumption does not exceed the levels required by this Article and Articles 2A to 2E.

(b) The Parties to any such agreement shall inform the secretariat of the terms of the agreement before the date of the reduction in consumption with which the agreement is concerned.

(c) Such agreement will become operative only if all Members States of the regional economic integration organization and the organization concerned are Parties to the Protocol and have notified the secretariat of their manner of implementation.

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 and/or Annex B should be made and, if so, what the adjustments should be; and

(ii) 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;

(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) In taking such decisions, the Parties shall make every effort to reach agreement by consensus. If all efforts at consensus have been exhausted, and no agreement reached, such decisions shall, as a last

SCHEDULE 2—continued

resort, be adopted by a two-thirds majority vote of the Parties present and voting representing a majority of the Parties operating under Paragraph 1 of Article 5 present and voting and a majority of the Parties not so operating present and voting.

(d) The decisions, which shall be binding on all Parties, 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.

10. Based on the assessments made pursuant to Article 6 of this Protocol and in accordance with the procedure set out in Article 9 of the Convention, the Parties may decide:

- (i) Whether any substances, and if so which, should be added to or removed from any annex to this Protocol; and
- (ii) The mechanism, scope and timing of the control measures that should apply to those substances.

11. Notwithstanding the provisions contained in this Article and Articles 2A to 2E Parties may take more stringent measures than those required by this Article and Articles 2A to 2E.

ARTICLE 2A: CFCs

1. Each Party shall ensure that for the twelve-month period commencing on the first day of the seventh month following the date of entry into force of this Protocol, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex A does not exceed its calculated level of consumption in 1986. By the end of the same period, each Party producing one or more of these substances shall ensure that its calculated level of production of the substances does not exceed its calculated level of production in 1986, except that such level may have increased by no more than ten per cent based on the 1986 level. Such increase shall be permitted only so as to satisfy the basic domestic needs of the Parties operating under Article 5 and for the purposes of industrial rationalization between Parties.

2. Each Party shall ensure that for the period from 1 July 1991 to 31 December 1992 its calculated levels of consumption and production of the controlled substances in Group I of Annex A do not exceed 150 per cent of its calculated levels of production and consumption of those substances in 1986; with effect from 1 January 1993, the twelve-month control period for these controlled substances shall run from 1 January to 31 December each year.

3. Each Party shall ensure that for the twelve-month period commencing on 1 January 1995, and in each twelve-month period thereafter, its

SCHEDULE 2—continued

calculated level of consumption of the controlled substances in Group I of Annex A does not exceed, annually, fifty per cent of its calculated level of consumption in 1986. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the substances does not exceed, annually, fifty per cent of its calculated level of production in 1986. 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 up to ten per cent of its calculated level of production in 1986.

4. Each Party shall ensure that for the twelve-month period commencing on 1 January 1997, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex A does not exceed, annually, fifteen per cent of its calculated level of consumption in 1986. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the substances does not exceed, annually, fifteen per cent of its calculated level of production in 1986. However, in order to satisfy the basic domestic needs to the Parties operating under paragraph 1 of Article 5, its calculated level of production in 1986.

5. Each Party shall ensure that for the twelve-month period commencing on 1 January 2000, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex A does not exceed zero. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the substances does not exceed zero. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of the production may exceed that limit by up to fifteen per cent of its calculated level of production in 1986.

6. In 1992, the Parties will review the situation with the objective of accelerating the reduction schedule.

ARTICLE 2B: HALONS

1. Each Party shall ensure that for the twelve-month period commencing on 1 January 1992, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group II of Annex A does not exceed, annually, its calculated level of consumption in 1986. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the substances does not exceed, annually, its calculated level of production in 1986. However, in order to satisfy the basic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to ten per cent of its calculated level of production in 1986.

