

Amended proposal for a Council Regulation (EC) on substances that deplete the ozone layer<sup>(1)</sup>

(1999/C 83/02)

(Text with EEA relevance)

COM(1999) 67 final — 98/0228 (SYN)

*(Submitted by the Commission pursuant to Article 189 a (2) of the EC-Treaty on 11 February 1999)*

<sup>(1)</sup> OJ C 286, 15.9.1998, p. 6.

ORIGINAL PROPOSAL

AMENDED PROPOSAL

Recital 3

whereas it is established that continued emissions of ozone-depleting substances at current levels continue to cause significant damage to the ozone layer; whereas it is therefore necessary to take further steps in order to ensure sufficient protection for human health and the environment;

whereas it is established that continued emissions of ozone-depleting substances at current levels continue to cause significant damage to the ozone layer; whereas ozone depletion in the southern hemisphere reached unprecedented levels in 1998; whereas in three out of four recent springs severe ozone depletion has occurred in the Arctic region; whereas increased UV-B radiation resulting from ozone depletion poses a significant threat to health and environment; whereas it is therefore necessary to take further steps in order to ensure sufficient protection for human health and the environment;

Recital 9

whereas the growing availability of alternatives to methyl bromide should be reflected in an accelerated phaseout of methyl bromide compared to the Montreal Protocol; whereas such an accelerated phaseout is also provided for by other parties of the Protocol; whereas there might be specific critical agricultural uses and conditions for which the phasing out of methyl bromide would lead to severe technical or economic difficulties; whereas exemptions should be foreseen for those cases for which the production and placing on the market of methyl bromide may be permitted after phaseout;

whereas the significant contribution of methyl bromide to ozone depletion, its high toxicity and the growing availability of alternatives to methyl bromide should be reflected in an accelerated phaseout of methyl bromide compared to the Montreal Protocol; whereas such an accelerated phaseout is also provided for by other parties of the Protocol; whereas there might be specific critical agricultural uses and conditions for which the phasing out of methyl bromide would lead to severe technical or economic difficulties; whereas exemptions should be foreseen for those cases for which the production and placing on the market of methyl bromide may be permitted after phaseout; whereas, to ensure that exemptions are granted only for genuine critical uses, there should be a mechanism to enable the use of methyl bromide to be monitored on a Community-wide basis;

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## Recital 8a (new)

whereas even after the phaseout of controlled substances the Commission may under certain conditions grant exemptions for essential uses; whereas care must be taken that exemptions are granted mainly for medical uses;

## Recital 11a (new)

whereas the phaseout of controlled substances requires conversions to new technologies or alternative products; whereas this could pose a burden to small and medium-sized undertakings (SMU) in particular; whereas Member States should therefore consider providing appropriate forms of assistance specifically to enable SMU to make the necessary changes;

## Article 2 (new definition)

*Add after the definition of 'hydrochlorofluorocarbons', and preceding the definition of 'feedstock':*

- 'new substances' shall mean substances listed in Annex IA. This definition shall cover substances whether alone or in a mixture, and whether they are virgin, recovered, recycled or reclaimed. This definition shall not cover any substance which is in a manufactured product other than a container used for transportation or storage of that substance, or insignificant quantities of any new substance, originating from inadvertent or accidental production during a manufacturing process or from unreacted feedstock;

## Article 5 (1) (d)

(iii) from the 1 January 2003, for the production of polyurethane foams for appliances, of polyurethane flexible faced laminate foams and of polyurethane sandwich panels, except where these latter two are used for insulated transport;

(iv) from 1 January 2004, for the production of all foams;

(iii) from 1 January 2003, for the production of all foams;

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## Article 5 (6)

The Commission may, following a request of a competent authority of a Member State and in accordance with the procedure laid down in Article 17, authorise a temporary exemption to allow the use and placing on the market of hydrochlorofluorocarbons in derogation from paragraph 1 and Article 4 (3) where it is demonstrated that, for a particular use, technically and economically feasible alternative substances or technologies are not available or cannot be used.

