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**Subcommittee on
Ozone Layer Protection (Products Containing Scheduled Substances)
(Import Banning) (Amendment) Regulation 2009**

**Background brief prepared for the
meeting on 5 October 2009**

Purpose

This paper gives a summary of discussion by the Panel on Environmental Affairs (the Panel) on the proposal to enhance the control of ozone depleting substances (ODS).

Introduction

2. Ozone is a special layer of oxygen in the atmosphere. This “ozone layer” protects all life on earth against harmful ultraviolet radiation. In the 1970s, scientists found that there is a large-scale depletion of the ozone layer, resulting in what is commonly referred to as “ozone hole” in the atmosphere. To ensure recovery of the ozone layer, the international community has signed the Montreal Protocol on Substances that Deplete the Ozone Layer (Montreal Protocol) in September 1987 to virtually eliminate, according to certain timelines, the production and use of nearly 100 chemicals that have ozone depleting properties.

3. The Montreal Protocol was extended to Hong Kong by the United Kingdom in 1987. After the re-unification in 1997, under the Memorandum of 6 June 1997 given to the UN Secretariat by the Ministry of Foreign Affairs of the People’s Central Government, the Hong Kong Special Administrative Region will continue complying with the relevant requirements under the Protocol.

4. To enable Hong Kong to meet its obligations under the Protocol, the Ozone Layer Protection Ordinance (Cap. 403) and its subsidiary legislation were enacted to control the import and export of ODS. Through a quota and licensing system, the import for local consumption of ODS, including chlorofluorocarbons (CFC), halons, carbon tetrachloride, methyl chloroform, hydrobromofluorocarbons, was banned in accordance with the phasing-out schedules stipulated by the Montreal Protocol for developed parties. The only type of ODS that can still be imported to Hong Kong for local consumption is hydrochlorofluorocarbons (HCFC).

Banning the import of products containing HCFCs

5. At the 19th Meeting of Parties to the Montreal Protocol held in September 2007, Parties reached an agreement to accelerate the phasing out of HCFCs. The requirements for the Non-Article 5 Parties, which Hong Kong should comply with, are 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. In other words, the ceiling for local HCFC consumption will have to be tightened from 48.6 ODP-tonnes¹ to 34.7 ODP-tonnes. Given that the local consumption of HCFCs in 2007 is about 51.1 ODP-tonnes, a further reduction of 16.4 ODP-tonnes is required to meet the enhanced reduction target. The local consumption of HCFCs in recent years and the accelerated phasing out requirement are given in **Appendix I**.

6. In Hong Kong, virtually all HCFCs are used as refrigerants. To ensure full compliance with the accelerated phasing out programme, there is a need to cut the demand for HCFCs by banning the import of refrigeration, air conditioning and other products containing HCFCs as refrigerants. Among HCFCs, HCFC-22 accounts for about 98.3% of the total HCFC consumption. To first phase out products containing HCFC-22 will help maximize the reduction effectiveness. Taking into account the need for more time to allow suppliers to prepare for sourcing and importing HCFC-free room air conditioners, it is decided to defer the banning of split type and window type room air conditioners to 1 July 2010 and 1 July 2012 respectively, after consultation with the trade.

7. As for products containing other types of HCFCs, the import of which will be banned from 1 January 2015 except those containing HCFC-123 because of its low ozone depleting and global warming potentials but high cooling performance. Therefore, a longer phasing period will be allowed until 1 January 2020.

Banning of Metered Dose Inhalers containing CFC

8. Metered Dose Inhalers (MDIs) are small, pressurized aerosol devices that deliver a measured dose of an aerosolized drug into a patient's airway for inhalation into the lungs for the treatment of asthma and chronic obstructive pulmonary disease. They are required to register under the Pharmacy and Poisons Regulations (Cap. 138 sub. leg. A) before they can be put on the local market.

