

## INFORMATION NOTE

### Montreal Protocol on Substances that Deplete the Ozone Layer

#### 1. Background

1.1 At the meeting held on 10 July 2009, the Subcommittee on Ozone Layer Protection (Products Containing Scheduled Substances) (Import Banning)(Amendment) Regulation 2009 (the Subcommittee) requested the Research and Library Services Division to provide background information on the Montreal Protocol on Substances that Deplete the Ozone Layer (Montreal Protocol). The Montreal Protocol is an international treaty adopted in 1987 to protect the ozone layer by phasing out the consumption and production of a number of substances responsible for ozone depletion.

1.2 Against the above background, the purpose of this information note is to provide the Subcommittee with information on the background leading to the adoption of the Montreal Protocol, as well as the regulatory framework established under the treaty. The preferential treatment for developing signatory countries and the effectiveness of the Montreal Protocol will also be discussed.

#### 2. Prelude to the adoption of the Montreal Protocol

2.1 Above the Earth's surface at an altitude of between 10 km and 50 km lies the stratosphere, the region where most of the ozone molecules reside<sup>1</sup>. This stratospheric ozone layer forms a protective shield against ultraviolet radiation enacting from the sun, which will be harmful to human health and the environment if it reaches the Earth's surface.

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<sup>1</sup> Ozone is a special form of oxygen, which is found primarily in two regions of the atmosphere. About 10% of atmospheric ozone is found in the troposphere, the region closest to the Earth. The remaining ozone (90%) resides in the stratosphere, located primarily between the top of the troposphere and about 50 km in altitude.

2.2 The concerns over the depletion of the ozone layer surfaced in the early 1970s when scientists warned about a thinning of the stratospheric ozone belt caused by ozone-depleting substances (ODS). ODS were man-made chemicals being used extensively in industrial processes during that period. Various research studies showed that the increased release of ODS into the atmosphere would cause damage to the ozone layer. In 1977, the United Nations Environment Programme (UNEP<sup>2</sup>) of the United Nations established the Coordinating Committee on the Ozone Layer to study the issue and suggest scientific solutions to the problem. Subsequently, UNEP initiated an effort to negotiate an international treaty to phase out ODS, which was culminated in the adoption of the Vienna Convention for the Protection of the Ozone Layer in March 1985.

2.3 The Vienna Convention was a framework convention without establishing any controls on the consumption and production of ODS. It only called for the signatory countries to study, research, and report on various aspects of the ozone depletion. Two months after the adoption of the Vienna Convention, British scientists discovered destruction of ozone (the "ozone hole") over the Antarctic. This discovery triggered governments and the international community to recognize the need for stronger measures to respond to the problem of ozone depletion. After two more years of intensive negotiations, efforts to protect the ozone layer took an important step forward with the adoption of the Montreal Protocol on 16 September 1987. This international treaty entered into force on 1 January 1989 and was ratified by 195 countries as at May 2009. It sets out, among other things, binding, time-targeted and measurable commitments for the signatory countries to phase out the consumption and production of ODS.

### **3. Evolution of the Montreal Protocol**

3.1 The Montreal Protocol, adopted in 1987, originally identified eight ODS as controlled substances and set out control measures to freeze and reduce the production and consumption of these controlled substances. After more than 20 years of development, the Montreal Protocol now covers 96 ODS in its list of controlled substances.

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<sup>2</sup> UNEP is a designated entity of the United Nations for addressing environmental issues at the global and regional levels. Its mandate is to co-ordinate the development of environmental policy consensus by keeping the global environment under review and bringing emerging issues to the attention of governments and the international community for action.

3.2 The Montreal Protocol has put in place a mechanism for signatory countries to meet at least every four years to review the control measures prescribed under the Montreal Protocol and to introduce "amendments" and/or "adjustments" to the treaty if necessary<sup>3</sup>. Since 1989, a total of 20 Meetings of the Parties to the Montreal Protocol (MOP) have been held<sup>4</sup>.