SCHEDULE 2—continued

2. Each Party shall ensure that for the twelve-month period commencing on 1 January 1995, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group II of Annex A does not exceed, annually, fifty per cent of its calculated level of consumption in 1986. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the substances does not exceed, annually, fifty per cent of its calculated level of production in 1986. 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 up to ten per cent of its calculated level of production in 1986. 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 essential uses for which no adequate alternatives are available.

3. Each Party shall ensure that for the twelve-month period commencing on 1 January 2000, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group II of Annex A does not exceed zero. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the substances does not exceed zero. 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 up to fifteen per cent of its calculated level of production in 1986. 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 essential uses for which no adequate alternatives are available.

4. By 1 January 1993, the Parties shall adopt a decision identifying essential uses, if any, for the purposes of paragraphs 2 and 3 of this Article. Such decision shall be reviewed by the Parties at their subsequent meetings.

ARTICLE 2C: OTHER FULLY HALOGENATED CFCs

1. Each Party shall ensure that for the twelve-month period commencing on 1 January 1993, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex B does not exceed, annually, eighty per cent of its calculated level of consumption in 1989. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the substances does not exceed, annually, eighty per cent of its calculated level of production in 1989. 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 up to ten per cent of its calculated level of production in 1989.

SCHEDULE 2—continued

2. Each Party shall ensure that for the twelve-month period commencing on 1 January 1997, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex B does not exceed, annually, fifteen per cent of its calculated level of consumption in 1989. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the substances does not exceed, annually, fifteen per cent of its calculated level of production in 1989. 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 up to ten per cent of its calculated level of production in 1989.

3. Each Party shall ensure that for the twelve-month period commencing on 1 January 2000, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex B does not exceed zero. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the substances does not exceed zero. 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 up to fifteen per cent of its calculated level of production in 1989.

ARTICLE 2D: CARBON TETRACHLORIDE

1. Each Party shall ensure that for the twelve-month period commencing on 1 January 1995, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substance in Group II of Annex B does not exceed, annually, fifteen per cent of its calculated level of consumption in 1989. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed, annually, fifteen per cent of its calculated level of production in 1989. 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 up to ten per cent of its calculated level of production in 1989.

2. Each Party shall ensure that for the twelve-month period commencing on 1 January 2000, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substance in Group II of Annex B does not exceed zero. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed zero. 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 up to fifteen per cent of its calculated level of production in 1989.

SCHEDULE 2—continued

ARTICLE 2E: 1,1,1-TRICHLOROETHANE (METHYL CHLOROFORM)

1. Each Party shall ensure that for the twelve-month period commencing on 1 January 1993, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substance in Group III of Annex B does not exceed, annually, its calculated level of consumption in 1989. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed, annually, its calculated level of production in 1989. 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 up to ten per cent of its calculated level of production in 1989.
2. Each Party shall ensure that for the twelve-month period commencing on 1 January 1995, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substance in Group III of Annex B does not exceed, annually, seventy per cent of its calculated level of consumption in 1989. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed, annually, seventy per cent of its calculated level of consumption in 1989. 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 up to ten per cent of its calculated level of production in 1989.
3. Each Party shall ensure that for the twelve-month period commencing on 1 January 2000, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substance in Group III of Annex B does not exceed, annually, thirty per cent of its calculated level of consumption in 1989. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substances does not exceed, annually, thirty per cent of its calculated level of production in 1989. However, in order to satisfy the basic domestic needs of Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to ten per cent of its calculated level of production in 1989.
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 consumption of the controlled substance in Group III of Annex B does not exceed zero. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed zero. 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 up to fifteen per cent of its calculated level of production in 1989.

SCHEDULE 2—continued

5. The Parties shall review, in 1992, the feasibility of a more rapid schedule of reductions than that set out in this Article.

