2018/255

Ozone Layer Protection Amendment Regulations 2018

Patsy Reddy, Governor-General

Order in Council

At Wellington this 10th day of December 2018

Present:
Her Excellency the Governor-General in Council

These regulations are made under section 16 of the Ozone Layer Protection Act 1996—

(a) on the advice and with the consent of the Executive Council; and

(b) on the recommendation of the Minister for the Environment made after complying with sections 17 and 18 of that Act.

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Regulations

1 Title

These regulations are the Ozone Layer Protection Amendment Regulations 2018.

2 Commencement

(1) Regulations 16(3) and 17 come into force on 1 January 2020.

(2) The rest of these regulations come into force on 18 February 2019.

3 Principal regulations

These regulations amend the Ozone Layer Protection Regulations 1996 (the **principal regulations**).

4 Regulation 2 amended (Interpretation)

(1) In regulation 2, insert in their appropriate alphabetical order:

carbon dioxide equivalent tonnes, in relation to a substance, means the amount, in tonnes, calculated by multiplying the mass of the substance in tonnes by its 100-year global warming potential specified in Part 10 of Schedule 1

grandparented permit means a permit to import new bulk HFCs issued under regulation 7G

HFC means any substance specified in Part 10 of Schedule 1

new bulk HFC means a bulk HFC that is not a bulk recycled substance

tranship, by a person, means to export substances or goods within 20 working days after the date on which the person imported them into New Zealand

(2) In regulation 2, definition of **complying country**, replace “2I” with “2J”.

(3) In regulation 2, definition of **ODP tonnage**, replace “means the mass of a substance” with “, in relation to a substance, means the mass of the substance in tonnes”.

(4) In regulation 2, definition of **ozone depletion potential**, after “**ODP**”, insert “, in relation to a substance,”.

(5) In regulation 2, definition of **party**, after paragraph (b)(ii), insert:

(iii) HFCs, a party to the Kigali Amendment to the Montreal Protocol

5 New regulation 2A inserted (Transitional, savings, and related provisions)

After regulation 2, insert:

2A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

6 New regulations 7A to 7K and cross-heading inserted

After regulation 7, insert:

HFCs

7A Prohibition on importation of bulk HFCs without permit

(1) On and from 1 January 2020, a person must not import a bulk HFC into New Zealand unless authorised to do so by—

(a) a grandparented permit to import new bulk HFCs issued under regulation 7G (*see* regulations 7B to 7F for who is eligible to apply for a grandparented permit); or

(b) a special permit to import new bulk HFCs issued under regulation 7H; or

(c) an exporter's permit to import new bulk HFCs issued under regulation 7I; or

(d) a permit to import recycled HFCs issued under regulation 7J.

(2) *See* regulation 29(f) for exemptions that may be granted by the EPA.

7B Application for eligibility to apply for grandparented permit

(1) This regulation applies to a person who imported a new bulk HFC at any time during the period beginning on 1 January 2015 and ending on 31 December 2017 (the **eligibility period**).

(2) The person may apply to the EPA for eligibility to apply for a grandparented permit.

(3) The application must be in the approved form and must be made no later than 18 March 2019.

(4) The application must state, for each calendar year during the eligibility period,—

(a) the carbon dioxide equivalent tonnes of new bulk HFCs that the applicant imported during the calendar year and then transhipped; and

(b) the carbon dioxide equivalent tonnes of all other new bulk HFCs that the applicant imported during the calendar year.

(5) The EPA may, by notice in writing, require the applicant—

(a) to verify any statement in the application by statutory declaration; and

(b) to supply any further information that is relevant to the application.

(6) A notice may specify a reasonable time frame in which the applicant must respond.

7C Granting of eligibility to apply for grandparented permit

(1) On receipt of an application made under regulation 7B, the EPA must grant eligibility to the applicant if—

(a) the application complies with the requirements of regulation 7B(3) and (4); and

(b) the applicant complies with any notice given under regulation 7B(5); and

(c) the EPA is satisfied that the information given by the applicant in the application and in response to the notice (if any) is correct.

(2) However, the EPA may accept a late application that was made no later than 1 April 2019 if the EPA is satisfied that exceptional circumstances prevented the application from being made by 18 March 2019.