### Amendments and adjustments of the Montreal Protocol

3.3 According to UNEP, "amendments" are significant changes to the Montreal Protocol, such as adding new controlled substances and new obligations to the treaty. Parties are not bound by these changes unless and until they ratify the relevant "amendment". Countries that have not ratified a certain "amendment" are considered as a non-party to the new controlled substances or obligations introduced by that amendment. On the other hand, "adjustments" are changes to the Montreal Protocol which affect the phase-out schedules for existing controlled substances. "Adjustments" are automatically binding for all countries that have ratified the Montreal Protocol, or the relevant "amendment" that introduced the controlled substances concerned.

3.4 Over the dynamic history of the Montreal Protocol, the treaty has been adjusted six times in 1990 (London), 1992 (Copenhagen), 1995 (Vienna), 1997 (Montreal), 1999 (Beijing) and 2007 (Montreal) respectively to accelerate the phase-out schedules. It has also been amended four times, by the London Amendment in 1990, the Copenhagen Amendment in 1992, the Montreal Amendment in 1997 and the Beijing Amendment in 1999, in a move to add new controlled substances and introduce other kinds of control measures to the treaty.

3.5 Apart from adding new controlled substances, the 1990 London Amendment also set out preferential treatment for developing countries under the Montreal Protocol (defined as "Article 5 parties" in the treaty). As to be discussed in paragraphs 5.1-5.4 below, these Article 5 parties are permitted, among other things, to delay implementing the control measures by up to 10 years, as compared with non-Article 5 parties (mainly developed countries).

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<sup>3</sup> The legal basis for this assessment process is Article 6 of the Montreal Protocol, which states that "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 2I on the basis of available scientific, environmental, technical and economic information".

<sup>4</sup> The most recent meeting, the 20th MOP, was held in Doha of Qatar during 16–20 November 2008.

#### 4. Control measures under the Montreal Protocol

4.1 The core of the Montreal Protocol is the control measures the treaty requires its signatories to impose on the production and consumption of ODS. The original Montreal Protocol provided for controls on eight chemical substances – five CFCs and three halons<sup>5</sup>. The subsequent MOPs convened in London, Copenhagen, Vienna, Montreal and Beijing have each brought forward the phase-out schedules for existing ODS and broadened the coverage of controlled substances to other ODS. The control measures introduced at these MOPs for consumption and production of ODS by Article 5 and non-Article 5 parties are detailed in **Appendices I** and **II** respectively.

4.2 Articles 2A to 2I of the Montreal Protocol stipulate the control measures governing the consumption and production of controlled substances listed in Annexes A, B, C and E to the Montreal Protocol. These control measures are generally characterized by:

- (a) initial freeze<sup>6</sup> on consumption/production – generally tied to an historic consumption/production level;
- (b) 100% phase-out by a specified date; and
- (c) interim targets (i.e. stepped reductions).

The **Table** below summarizes the control measures governing the consumption and production of controlled substances by Article 5 and non-Article 5 parties.

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<sup>5</sup> CFCs (chlorofluorocarbons) and halons are man-made chemicals. CFCs are used as coolants in refrigerators and air conditioners, aerosol propellants, blowing agents for foams and solvents in electronics production. Halons are used as fire extinguishing agents.

<sup>6</sup> Freeze is a term used to refer to the control measures established by the Montreal Protocol to ensure that signatory countries do not exceed a calculated level of consumption/production of a controlled substance.

**Table – Summary of controlled measures under the Montreal Protocol<sup>(\*)</sup>**

<b>Annex</b>	<b>Controlled substances</b>	<b>Controlled measures for Article 5 parties</b>	<b>Controlled measures for non-Article 5 parties</b>
A (Group I)	CFCs 11, 12, 113, 114, 115	1999: Freeze 2005: -50% <sup>(#)</sup> 2007: -85% 2010: Total phase-out	1989: Freeze 1994: -75% 1996: Total phase-out
A (Group II)	Halons	2002: Freeze 2005: -50% 2010: Total phase-out	1992: Freeze 1994: Total phase-out
B (Group I)	10 other CFCs	2003: -20% 2007: -85% 2010: Total phase-out	1994: -75% 1996: Total phase-out
B (Group II)	Carbon tetrachloride	2005: -85% 2010: Total phase-out	1996: Total phase-out
B (Group III)	Methyl chloroform	2003: Freeze 2005: -30% 2010: -70% 2015: Total phase-out	1993: Freeze 1994: -50% 1996: Total phase-out
C (Group I)	HCFCs (hydrochlorofluoro carbons)	2013: Freeze 2015: -10% 2020: -35% 2025: -67.5% 2030: Total phase-out	2010: -75% 2015: -90% 2020: Total phase-out
C (Group II)	HBFCs (hydrobromofluoro carbons)	1996: Total phase-out	1996: Total phase-out
C (Group III)	Bromochloromethane	2002: Total phase-out	2002: Total phase-out
E	Methyl bromide	2002: Freeze 2005: -20% 2015: Total phase-out	1995: Freeze 1999: -25% 2001: -50% 2003: -70% 2005: Total phase-out