ARTICLE 3: CALCULATION OF CONTROL LEVELS

For the purposes of Articles 2, 2A to 2E and 5, each Party shall, for each group of substances in Annex A or Annex B, determine its calculated levels of:

(a) Production by:

(i) Multiplying its annual production of each controlled substance by the ozone depleting potential specified in respect of it in Annex A or Annex B;

(ii) Adding together, for each such Group, the resulting figures;

(b) Imports and exports, respectively, by following, *mutatis mutandis*, the procedure set out in subparagraph (a); and

(c) Consumption by adding together its calculated levels of production and imports and subtracting its calculated level of exports as determined in accordance with subparagraphs (a) and (b). However, beginning on 1 January 1993, any export of controlled substances to non-Parties shall not be subtracted in calculating the consumption level of the exporting Party.

ARTICLE 4: CONTROL OF TRADE WITH NON-PARTIES

1. As of 1 January 1990, each Party shall ban the import of the controlled substances in Annex A from any State not Party to this Protocol.

1 bis. Within one year of the date of the entry into force of this paragraph, each Party shall ban the import of the controlled substances in Annex B from any State not party to this Protocol.

2. As of 1 January 1993, each Party shall ban the export of any controlled substances in Annex A to any State not party to this Protocol.

2 bis. Commencing one year after the date of entry into force of this paragraph, each Party shall ban the export of any controlled substances in Annex B to any State not party to this Protocol.

3. By 1 January 1992, the Parties shall, following the procedures in Article 10 of the Convention, elaborate in an annex a list of products containing controlled substances in Annex A. Parties that have not objected to the annex in accordance with those procedures shall ban, within one year of the annex having become effective, the import of those products from any State not party to this Protocol.

3 bis. Within three years of the date of the entry into force of this paragraph, the Parties shall, following the procedures in Article 10 of the Convention, elaborate in an annex a list of products containing

SCHEDULE 2—continued

controlled substances in Annex B. Parties that have not objected to the annex in accordance with those procedures shall ban, within one year of the annex having become effective, the import of those products from any State not party to this Protocol.

4. By 1 January 1994, the Parties shall determine the feasibility of banning or restricting, from States not party to this Protocol, the import of products produced with, but not containing, controlled substances in Annex A. If determined feasible, the Parties shall, following the procedures in Article 10 of the Convention, elaborate in an annex a list of such products. Parties that have not objected to the annex in accordance with those procedures shall ban, within one year of the annex having become effective, the import of those products from any State not party to this Protocol.

4 *bis*. Within five years of the date of the entry into force of this paragraph, the Parties shall determine the feasibility of banning or restricting, from States not party to this Protocol, the import of products produced with, but not containing, controlled substances in Annex B. If determined feasible, the Parties shall, following the procedures in Article 10 of the Convention, elaborate in an annex a list of such products. Parties that have not objected to the annex in accordance with those procedures shall ban or restrict, within one year of the annex having become effective, the import of those products from 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.

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.

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.

8. Notwithstanding the provisions of this Article, imports referred to in paragraphs 1, 1 *bis*, 3, 3 *bis*, 4, and 4 *bis* and exports referred to in paragraphs 2 and 2 *bis* 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 2E and this Article, and have submitted data to that effect as specified in Article 7.

SCHEDULE 2—continued

9. For the purposes of this Article, the term “State not Party to this Protocol” shall include, with respect to a particular controlled substance, a State or regional economic integration organization that has not agreed to be bound by the control measures in effect for that substance.

ARTICLE 5: SPECIAL SITUATION OF DEVELOPING COUNTRIES

1. Any Party that is a developing country and whose annual calculated level of consumption of the controlled substances in Annex A is less than 0.3 kilograms per capita on the date of the entry into force of the Protocol for it, or any time thereafter until 1 January 1999 shall, in order to meet its basic domestic needs, be entitled to delay for ten years its compliance with the control measures set out in Articles 2A to 2E.

2. However, any Party operating under paragraph 1 of this Article shall exceed neither an annual calculated level of consumption of the controlled substances in Annex A of 0.3 kilograms per capita nor an annual calculated level of consumption of controlled substances of Annex B of 0.2 kilograms per capita.