(3) The EPA must calculate the applicant's eligibility for each calendar year in the period beginning on 1 January 2020 as follows:

$$a = (b \div c) \times d \times 0.8$$

where—

a is the carbon dioxide equivalent tonnes of new bulk HFCs that the applicant is eligible to import for the year

b is the carbon dioxide equivalent tonnes of new bulk HFCs that the applicant imported in the period beginning on 1 January 2015 and ending on 31 December 2017 that were not transhipped

c is the total carbon dioxide equivalent tonnes of new bulk HFCs that were imported into New Zealand in the period beginning on 1 January 2015 and ending on 31 December 2017 that were not transhipped

d is the limit on importation of new bulk HFCs for the year specified in Schedule 6, in carbon dioxide equivalent tonnes.

(4) Eligibility granted under this regulation—

(a) allows the applicant to apply for a grandparented permit under regulation 7G to import new bulk HFCs up to the amount of the applicant's eligibility for the relevant year; but

(b) does not allow the applicant to import new bulk HFCs without a permit.

7D Transfer of eligibility to apply for grandparented permit

(1) A person who is eligible to apply for a grandparented permit may transfer part or all of that eligibility to any other person by notifying the EPA.

(2) The notice must be in the approved form and must state—

(a) the amount of the eligibility, in carbon dioxide equivalent tonnes, to be transferred; and

(b) the person to whom the eligibility is to be transferred; and

(c) which year's or years' eligibilities are to be transferred.

(3) The EPA may, by notice in writing, require the transferor to supply any further information relating to the transfer.

7E Revocation of unused eligibility to apply for grandparented permit

(1) This regulation applies in respect of a person who is eligible to apply for a grandparented permit if, in both of the previous 2 calendar years, the person has not used part or all of their eligibility for the year (for example, by importing less than the amount of their eligibility).

(2) The EPA may, by notice in writing to the person, revoke the part of the person's eligibility that the person has not used in the previous 2 calendar years.

(3) In considering whether to revoke an eligibility, the EPA must have regard to—

(a) the level of unmet demand for special permits under regulation 7H to import new bulk HFCs and the extent to which the revocation would address the demand; and

(b) the importance of the use to which the eligibility, if not revoked, will be put; and

(c) whether there is a viable alternative to HFCs for the use that would be less harmful to the environment; and

(d) the usage and transfer history of the eligibility; and

(e) any other factor that the EPA considers to be relevant.

(4) Regulation 17 does not apply in respect of an eligibility to apply for a grandparented permit.

7F Adjustment of eligibility to apply for grandparented permit as a result of appeal

(1) This regulation applies if a court rules that the EPA incorrectly calculated a person's eligibility under regulation 7C(3).

(2) The EPA may, in giving effect to the court's decision, recalculate the eligibility of any person using the formula in regulation 7C(3).

(3) If the EPA recalculates a person's eligibility,—

(a) the EPA must notify the person, in writing, of the person's new eligibility and the date on which the new eligibility comes into effect, which must be no later than the end of the calendar year following the year in which the court makes its ruling; and

(b) a grandparented permit that has been granted to the person before the new eligibility comes into effect is unaffected by the change in eligibility.

(4) In the year in which the court makes its ruling,—

(a) the person who applied to the court for the ruling may apply for a permit under regulation 7G for that calendar year or for the next calendar year; and

(b) the EPA may accept the application, even if the application is made later than required by regulation 7G(2).

7G Grandparented permits to import new bulk HFCs

(1) A person who is eligible to apply for a grandparented permit may apply to the EPA for a grandparented permit to import new bulk HFCs.

(2) The application must be in the approved form and must be made no later than 1 September of the year before the calendar year to which the permit relates.

(3) The EPA may grant the permit if satisfied that the applicant is eligible.

(4) The permit must state—

(a) the period to which the permit relates, which must not be more than 1 calendar year; and

(b) the amount of new bulk HFCs that the permit allows the applicant to import, which must not be more than the person's eligibility; and

(c) any conditions relevant to the permit.

7H Special permits to import new bulk HFCs

(1) Any person may apply to the EPA for a special permit to import new bulk HFCs.

(2) The application must be in the approved form and must be made no later than 1 July of the year before the first calendar year to which the permit relates.

(3) The application must—

(a) state the extent to which the applicant's eligibility to import new bulk HFCs under regulation 7C, 7D, or 7F (if any) has been used or accounted for; and

(b) provide evidence of the applicant's commitment to use, in a timely manner, cost-effective alternatives to HFCs; and

(c) provide evidence of the applicant's commitment to obtain a transfer of an eligibility to import new bulk HFCs under regulation 7D; and

(d) provide evidence of energy efficiency or other environmental advantages (if any) from granting a special permit to the applicant; and

(e) provide evidence of adverse economic or social impacts (if any) from refusal to grant a special permit to the applicant.