Notes: (\*) The control measures are applicable to both the consumption and production of the controlled substance in question.

(#) Reduced by 50%.

Sources: United Nations Environment Programme (2002) and (2007b).

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## 5. Preferential treatment for developing signatories

5.1 Compared with developed countries, developing countries operating under Article 5 of the Montreal Protocol are entitled to a longer phase-out period for most of controlled substances listed in Annexes A, B, C and E<sup>7</sup>. In particular, they could delay by 10 years the implementation of the control measures agreed at the MOP held in London in 1990. Against this, Article 5 parties could phase out the consumption and production of the relevant controlled substances in Annexes A and B (except for methyl chloroform<sup>8</sup>) by 2010, whereas the then corresponding phase-out date for non-Article 5 parties was 2000 (see the third column of **Appendix I** for Article 5 parties and **Appendix II** for non-Article 5 parties respectively).

5.2 The preferential treatment granted for Article 5 parties is to address the concerns that developing countries still use most ODS and that they usually do not have easy access to alternative technologies, know-how and capital investment for complying with the control measures prescribed under the Montreal Protocol. The grace period is intended to give Article 5 parties sufficient time to receive the technical and policy support they need for a smooth transition to non-ODS technologies.

5.3 Under the Montreal Protocol, financial and technical assistance are provided to Article 5 parties to facilitate their compliance with the control measures set out in the treaty. Such an arrangement also serves as an incentive to encourage developing countries to accede to the Montreal Protocol. As to financial assistance, Article 10 of the Montreal Protocol prescribes for the establishment of a "Financial Mechanism" to facilitate the transfer of ODS substitutes and related technology to Article 5 parties. The mechanism includes the Multilateral Fund as well as other means of multilateral, regional and bilateral co-operation. The Multilateral Fund finances the "agreed incremental costs" incurred by Article 5 parties in phasing out their consumption and production of ODS<sup>9</sup>. Since its commencement in 1991, the Multilateral Fund has undergone replenishment every three years with contributions by non-Article 5 parties.

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<sup>7</sup> According to the Montreal Protocol, Article 5 parties are developing countries that are parties to the treaty with an annual calculated per capita consumption of controlled substances of less than 0.3 kg for substances in Annex A and less than 0.2 kg for substances in Annex B.

<sup>8</sup> For methyl chloroform, the London MOP set out the phase-out dates for Article 5 and non-Article 5 parties at 2015 and 2005 respectively.

<sup>9</sup> The "incremental costs" that Article 5 parties can claim include the costs of conversion to alternative technologies and substances, patents and designs, research and training. Recycling controlled substances and modifying or replacing equipment are also eligible.

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5.4 Article 10A of the Montreal Protocol further provides for the transfer of technology to Article 5 parties. In particular, all parties to the Montreal Protocol shall take "every practicable step" to ensure that "the best available, environmentally safe substitutes and related technologies are expeditiously transferred" to Article 5 parties "under fair and most favourable conditions".

## 6. Trade measures under the Montreal Protocol

6.1 Article 4 of the Montreal Protocol prohibits trade in ODS between parties and non-parties to the treaty. According to UNEP, a non-party (with regard to a particular ODS) is any signatory country whose government has not ratified, accepted, approved or accessed the Montreal Protocol or one or more of its specific amendments that have introduced a particular ODS as a controlled substance. The situation with respect to ratification as at May 2009 was as follows: 195 of 196 countries had ratified the Montreal Protocol<sup>10</sup>, 192 the London Amendment, 189 the Copenhagen Amendment, 175 the Montreal Amendment and 156 the Beijing Amendment.