3. When implementing the control measures set out in Articles 2A to 2E, any Party operating under paragraph 1 of this Article shall be entitled to use:

(a) For controlled substances under Annex A, either the average of its annual calculated level of consumption for the period 1995 to 1997 inclusive or a calculated level of consumption of 0.3 kilograms per capita, whichever is the lower, as the basis for determining its compliance with the control measures.

(b) For controlled substances under Annex B, the average of its annual calculated level consumption for the period 1998 to 2000 inclusive or a calculated level of consumption of 0.2 kilograms per capita, whichever is the lower, as the basis for determining its compliance with the control measures.

4. If a Party operating under paragraph 1 of this Article, at any time before the control measures obligations in Articles 2A to 2E 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 their implementation by those same Parties will depend upon the effective implementation of

SCHEDULE 2—continued

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 the obligations laid down in Articles 2A to 2E 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.

7. During the period between notification and the Meeting of the Parties at which the appropriate action referred to in paragraph 6 above is to be decided, or for a further period if the Meeting of the Parties so decides, the non-compliance procedures referred to in Article 8 shall not be invoked against the notifying Party.

8. A Meeting of the Parties shall review, not later than 1995, the situation of the Parties operating under paragraph 1 of this Article, including the effective implementation of financial co-operation and transfer of technology to them, and adopt such revisions that may be deemed necessary regarding the schedule of control measures applicable to those Parties.

9. Decisions of the Parties referred to in paragraph 4, 6 and 7 of this Article shall be taken according to the same procedure applied to decision-making under Article 10.

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 2E, and the situation regarding production, imports and exports of the transitional substances in Group I of Annex C 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

1. Each Party shall provide to the Secretariat, within three months of becoming a Party, statistical data on its production, imports and exports of each of the controlled substances in Annex A for the year 1986, or the best possible estimates of such data where actual data are not available.

SCHEDULE 2—continued

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 each of the transitional substances in Group I of Annex C, for the year 1989, or the best possible estimates of such data where actual data are available, not later than three months after the date when the provision set out in the Protocol with regard to the substances in Annex B enter into force for that Party.

3. Each Party shall provide statistical data to the Secretariat on its annual production (as defined in paragraph 5 of Article 1), and, separately,

- amounts used for feedstocks,
- amounts destroyed by technologies approved by the Parties,
- imports and exports to Parties and non-Parties respectively,

of each of the controlled substances listed in Annexes A and B as well as of the transitional substances in Group I of Annex C, for the year during which provisions concerning the substances in Annex B entered into force for that Party and for each year thereafter. Data shall be forwarded not later than nine months after the end of the year to which the data relate.

4. For parties operating under the provisions of paragraph 8 (a) of Article 2, the requirements in paragraphs 1, 2 and 3 of this Article in respect of statistical data on imports and exports shall be satisfied if the regional economic integration organization concerned provides data on imports and exports between the organization and States that are not members of that organization.

ARTICLE 8: NON-COMPLIANCE

The Parties, at their first meeting, shall consider and approve procedures and institutional mechanisms for determining non-compliance with the provisions of this Protocol and for treatment of Parties found to be in non-compliance.

ARTICLE 9: RESEARCH, DEVELOPMENT, PUBLIC AWARENESS AND EXCHANGE OF INFORMATION

1. The Parties shall co-operate, consistent with their national laws, regulations and practices and taking into account in particular the needs of developing countries, in promoting, directly or through competent international bodies, research, development and exchange of information on:

(a) Best technologies for improving the containment, recovery, recycling, or destruction of controlled and transitional substances or otherwise reducing their emissions;

SCHEDULE 2—continued

(b) Possible alternatives to controlled substances, to products containing such substances, and to products manufactured with them; and

(c) Costs and benefits of relevant control strategies.

2. The Parties, individually, jointly or through competent international bodies, shall co-operate in promoting public awareness of the environmental effects of the emissions of controlled substances and other substances that deplete the ozone layer.

3. Within two years of the entry into force of this Protocol and every two years thereafter, each Party shall submit to the Secretariat a summary of the activities it has conducted pursuant to this Article.