(4) The EPA may, on receipt of an application, grant a special permit.

(5) The permit must state—

(a) the period to which the permit relates, which must not be more than 3 calendar years; and

(b) the amount of new bulk HFCs that the permit allows the applicant to import; and

(c) any conditions relevant to the permit.

(6) The EPA may, at any time, revoke a special permit if the EPA is satisfied that the information specified in the application was not, or is no longer, correct.

7I Exporters' permits to import new bulk HFCs

(1) A person who exports new bulk HFCs may apply to the EPA for an exporter's permit to import new bulk HFCs.

(2) The application must be in the approved form and must state the amount of new bulk HFCs that the applicant has exported in the calendar year in which the application is made, excluding any amounts that were transhipped.

(3) The EPA may, on receipt of an application, grant an exporter's permit.

(4) The permit must state—

(a) the period to which the permit relates, which must end no later than the end of the calendar year in which the application was made; and

(b) the amount of new bulk HFCs that the permit allows the applicant to import, which must not be more than the amount of new bulk HFCs that the applicant exported (but did not tranship) in that calendar year; and

(c) any conditions relevant to the permit.

7J Permits to import recycled HFCs

(1) Any person may apply to the EPA for a permit to import HFCs that are bulk recycled substances.

(2) The application must be in the approved form.

(3) The EPA may, on receipt of an application, grant a permit.

(4) The permit must state—

(a) the period to which the permit relates, which must not be more than 3 calendar years; and

(b) the amount of HFCs that are bulk recycled substances that the permit allows the applicant to import; and

(c) any conditions relevant to the permit.

7K Maximum allocation of new bulk HFCs

The EPA must ensure that the total carbon dioxide equivalent tonnes of new bulk HFCs allowed to be imported for a calendar year by permits granted under regulations 7G and 7H does not exceed the limit specified in Schedule 6 for that calendar year.

7 Regulation 12 amended (Conditional prohibition on importation of bulk recycled substances)

After regulation 12(2), insert:

(3) This regulation does not apply in respect of HFCs.

8 Regulation 13 amended (Provisions relating to permits)

Revoke regulation 13(2A).

9 Regulation 14 amended (Transfer of entitlement)

(1) In regulation 14(1), delete “(other than under regulation 7)”.

(2) After regulation 14(4), insert:

(5) This regulation does not apply in respect of—

(a) permits to import methyl bromide for quarantine or pre-shipment applications under regulation 7; or

(b) permits to import HFCs.

10 Regulation 15 amended (Temporary transfer of entitlement)

After regulation 15(3), insert:

(4) This regulation does not apply in respect of permits to import HFCs.

11 Regulation 17 amended (Reduction of entitlement for non-usage)

After regulation 17(2), insert:

(3) This regulation does not apply in respect of permits to import HFCs.

12 Regulation 19 amended (Prohibition on importation of certain goods containing ozone depleting substances)

(1) In regulation 19(a), after “methyl bromide”, insert “or an HFC”.

(2) In regulation 19(c), after “controlled substance”, insert “(other than an HFC)”.

(3) In regulation 19(d), after “controlled substance”, insert “other than an HFC”.

(4) In regulation 19(e), replace “HCFC” with “an HCFC, an HFC,”.

13 Regulation 23 amended (Restriction on other exports of bulk controlled substances)

Replace regulation 23(7) with:

(7) The application of other regulations to export permits granted under this regulation is as follows:

(a) regulation 13(2), (3), and (4)(a) applies to export permits granted under this regulation:

(b) regulation 13(1) and (4)(b) applies to permits for the export of bulk HFCs, but does not apply to any other export permit granted under this regulation:

(c) regulations 14 to 18 do not apply to export permits granted under this regulation.

14 Regulation 24 amended (Prohibition on manufacture of controlled substances and certain goods)

(1) In regulation 24(b), after "methyl bromide", insert "or an HFC".

(2) In regulation 24(d), after "controlled substance", insert "(other than an HFC)".

(3) In regulation 24(e), after "controlled substance", insert "other than an HFC".

15 Regulation 25 amended (Prohibition on sale of certain goods)

(1) In regulation 25(a), after "controlled substance", insert "(other than an HFC)".