6.2 As stipulated under Article 4 of the Montreal Protocol, the "control of trade with non-parties" covers restrictions on:

- (a) imports and exports of the controlled substances listed in Annexes A, B, C and E;
- (b) the products containing controlled substances; and
- (c) trade in ODS technology and equipment<sup>11</sup>.

The above trade restrictions serve to safeguard that the industries of the signatory countries would not be tempted to circumvent their obligations by importing controlled substances from non-parties, or to escape the phase-out schedules by migrating production to non-parties and then re-exporting the controlled substances for local consumption. The prohibitive trade measures also aim at maximizing participation in the Montreal Protocol, by denying non-parties supplies of the controlled substances (and/or the products containing them). However, the trade bans are not applicable to a non-party which demonstrates, and the parties to the Montreal Protocol agree, that it is in full compliance with the treaty's control measures.

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<sup>10</sup> As at May 2009, Timor Leste was the only country that had not ratified the Montreal Protocol.

<sup>11</sup> Article 4 of the Montreal Protocol also requires parties to the treaty to determine the feasibility of banning or restricting imports from non-parties of goods produced with, but not containing, controlled substances. The feasibility study must be completed within five years of the commencement date of the Montreal Protocol. The 5th MOP held in Bangkok in 1993 decided that it was not feasible to ban or restrict the imports of products made with, but not containing, controlled substances, as such a rule seems hardly applicable and might deter potential signatories. See Organization for Economic Co-operation and Development (1997).

### Products containing controlled substances

6.3 Article 4 also prohibits the imports from non-parties of products containing Annex A substances. These products are listed in Annex D to the Montreal Protocol, which are comprised of:

- (a) automobile and truck air-conditioning units;
- (b) domestic and commercial refrigeration and air conditioning/heat pump equipment (such as refrigerators, freezers, dehumidifiers, water coolers, ice machines and air-conditioning and heat pump units);
- (c) aerosol products, except medical aerosols;
- (d) portable fire extinguishers;
- (e) insulation boards, panels and pipe covers; and
- (f) pre-polymers.

Annex D, effective in May 1993, is not applicable to a non-party that is in compliance with the Montreal Protocol's control schedules.

### Trade in ODS technology and equipment

6.4 Article 4 of the Montreal Protocol further requires signatory countries to undertake the fullest practical extent to discourage the exports of technology to any non-parties for producing and using the controlled substances listed in Annexes A, B, C and E. They are also required to refrain from providing new subsidies, aid, credits, guarantees or insurance programmes for exports to non-parties of products, equipment, plants or technology that would facilitate the production of controlled substances. Exceptions are allowed for 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 emission of controlled substances.



## 7. Effectiveness of the Montreal Protocol

7.1 Due to its widespread adoption and implementation, the Montreal Protocol has been hailed as an example of exceptional international co-operation, with former Secretary General Kofi Annan quoted as saying it is "[p]erhaps the single most successful international agreement to date<sup>12</sup>". By 2006, 96% of all ODS had been phased out globally and the total consumption of CFCs worldwide had fallen to 3.2% of the 1986 level.

7.2 Furthermore, the most recent report from the UNEP Scientific Assessment Panel indicates that the level of ODS in the atmosphere peaked in the late 1990s. Assuming continuing compliance with the Montreal Protocol, it is estimated that the global ozone level will recover to the pre-1980s level around 2050. The Antarctic ozone hole is expected to disappear during 2065-2075. Without the Montreal Protocol, it is calculated that the total quantity of ODS in the atmosphere would, by 2050, be five times today's level.

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<sup>12</sup> See United Nations Environment Programme (2007a).

## Appendix I

New control measures introduced for consumption and production of controlled substances by Article 5 parties<sup>(\*)</sup>