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 of the Protocol. The mechanism, contributions to which shall be additional to other financial transfers to Parties operating under that paragraph, shall meet all agreed incremental costs of such Parties in order to enable their compliance with the control measures of the Protocol. An indicative list of the categories of incremental costs shall be decided by the meeting of the Parties.

2. The mechanism established under paragraph 1 shall include a Multilateral Fund. It may also include other means of multilateral, regional and bilateral co-operation.

3. The Multilateral Fund shall:

(a) Meet, on a grant or concessional basis as appropriate, and according to criteria to be decided upon by the Parties, the agreed incremental costs;

(b) Finance clearing-house functions to:

- (i) Assist Parties operating under paragraph 1 of Article 5, through country specific studies and other technical co-operation, to identify their needs for co-operation;
- (ii) Facilitate technical co-operation to meet these identified needs;
- (iii) Distribute, as provided for in Article 9, information and relevant materials, and hold workshops, training sessions, and other related activities, for the benefit of Parties that are developing countries; and
- (iv) Facilitate and monitor other multilateral, regional and bilateral co-operation available to Parties that are developing countries;

SCHEDULE 2—continued

(c) Finance the secretarial services of the Multilateral Fund and related support costs.

4. The Multilateral Fund shall operate under the authority of the Parties who shall decide on its overall policies.

5. The Parties shall establish an Executive Committee to develop and monitor the implementation of specific operational policies, guidelines and administrative arrangements, including the disbursement of resources, for the purpose of achieving the objectives of the Multilateral Fund. The Executive Committee shall discharge its tasks and responsibilities, specified in its terms of reference as agreed by the Parties, with the co-operation and assistance of the International Bank for Reconstruction and Development (World Bank), the United Nations Environment Programme, the United Nations Development Programme or other appropriate agencies depending on their respective areas of expertise. The members of the Executive Committee, which shall be selected on the basis of a balanced representation of the Parties operating under paragraph 1 of Article 5 and of the Parties not so operating, shall be endorsed by the Parties.

6. The Multilateral Fund shall be financed by contributions from Parties not operating under paragraph 1 of Article 5 in convertible currency or, in certain circumstances, in kind and/or in national currency, on the basis of the United Nations scale of assessments. Contributions by other Parties shall be encouraged. Bilateral and, in particular cases agreed by a decision of the Parties, regional co-operation may, up to a percentage and consistent with any criteria to be specified by decision of the Parties, be considered as a contribution to the Multilateral Fund, provided that such co-operation, as a minimum:

- (a) Strictly relates to compliance with the provisions of this Protocol;
- (b) Provides additional resources; and
- (c) Meets agreed incremental costs.

7. The Parties shall decide upon the programme budget of the Multilateral Fund for each fiscal period and upon the percentage of contributions of the individual Parties thereto.

8. Resources under the Multilateral Fund shall be disbursed with the concurrence of the beneficiary Party.

9. Decisions by the Parties under this Article shall be taken by consensus whenever possible. If all efforts at consensus have been exhausted and no agreement reached, decisions shall be adopted by a two-thirds majority vote of the Parties present and voting, representing a majority of the Parties operating under paragraph 1 of Article 5 present and voting and a majority of the Parties not so operating present and voting.

SCHEDULE 2—continued

10. The financial mechanism set out in this Article is without prejudice to any future arrangements that may be developed with respect to other environmental issues.

ARTICLE 10A: TRANSFER OF TECHNOLOGY

Each Party shall take every practicable step, consistent with the programmes supported by the financial mechanism, to ensure:

(a) That the best available, environmentally safe substitutes and related technologies are expeditiously transferred to Parties operating under paragraph 1 of Article 5; and

(b) That the transfers referred to in subparagraph (a) occur under fair and most favourable conditions.

ARTICLE 11: MEETINGS OF THE PARTIES

1. The Parties shall hold meetings at regular intervals. The Secretariat shall convene the first meeting of the Parties not later than one year after the date of the entry into force of this Protocol and in conjunction with a meeting of the Conference of the Parties to the Convention, if a meeting of the latter is scheduled within that period.