(2) In regulation 25(b), after "methyl bromide", insert "or an HFC".

16 Regulation 29 amended (Exemptions for imports of bulk controlled substances)

(1) In regulation 29(d),—

(a) after "bulk recycled substance", insert "that is not an HFC"; and

(b) after "not a halon", insert "or an HFC".

(2) In regulation 29(e),—

(a) before "any", insert "for"; and

(b) after "substance", insert ", other than an HFC,".

(3) After regulation 29(e), insert:

(f) for a bulk HFC that is to be used only for a use determined by the Parties to the Montreal Protocol to be an exempted use.

17 Regulation 30 replaced (Exemptions for manufacture of bulk controlled substances)

Replace regulation 30 with:

30 Exemptions for manufacture of bulk controlled substances

The only exemptions that may be granted by the EPA in respect of the manufacture of any bulk controlled substance are as follows:

(a) for quantities of less than 1 kilogram of a substance, other than an HFC, that is necessary for a use that has been determined by the Parties to the Montreal Protocol to be a legitimate laboratory and analytical use:

(b) for a bulk HFC that is to be used only for a use determined by the Parties to the Montreal Protocol to be an exempted use.

18 Regulation 37 amended (Offence to fail to notify importation or exportation of bulk recycled substance)

In regulation 37, after "substance", insert "other than an HFC".

19 Regulation 41 amended (Appeals)

(1) After regulation 41(1)(b), insert:

(ba) declines to grant eligibility applied for under regulation 7B; or

(bb) grants an amount of eligibility to an applicant under regulation 7C(1) that is less than the amount that the applicant believes that they are entitled to under regulation 7C(3); or

(2) After regulation 41(1)(c), insert:

(ca) revokes all or part of an eligibility under regulation 7E(2); or

(3) In regulation 41(3), after "Applications", insert ", other than applications under regulation 7B,".

20 New Schedule 1AA inserted

Insert the Schedule 1AA set out in Schedule 1 of these regulations as the first schedule to appear after the last regulation of the principal regulations.

21 Schedule 1 amended

In Schedule 1, after Part 9, insert the Part 10 set out in Schedule 2 of these regulations.

22 Schedule 5 replaced

Replace Schedule 5 with the Schedule 5 set out in Schedule 3 of these regulations.

23 New Schedule 6 inserted

After Schedule 5, insert the Schedule 6 set out in Schedule 4 of these regulations.

Schedule 1
New Schedule 1AA inserted

r 20

Schedule 1AA
Transitional, savings, and related provisions

r 2A

Part 1
Provisions relating to Ozone Layer Protection Amendment Regulations 2018

1 Meaning of controlled substance for export and manufacture purposes

Before 1 January 2020, for the purposes of regulations 23(1), 24(a), and 30, **controlled substance** does not include an HFC.

2 Revised maximum allocation of new bulk HFCs for 2020 and 2021 due to court decision

(1) This clause applies if, before or during the 2020 or 2021 calendar years, a court rules that the EPA incorrectly calculated a person's eligibility under regulation 7C(3).

(2) In giving effect to the court's decision, the EPA may allow the amount of new bulk HFCs imported for the 2020 or 2021 calendar years under permits granted under regulations 7G and 7H to exceed the limits specified in Schedule 6.

(3) However, the EPA must ensure that the total carbon dioxide equivalent tonnes of new bulk HFCs allowed to be imported for a calendar year by permits granted under regulations 7G and 7H does not exceed—

(a) 1,418,300 carbon dioxide equivalent tonnes for the 2020 calendar year; and

(b) 1,257,700 carbon dioxide equivalent tonnes for the 2021 calendar year.

(4) This clause overrides regulation 7K.

Schedule 2
New Part 10 of Schedule 1 inserted

r 21

Part 10
HFCs (hydrofluorocarbons)

Chemical formula	Substance	100-year global warming potential
CHF_2CHF_2	HFC-134	1,100
CH_2FCF_3	HFC-134a	1,430
CH_2FCHF_2	HFC-143	353
$CHF_2CH_2CF_3$	HFC-245fa	1,030
$CF_3CH_2CF_2CH_3$	HFC-365mfc	794
CF_3CHFCF_3	HFC-227ea	3,220
$CH_2FCF_2CF_3$	HFC-236cb	1,340
CHF_2CHFCF_3	HFC-236ea	1,370
$CF_3CH_2CF_3$	HFC-236fa	9,810
$CH_2FCF_2CHF_2$	HFC-245ca	693
$CF_3CHFCHFCF_2CF_3$	HFC-43-10mee	1,640
CH_2F_2	HFC-32	675
CHF_2CF_3	HFC-125	3,500
CH_3CF_3	HFC-143a	4,470
CH_3F	HFC-41	92
CH_2FCH_2F	HFC-152	53
CH_3CHF_2	HFC-152a	124
CHF_3	HFC-23	14,800