The Commission may, following a request of a competent authority of a Member State and in accordance with the procedure laid down in Article 17, authorise a time-limited exemption to allow the use and placing on the market of hydrochlorofluorocarbons in derogation from paragraph 1 and Article 4 (3) where it is demonstrated that, for a particular use, technically and economically feasible alternative substances or technologies are not available or cannot be used.

## Article 15

Chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride, 1,1,1-trichloroethane, hydrobromofluorocarbons and hydrochlorofluorocarbons contained in:

- refrigeration equipment and air-conditioning equipment,
- equipment containing solvents,
- fire-protection systems and fire extinguishers, and
- rigid foams

shall be recovered if practicable for destruction by technologies approved by the parties or by any other environmentally acceptable destruction technology, or for recycling or reclamation during the servicing and maintenance of equipment or before the dismantling or disposal of equipment.

Member States shall promote, as appropriate, the establishment of destruction, recycling and reclamation facilities. Member States shall define the minimum qualification requirements for the servicing personnel involved.

Member States shall report to the Commission by 31 December 2001 on the systems established to promote the recovery of used controlled substances, including the facilities available and the quantities of used controlled substances recovered, recycled, reclaimed or destroyed.

Chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride, 1,1,1-trichloroethane, hydrobromofluorocarbons and hydrochlorofluorocarbons contained in:

- refrigeration equipment and air-conditioning equipment,
- equipment containing solvents,
- fire-protection systems and fire extinguishers, and
- rigid foams

shall be recovered if practicable for destruction by technologies approved by the parties or by any other environmentally acceptable destruction technology, or for recycling or reclamation during the servicing and maintenance of equipment or before the dismantling or disposal of equipment.

Controlled substances for use as refrigerants and for fire-protection may not be placed on the market in disposable containers.

Member States shall promote, as appropriate, the establishment of destruction, recycling and reclamation facilities. Member States shall define the minimum qualification requirements for the servicing personnel involved.

Member States shall report to the Commission by 31 December 2001 on the systems established to promote the recovery of used controlled substances, including the facilities available and the quantities of used controlled substances recovered, recycled, reclaimed or destroyed.

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This provision shall be without prejudice to Council Directive 75/442/EEC<sup>(1)</sup> or to measures adopted following Article 2 (2) of that Directive.

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## Article 19 (2)

When requesting information from an undertaking the Commission shall at the same time forward a copy of the request to the competent authority of the Member State within the territory of which the undertaking's seat is situated, together with a statement of the reasons why that information is required.

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## Article 19 (3)

The competent authorities of the Member States shall carry out the investigations which the Commission considers necessary under this Regulation.

The competent authorities of the Member States shall carry out the investigations which the Commission considers necessary under this Regulation. The Member States shall also conduct random checks on imports of controlled substances, and communicate the schedules and results of those checks to the Commission.

## Article 19 (5)

The Commission shall take appropriate steps to protect the confidentiality of information obtained under this Article.

The Commission shall take appropriate action to promote adequate exchange of information and cooperation between national authorities and between national authorities and the Commission. The Commission shall take appropriate steps to protect the confidentiality of information obtained under this Article.

## Article 20 a (new)

## CHAPTER Va

## NEW SUBSTANCES

*Article 20 a*

## New Substances

1. The production, release for free circulation in the Community and inward processing, placing on the market and use of substances in Annex IA are prohibited.

<sup>(1)</sup> OJ L 194, 25.7.1975, p. 39.

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2. The Commission shall, as appropriate, make proposals to include in Annex IA any substances that are not controlled substances but that are found by the Scientific Assessment Panel under the Montreal Protocol to have significant ozone-depleting potential, including proposals on possible exemptions from paragraph 1.

Annex IA (new)

**NEW SUBSTANCES**

Bromochloromethane

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