2. Subsequent ordinary meetings of the parties shall be held, unless the Parties otherwise decide, in conjunction with meetings of the Conference of the Parties to the Convention. Extraordinary meetings of the Parties shall be held at such other times as may be deemed necessary by a meeting of the Parties, or at the written request of any Party, provided that within six months of such a request being communicated to them by the Secretariat, it is supported by at least one third of the Parties.

3. The Parties, at their first meeting, shall:

(a) Adopt by consensus rules of procedure for their meetings;

(b) Adopt by consensus the financial rules referred to in paragraph 2 of Article 13;

(c) Establish the panels and determine the terms of reference referred to in Article 6;

(d) Consider and approve the procedures and institutional mechanisms specified in Article 8; and

(e) Begin preparation of workplans pursuant to paragraph 3 of Article 10.

4. The functions of meetings of the Parties shall be to:

(a) Review the implementation of this Protocol;

(b) Decide on any adjustments or reductions referred to in paragraph 9 of Article 2;

(c) Decide on any addition to, insertion in or removal from any annex of substances and on related control measures in accordance with paragraph 10 of Article 2;

SCHEDULE 2—continued

(d) Establish, where necessary, guidelines or procedures for reporting of information as provided for in Article 7 and paragraph 3 of Article 9;

(e) Review requests for technical assistance submitted pursuant to paragraph 2 of Article 10;

(f) Review reports prepared by the Secretariat pursuant to subparagraph (c) of Article 12;

(g) Assess, in accordance with Article 6, the control measures and the situation regarding transitional substances;

(h) Consider and adopt, as required, proposals for amendment of this Protocol or any annex and for any new annex;

(i) Consider and adopt the budget for implementing this Protocol; and

(j) Consider and undertake any additional action that may be required for the achievement of the purposes of this Protocol.

5. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not party to this Protocol, may be represented at meetings of the Parties as observers. Any body or agency, whether national or international, governmental or non-governmental, qualified in fields relating to the protection of the ozone layer which has informed the Secretariat of its wish to be represented at a meeting of the Parties as an observer may be admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Parties.

ARTICLE 12: SECRETARIAT

For the purposes of this Protocol, the Secretariat shall:

(a) Arrange for and service meetings of the Parties as provided for in Article 11;

(b) Receive and make available, upon request by a Party, data provided pursuant to Article 7;

(c) Prepare and distribute regularly to the Parties reports based on information received pursuant to Articles 7 and 9;

(d) Notify the Parties of any request for technical assistance received pursuant to Article 10 so as to facilitate the provision of such assistance;

(e) Encourage non-Parties to attend the meetings of the Parties as observers and to act in accordance with the provisions of this Protocol;

(f) Provide, as appropriate, the information and requests referred to in subparagraphs (c) and (d) to such non-party observers; and

(g) Perform such other functions for the achievement of the purposes of this Protocol as may be assigned to it by the Parties.

SCHEDULE 2—continued

ARTICLE 13: FINANCIAL PROVISIONS

1. The funds required for the operation of this Protocol, including those for the functioning of the Secretariat related to this Protocol, shall be charged exclusively against contributions from the Parties.
2. The Parties, at their first meeting, shall adopt by consensus financial rules for the operation of this Protocol.

ARTICLE 14: RELATIONSHIP OF THIS PROTOCOL TO THE CONVENTION

Except as otherwise provided in this Protocol, the provisions of the Convention relating to its protocols shall apply to this Protocol.

ARTICLE 15: SIGNATURE

This Protocol shall be open for signature by States and by regional economic integration organizations in Montreal on 16 September 1987, in Ottawa from 17 September 1987 to 16 January 1988, and at United Nations Headquarters in New York from 17 January 1988 to 15 September 1988.