Schedule 3
Schedule 5 replaced

r 22

Schedule 5
Montreal Protocol on Substances that Deplete the Ozone Layer

r 47

As adjusted and amended by the Second Meeting of the Parties (London, 27–29 June 1990); the Fourth Meeting of the Parties (Copenhagen, 23–25 November 1992); the Seventh Meeting of the Parties (Vienna, 5–7 December 1995); the Ninth Meeting of the Parties (Montreal, 15–17 September 1997); the Eleventh Meeting of the Parties (Beijing, 29 November–3 December 1999); the Nineteenth Meeting of the Parties (Montreal, 17–21 September 2007), and further amended by the Twenty-Eighth Meeting of the Parties (Kigali, 10–15 October 2016)

Preamble

The Parties to this Protocol,

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

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.
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, Annex B, Annex C, Annex E or Annex F 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.

Article 2
Control measures

1. *Incorporated in Article 2A.*
2. *Replaced by Article 2B.*
3. *Replaced by Article 2A.*

4. *Replaced by 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 2F, Articles 2H and 2J, 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 Secretariat by each of the Parties concerned, stating the terms of such transfer and the period for which it is to apply.

5 *bis*. Any Party not operating under paragraph 1 of Article 5 may, for one or more control periods, transfer to another such Party any portion of its calculated level of consumption set out in Article 2F, provided that the calculated level of consumption of controlled substances in Group I of Annex A of the Party transferring the portion of its calculated level of consumption did not exceed 0.25 kilograms per capita in 1989 and that the total combined calculated levels of consumption of the Parties concerned do not exceed the consumption limits set out in Article 2F. Such transfer of consumption shall be notified to the 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 Member 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 2J provided that their total combined calculated level of consumption does not exceed the levels required by this Article and Articles 2A to 2J. Any such agreement may be extended to include obligations respecting consumption or production under Article 2J provided that the total combined calculated level of consumption or production of the Parties concerned does not exceed the levels required by Article 2J.

   (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 Member 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, Annex B, Annex C and/or Annex E should be made and, if so, what the adjustments should be;

(ii) Adjustments to the global warming potentials specified in Group I of Annex A, Annex C and Annex F should be made and, if so, what the adjustments should be; and

(iii) 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 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:

(a) whether any substances, and if so which, should be added to or removed from any annex to this Protocol, and

(b) 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 2J Parties may take more stringent measures than those required by this Article and Articles 2A to 2J.

Introduction to the adjustments

The Second, Fourth, Seventh, Ninth, Eleventh and Nineteenth Meetings of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer decided, on the basis of assessments made pursuant to Article 6 of the Protocol, to adopt adjustments and reductions of production and consumption of the controlled substances in Annexes A, B, C and E to the Protocol as follows (the text here shows the cumulative effect of all the adjustments):

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 1994, 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, twenty-five 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, twenty-five 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 1996, 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 production may exceed that limit by a quantity equal to the annual average of its production of the controlled substances in Group I of Annex A for basic domestic needs for the period 1995 to 1997 inclusive. 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 uses agreed by them to be essential.

5. Each party shall ensure that for the twelve-month period commencing on 1 January 2003 and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex A for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed eighty per cent of the annual average of its production of those substances for basic domestic needs for the period 1995 to 1997 inclusive.

6. 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 production of the controlled substances in Group I of Annex A for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed fifty per cent of the annual average of its production of those substances for basic domestic needs for the period 1995 to 1997 inclusive.

7. Each Party shall ensure that for the twelve-month period commencing on 1 January 2007 and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex A for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed fifteen per cent of the annual average of its production of those substances for basic domestic needs for the period 1995 to 1997 inclusive.

8. Each Party shall ensure that for the twelve-month period commencing on 1 January 2010 and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex A for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed zero.

