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From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 2 December 2009

**Proposed resolution under
the Ozone Layer Protection Ordinance**

Further to LC Paper No. CB(3) 761/08-09 issued on 2 July 2009, the Secretary for the Environment has given notice to move a proposed resolution at the Council meeting of 2 December 2009 under the Ozone Layer Protection Ordinance. The President has directed that “it be printed in the terms in which it was handed in” on the Agenda of the Council.

2. The proposed resolution is attached for Members’ consideration. The speech, in both English and Chinese versions, which the Secretary for the Environment will deliver when moving the proposed resolution, is also attached.

3. Please note that the Ozone Layer Protection (Products Containing Scheduled Substances) (Import Banning) (Amendment) Regulation 2009 was circulated vide LC Paper No. CB(3) 711/08-09 on 19 June 2009. To economise on the use of paper, the Regulation is not attached.

(Mrs Justina LAM)
for Clerk to the Legislative Council

Encl.

OZONE LAYER PROTECTION ORDINANCE

RESOLUTION

(Under section 16 of the Ozone Layer Protection Ordinance (Cap. 403))

RESOLVED that the Ozone Layer Protection (Products Containing Scheduled Substances) (Import Banning) (Amendment) Regulation 2009, made by the Secretary for the Environment on 17 June 2009, be approved.

**Speech by the Secretary for the Environment Mr. Edward Yau
at the Legislative Council on 2 December 2009**

**Motion to pass a resolution under
Section 16 of the Ozone Layer Protection Ordinance (Cap. 403)
Ozone Layer Protection (Products Containing Scheduled Substances)
(Import Banning)(Amendment) Regulation**

Mr. President,

I move the motion standing in my name on the Order Paper.

2. In 1993, the Government implemented the Ozone Layer Protection (Products Containing Scheduled Substances)(Import Banning) Regulation (the Regulation) so that Hong Kong can contribute to the recovery of the ozone layer in fulfillment of its obligations under the Montreal Protocol on Substances that Deplete the Ozone Layer (Montreal Protocol).
3. The ozone layer protects all life on earth against harmful ultraviolet radiation. Back in the 1970s, scientists discovered a large-scale depletion of the ozone layer, resulting in what is commonly referred to as “ozone hole” in the atmosphere, due to excessive human consumption of ozone depleting substances. To further expedite the recovery of the ozone layer, the Parties to the Montreal Protocol (the Parties) approved at the 19th Meeting held in Montreal in September 2007 an amendment to accelerate the phasing out of hydrochlorofluorocarbons (HCFCs) for the Non-Article 5 Parties to the Montreal Protocol – to curtail by 2010 the consumption of HCFCs by 75% of the baseline level of 1989 instead of the original 65%; and to advance the completion of the phasing out from 2030 to 2020.
4. The Montreal Protocol, extended to Hong Kong by the United Kingdom in 1987, requires our compliance with the requirements applicable to the Non-Article 5

Parties. Under the Memorandum to the UN Secretariat from the Ministry of Foreign Affairs of the Central People's Government on 6 June 1997, the Hong Kong Special Administrative Region will continue to comply with the relevant requirements after the re-unification in 1997.

5. To meet the new requirements of the above amendment to the Montreal Protocol, we must further reduce the local consumption of HCFCs. Having made reference to the practices of other advanced countries and considered the views of local suppliers and other stakeholders, we now move an Amendment Regulation which seeks to ban the import of all products using HCFCs by phases from 1 January 2010. This will reduce the consumption of HCFCs for the operation of such products in future so as to meet the accelerated timelines to phase out HCFCs under the amendment to the Montreal Protocol. It will also obviate the problem of insufficient supply of HCFCs for servicing the existing equipment.

6. The proposals under the Amendment Regulation have fully taken into account the views of related trades. For instance, we recognise the additional time needed by some air conditioner suppliers to set up the production lines for HCFC-free room air conditioners following the financial tsunami. Without prejudice to our compliance with the requirements under the Montreal Protocol, we have agreed to defer the banning of import of split type and window type room air conditioners containing HCFCs for half a year to 1 July 2010 and 1 July 2012 respectively. Also, we have taken heed of the suggestion of the trade to use the same definition of the Energy Efficiency (Labelling of Products) Ordinance for "room air conditioners".

7. In the Amendment Regulation, we also propose to amend the definition of "controlled product" to keep in line with the resolution at the 11th and the 12th Meeting of the Parties in 1999 and 2000 respectively that Non-Article 5 Parties should develop and implement a strategy for the management of chlorofluorocarbons (CFCs), including options for an eventual ban against CFC-containing Metered Dose Inhalers (MDIs). In 2002, we drew up and submitted to the Ozone Secretariat of the Montreal

Protocol our strategy and target to phase out all CFC-containing MDIs by 1 January 2010 in tandem with other advanced countries. In this connection, the Hospital Authority (HA) and Department of Health (DH) have also launched since 2004 a voluntary programme to phase out CFC-containing MDIs, and considerable achievements have been made. At present, CFC-free MDI dose accounts for about 90% of the total local consumption. The proposed Amendment Regulation will ensure that we can complete the phasing out of CFC-containing MDIs, and it is supported by the HA, DH, medical profession and suppliers.

8. We would also like to take this opportunity to amend related provisions of the Regulation to extend the ban on the import of controlled products from countries of origin not being a Party to the Montreal Protocol to all countries. The aim is to prevent Hong Kong from becoming a dumping ground of these products from the Parties. Moreover, the Amendment Regulation extends the definition of “portable fire extinguisher” to ban the use of certain ozone depleting substances as fire extinguishing agents as their alternatives are available. Although some of these substances, such as the other fully halogenated CFCs and bromochloromethane, are now rarely used for fire extinguishing purposes, such a possibility cannot be ruled out in future. We therefore propose to include them in the ban for the sake of completeness.

9. To deter smuggling of non-compliant controlled products into the local market, we propose increasing the penalty for an offence to import non-compliant controlled products from a maximum fine level of \$200,000 to \$1,000,000 and the maximum length of imprisonment from six months to two years. This is to bring the relevant penalty provisions in line with that for an offence to import ozone depleting substances without a licence under the principal Ordinance.

10. The Amendment Regulation has been vetted and supported by the Subcommittee. Although not directly relevant to this Amendment Regulation, we note that Members are concerned about the possible uncontrolled release of the used

HCFCs during disposal of old air-conditioners. To minimize the impact on the atmosphere, we would encourage recycling and re-use of these HCFCs. We have consulted with the trade and are drawing up a code of good practice to help the trade to recover HCFC-22 from retired air-conditioners. We would also prepare a leaflet to help increase the public's awareness on recycling of HCFCs from retired air-conditioners. In addition, we are also examining the feasibility of introducing a mandatory producer responsibility scheme on waste electrical and electronic equipment under the Product Eco-Responsibility Ordinance. Subject to public consultation in the future, we would consider whether proposed scheme could cover air conditioners.

11. Mr. President, Hong Kong has been working in concert with the international community and staying at the forefront of the region's efforts in restoring the ozone layer. The Amendment Regulation will enable us to continue and enhance our efforts in reducing emission of ozone depleting substances into the atmosphere and hence protecting the environment. With these remarks, I commend the Amendment Regulation to Members.

12. Thank you, Mr. President.