ARTICLE 16: ENTRY INTO FORCE

1. This Protocol shall enter into force on 1 January 1989, provided that at least eleven instruments of ratification, acceptance, approval of the Protocol or accession thereto have been deposited by States or regional economic integration organizations representing at least two-thirds of 1986 estimated global consumption of the controlled substances, and the provisions of paragraph 1 of Article 17 of the Convention have been fulfilled. In the event that these conditions have not been fulfilled by that date, the Protocol shall enter into force on the ninetieth day following the date on which the conditions have been fulfilled.
2. For the purposes of paragraph 1, 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.
3. After the entry into force of this Protocol, any State or regional economic integration organization shall become a Party to it on the ninetieth day following the date of deposit of its instrument of ratification, acceptance, approval or accession.

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 2E, and Article 4, that

SCHEDULE 2—continued

apply at that date to the States and regional economic integration organizations that became Parties on the date the Protocol entered into force.

ARTICLE 18: RESERVATIONS

No reservations may be made to this Protocol

ARTICLE 19: WITHDRAWAL

Any Party may withdraw from this Protocol by giving written notification to the Depositary at any time after four years of assuming the obligations specified in paragraph 1 of Article 2A. Any such withdrawal shall take effect upon expiry of one year after the date of its receipt by the Depositary, or on such later date as may be specified in the notification of the withdrawal.

ARTICLE 20: AUTHENTIC TEXTS

The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF THE UNDERSIGNED, BEING DULY AUTHORIZED TO THAT EFFECT, HAVE SIGNED THIS PROTOCOL.

DONE AT MONTREAL THIS SIXTEENTH DAY OF SEPTEMBER, ONE THOUSAND NINE HUNDRED AND EIGHTY SEVEN.

Annex A

CONTROLLED SUBSTANCES

Group	Substance	Ozone Depleting Potential ^{*/}
Group I		
CFCl ₃	(CFC-11)	1.0
CF ₂ Cl ₂	(CFC-12)	1.0
C ₂ F ₃ Cl ₃	(CFC-113)	0.8
C ₂ F ₄ Cl ₂	(CFC-114)	1.0
C ₂ F ₅ Cl	(CFC-115)	0.6

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SCHEDULE 2—continued

Group	Substance	Ozone Depleting Potential*/
Group II		
CF ₂ BrCl	(halon-1211)	3.0
CF ₃ Br	(halon-1301)	10.0
C ₂ F ₄ Br ₂	(halon-2402)	6.0

*/ These ozone depleting potentials are estimates based on existing knowledge and will be reviewed and revised periodically.

Annex B

Controlled substances

Group	Substance	Ozone-depleting potential
<u>Group I</u>		
CF ₃ Cl	(CFC-13)	1.0
C ₂ FCl ₅	(CFC-111)	1.0
C ₂ F ₂ Cl ₄	(CFC-112)	1.0
C ₃ FCl ₇	(CFC-211)	1.0
C ₃ F ₂ Cl ₆	(CFC-212)	1.0
C ₃ F ₃ Cl ₅	(CFC-213)	1.0
C ₃ F ₄ Cl ₄	(CFC-214)	1.0
C ₃ F ₅ Cl ₃	(CFC-215)	1.0
C ₃ F ₆ Cl ₂	(CFC-216)	1.0
C ₃ F ₇ Cl	(CFC-217)	1.0
<u>Group II</u>		
CCl ₄	carbon tetrachloride	1.1
<u>Group III</u>		
C ₂ H ₃ Cl ₃ *	1,1,1-trichloroethane (methyl chloroform)	0.1