9. At present, CFC-containing MDIs for medical treatments are regarded as "essential use" and exempted from the import prohibition of CFC-containing products. However, in view of the availability of the economically and technically feasible non-CFC alternatives or substitutes, the 11th and 12th Meetings of the Parties to the Montreal Protocol held in 1999 and 2000 agreed that Non-Article 5 Parties should develop and implement a strategy for the management of CFCs, including options for eventual elimination of the use of CFC-containing MDIs.

¹ ODP-tonnes means the tonnage adjusted to ozone depleting potentials (ODP) of the concerned HCFC. For example, the ODP for HCFC-22 is 0.055, so one tonne HCFC-22 equals to 0.055 ODP-tonne.

10. In response to the international requirement and after consultation with the stakeholders, including medical suppliers, health and medical professionals, a target was made in 2003 to phase out all CFC-containing MDIs by 1 January 2010. Subsequently, the Hospital Authority and the Department of Health had launched a voluntary phasing out programme in 2004 which had borne fruits. At present, more than 40 CFC-free MDI models, accounting for about 80% of all MDI models, are available on local market. In 2007, 87% of the total consumption of dose were CFC-free. In view of the international efforts and practicality to ultimately eliminate the use of CFC in MDIs, it is considered appropriate to ban the import of CFC-containing MDIs from 1 January 2010.

Banning of other products containing ozone layer depleting substances

11. For sake of completeness, opportunity is also taken to extend the banning of portable fire extinguishers to those containing other fully halogenated chlorofluorocarbons, HCFCs and bromochloromethane (BCM), and import of products containing ozone layer depleting substances from countries not being a Party to the Montreal Protocol to all countries to prevent Hong Kong from becoming a dumping ground of these products.

The Amendment Regulation

12. The Amendment Regulation seeks to –

- (a) ban the import of products using HCFC according to specified schedules;
- (b) ban the import of MDIs and other products containing CFC;
- (c) extend the banning of portable fire extinguishers to those containing fully halogenated chlorofluorocarbons, HCFC and BCM;
- (d) extend the banning of products containing certain scheduled substances from any country, irrespective of whether it is bound by the terms of the Montreal Protocol;
- (e) increase the penalties for offence under the Ozone Layer Protection (Products Containing Scheduled Substances) (Import Banning) Regulation; and
- (f) state clearly that the banning control does not include those products in the course of transshipment or are imported solely for export.

Major issues raised by the Panel

13. The Amendment Regulation was discussed at the Panel meetings on 24 November 2008.

14. While there was general support for the proposal, members enquired whether there was adequate supply of HCFC-free window-type air conditioners to meet the demand given that only four compliant models were available in the market. They were also concerned about the sale of banned HCFC-containing products smuggled to Hong Kong by unscrupulous retailers if the latter was not held liable. Moreover, the Administration should provide assistance to the affected trades in complying with the control.

Relevant papers

Information paper provided by the Administration for the EA Panel meeting on 24 November 2008

<http://www.legco.gov.hk/yr08-09/english/panels/ea/papers/ea1124cb1-223-7-e.pdf>

Minutes of the EA Panel meeting on 24 November 2008

<http://www.legco.gov.hk/yr08-09/english/panels/ea/minutes/ea20081124.pdf>

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Comparison of existing and new commitments

	Original Phasing Out Schedule	Accelerated Phasing Out Schedule Under the 2007 Montreal Adjustment
1996	Freeze at baseline level ^[1]	--
2004	35% reduction	--
2010	65% reduction	75% reduction
2015	90% reduction	90% reduction
2020	99.5% reduction by 2020 ^[2]	100% reduction ^[3]
2030	100% reduction	

^[1] Baseline level equals to 2.8% of 1989 CFC levels plus 100% of 1989 HCFC levels, i.e., 138 ODP-tonnes for Hong Kong.

^[2] Consumption shall be restricted to the servicing of refrigeration and air conditioning equipment existing at that date.

^[3] May allow 0.5% per cent for servicing in the period 2020–2030. Such need will be reviewed by the Meeting of Parties to Montreal Protocol in 2015.