Controlled substances	Montreal 1987	London 1990	Copenhagen 1992	Vienna 1995	Montreal 1997	Beijing 1999	Montreal 2007
CFCs 11, 12, 113,114, 115 (Group I of Annex A)	July 1999: Freeze 2003: -20% 2008: -50%	2005: -50% 2007: -85% 2010: -100%	Unchanged	Unchanged	Unchanged	Unchanged	Unchanged
Halons (Group II of Annex A)	July 2002: Freeze	2005: -50% 2010: -100%	Unchanged	Unchanged	Unchanged	Unchanged	Unchanged
10 other CFCs (Group I of Annex B)	No control measures introduced	2003: -20% 2007: -85% 2010: -100%	Unchanged	Unchanged	Unchanged	Unchanged	Unchanged
Carbon tetrachloride (Group II of Annex B)	No control measures introduced	2005: -85% 2010: -100%	Unchanged	Unchanged	Unchanged	Unchanged	Unchanged
Methyl chloroform (Group III of Annex B)	No control measures introduced	Jan 2003: Freeze 2005: -30% 2010: -70% 2015: -100%	Unchanged	Unchanged	Unchanged	Unchanged	Unchanged
HCFCs (consumption) (Group I of Annex C)	No control measures introduced		Control measures introduced, but phase-out schedule not decided	Jan 2016: Freeze 2040: -100%	Unchanged	Unchanged	2013: Freeze 2015: -10% 2020: -35% 2025: -67.5% 2030: -100%
HCFCs (production) (Group I of Annex C)	No control measures introduced					Jan 2016: Freeze	2013: Freeze 2015: -10% 2020: -35% 2025: -67.5% 2030: -100%
HBFCs (Group II of Annex C)	No control measures introduced		Control measures introduced, but phase-out schedule not decided	1996: -100%	Unchanged	Unchanged	Unchanged
Bromochloromethane (Group III of Annex C)	No control measures introduced					2002: -100%	Unchanged
Methyl bromide (Group I of Annex E)	No control measures introduced		Control measures introduced, but phase-out schedule not decided	Jan 2002: Freeze	2005: -20% 2015: -100%	Unchanged	Unchanged

Note: (\*) The control measures are applicable to both the consumption and production of the controlled substances in question, unless specified otherwise.

Source: United Nations Environment Programme (2002).

## Appendix II

New control measures introduced for consumption and production of controlled substances by non-Article 5 parties<sup>(\*)</sup>

Controlled substances	Montreal 1987	London 1990	Copenhagen 1992	Vienna 1995	Montreal 1997	Beijing 1999	Montreal 2007
CFCs 11, 12, 113,114, 115 (Group I of Annex A)	July 1989: Freeze 1993: -20% 1998: -50%	1995: -50% 1997: -85% 2000: -100%	1994: -75% 1996: -100%	Unchanged	Unchanged	Unchanged	Unchanged
Halons (Group II of Annex A)	July 1992: Freeze	Jan 1992: Freeze 1995: -50% 2000: -100%	1994: -100%	Unchanged	Unchanged	Unchanged	Unchanged
10 other CFCs (Group I of Annex B)	No control measures introduced	1993: -20% 1997: -85% 2000: -100%	1994: -75% 1996: -100%	Unchanged	Unchanged	Unchanged	Unchanged
Carbon tetrachloride (Group II of Annex B)	No control measures introduced	1995: -85% 2000: -100%	1996: -100%	Unchanged	Unchanged	Unchanged	Unchanged
Methyl chloroform (Group III of Annex B)	No control measures introduced	Jan 1993: Freeze 1995: -30% 2000: -70% 2005: -100%	1994: -50% 1996: -100%	Unchanged	Unchanged	Unchanged	Unchanged
HCFCs (consumption) (Group I of Annex C)	No control measures introduced		Jan 1996: Freeze 2004: -35% 2010: -65% 2015: -90% 2020: -99.5% 2030: -100%	Unchanged	Unchanged	Unchanged	2010: -75% 2015: -90% 2020: -100%
HCFCs (production) (Group I of Annex C)	No control measures introduced					Jan 2004: Freeze	2010: -75% 2015: -90% 2020: -100%
HBFCs (Group II of Annex C)	No control measures introduced		1996: -100%	Unchanged	Unchanged	Unchanged	Unchanged
Bromochloromethane (Group III of Annex C)	No control measures introduced					2002: -100%	Unchanged
Methyl bromide (Group I of Annex E)	No control measures introduced		Jan 1995: Freeze	2001: -25% 2005: -50% 2010: -100%	1999: -25% 2001: -50% 2003: -70% 2005: -100%	Unchanged	Unchanged

Note: (\*) The control measures are applicable to both the consumption and production of the controlled substances in question, unless specified otherwise.

Source: United Nations Environment Programme (2002).

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