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

SCHEDULE 2—continued

Annex C

Transitional substances

Group	Substance
<u>Group I</u>	
CHFCI ₂	(HCFC-21)
CHF ₂ Cl	(HCFC-22)
CH ₂ FCI	(HCFC-31)
C ₂ HFCI ₄	(HCFC-121)
C ₂ HF ₂ Cl ₃	(HCFC-122)
C ₂ HF ₃ Cl ₂	(HCFC-123)
C ₂ HF ₄ Cl	(HCFC-124)
C ₂ H ₂ FCI ₃	(HCFC-131)
C ₂ H ₂ F ₂ Cl ₂	(HCFC-132)
C ₂ H ₂ F ₃ Cl	(HCFC-133)
C ₂ H ₃ FCI ₂	(HCFC-141)
C ₂ H ₃ F ₂ Cl	(HCFC-142)
C ₂ H ₄ FCI	(HCFC-151)
C ₃ HFCI ₆	(HCFC-221)
C ₃ HF ₂ Cl ₅	(HCFC-222)
C ₃ HF ₃ Cl ₄	(HCFC-223)
C ₃ HF ₄ Cl ₃	(HCFC-224)
C ₃ HF ₅ Cl ₂	(HCFC-225)
C ₃ HF ₆ Cl	(HCFC-226)
C ₃ H ₂ FCI ₅	(HCFC-231)
C ₃ H ₂ F ₂ Cl ₄	(HCFC-232)
C ₃ H ₂ F ₃ Cl ₃	(HCFC-233)
C ₃ H ₂ F ₄ Cl ₂	(HCFC-234)
C ₃ H ₂ F ₅ Cl	(HCFC-235)
C ₃ H ₃ FCI ₄	(HCFC-241)
C ₃ H ₃ F ₂ Cl ₃	(HCFC-242)
C ₃ H ₃ F ₃ Cl ₂	(HCFC-243)
C ₃ H ₃ F ₄ Cl	(HCFC-244)
C ₃ H ₄ FCI ₃	(HCFC-251)
C ₃ H ₄ F ₂ Cl ₂	(HCFC-252)

SCHEDULE 2—continued

Group	Substance
C ₃ H ₄ F ₃ Cl	(HCFC-253)
C ₃ H ₃ FCl ₂	(HCFC-261)
C ₃ H ₃ F ₂ Cl	(HCFC-262)
C ₃ H ₆ FCI	(HCFC-271)

SCHEDULE 3

Section 48

AMENDMENTS RELATING TO PENALTIES

Subsections 13(1) and (2):

Omit the penalty, substitute:

“Penalty: \$50,000.”.

Subsections 23(1) and (2):

Omit the penalty, substitute:

“Penalty: \$50,000.”.

Subsections 24(1) and (2):

Omit the penalty, substitute:

“Penalty: \$50,000.”.

Section 25:

Omit the penalty, substitute:

“Penalty: \$50,000.”.

Subsections 38(1) and (2):

Omit the penalty, substitute:

“Penalty: \$5,000.”.

Subsection 42(1):

Omit the penalty, substitute:

“Penalty: \$10,000.”.

Section 43:

Omit the penalty, substitute:

“Penalty: \$10,000.”.

SCHEDULE 3—continued

Subsection 44(1):

Omit the penalty, substitute:
“Penalty: \$10,000.”.

Subsection 45(1):

Omit the penalty, substitute:
“Penalty: \$10,000.”.

Subsection 46(1):

Omit the penalty, substitute:
“Penalty: \$10,000.”.

Subsections 60(1) and (2):

Omit the penalty, substitute:
“Penalty: imprisonment for 2 years.”.

Subsection 62(1):

Omit the penalty, substitute:
“Penalty: imprisonment for 2 years.”.

Subsection 62(2):

Omit the penalty, substitute:
“Penalty: imprisonment for 12 months.”.

Subsection 62(3):

Omit the penalty, substitute:
“Penalty:
 (a) if the offence relates solely to one or more transitional
 substances—\$5,000; or
 (b) any other case—imprisonment for 2 years.”.

Section 63:

Omit the penalty, substitute:
“Penalty: imprisonment for 6 months.”.

Subsection 64(1):

Omit the penalty, substitute:
“Penalty: imprisonment for 12 months.”.

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NOTE

1. No. 7, 1989.

*[Minister's second reading speech made in—
House of Representatives on 4 March 1992
Senate on 29 April 1992]*