9. For the purposes of calculating basic domestic needs under paragraphs 4 to 8 of this Article, the calculation of the annual average of production by a Party includes any production entitlements that it has transferred in accordance with paragraph 5 of Article 2, and excludes any production entitlements that it has acquired in accordance with paragraph 5 of Article 2.

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 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.

2. Each Party shall ensure that for the twelve-month period commencing on 1 January 1994, 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, until 1 January 2002 exceed that limit by up to fifteen per cent of its calculated level of production in 1986; thereafter, it may exceed that limit by a quantity equal to the annual average of its production of the controlled substances in Group II of Annex A for basic domestic needs for the period 1995 to 1997 inclusive. 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 uses agreed by them to be essential.

3. 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 production of the controlled substances in Group II of Annex A for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed fifty per cent of the annual average of its production of those substances for basic domestic needs for the period 1995 to 1997 inclusive.

4. Each Party shall ensure that for the twelve-month period commencing on 1 January 2010 and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group II of Annex A for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed zero.

Article 2C
Other fully halogenated CFCs

1. Each Party shall ensure that for the twelve-month period commencing on 1 January 1993, 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 period, 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.

2. Each Party shall ensure that for the twelve-month period commencing on 1 January 1994, 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, twenty-five 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, twenty-five 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 1996, 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, until 1 January 2003 exceed that limit by up to fifteen per cent of its calculated level of production in 1989; thereafter, it may exceed that limit by a quantity equal to eighty per cent of the annual average of its production of the controlled substances in Group I of Annex B for basic domestic needs for the period 1998 to 2000 inclusive. 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 uses agreed by them to be essential.

4. Each Party shall ensure that for the twelve-month period commencing on 1 January 2007 and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex B for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed fifteen per cent of the annual average of its production of those substances for basic domestic needs for the period 1998 to 2000 inclusive.

5. Each party shall ensure that for the twelve-month period commencing on 1 January 2010 and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex B for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed zero.

Article 2D
Carbon tetrachloride

1. Each Party shall ensure that for the twelve-month period commencing on 1 January 1995, 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 period, 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 1996, 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. 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 uses agreed by them to be essential.

Article 2E
1,1,1-Trichloroethane (methyl chloroform)

1. Each Party shall ensure that for the twelve-month period commencing on 1 January 1993, 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 period, 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 1994, 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, fifty 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, fifty per cent of its calculated level of production in 1989. However, in order to sat-

isfy 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 1996, 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 for 1989. 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 uses agreed by them to be essential.

Article 2F
Hydrochlorofluorocarbons

1. Each Party shall ensure that for the twelve-month period commencing on 1 January 1996, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed, annually, the sum of:

    (a) Two point eight per cent of its calculated level of consumption in 1989 of the controlled substances in Group I of Annex A; and

    (b) Its calculated level of consumption in 1989 of the controlled substances in Group I of Annex C.

2. Each Party producing one or more of these substances shall ensure that for the twelve-month period commencing on 1 January 2004, and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex C does not exceed, annually, the average of:

    (a) The sum of its calculated level of consumption in 1989 of the controlled substances in Group I of Annex C and two point eight per cent of its calculated level of consumption in 1989 of the controlled substances in Group I of Annex A; and

    (b) The sum of its calculated level of production in 1989 of the controlled substances in Group I of Annex C and two point eight per cent of its calculated level of production in 1989 of the controlled substances in Group I of Annex A.

    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 of the controlled substances in Group I of Annex C as defined above.

3. Each Party shall ensure that for the twelve month period commencing on 1 January 2004, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed, annually, sixty-five per cent of the sum referred to in paragraph 1 of this Article.

4. Each Party shall ensure that for the twelve-month period commencing on 1 January 2010, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed, annually, twenty-five per cent of the sum referred to in paragraph 1 of this Article. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the controlled substances in Group I of Annex C does not exceed, annually, twenty-five per cent of the calculated level referred to in paragraph 2 of this Article. 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 of the controlled substances in Group I of Annex C as referred to in paragraph 2.

5. Each Party shall ensure that for the twelve-month period commencing on 1 January 2015, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed, annually, ten per cent of the sum referred to in paragraph 1 of this Article. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the controlled substances in Group I of Annex C does not exceed, annually, ten per cent of the calculated level referred to in paragraph 2 of this Article. 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 of the controlled substances in Group I of Annex C as referred to in paragraph 2.

6. Each Party shall ensure that for the twelve-month period commencing on 1 January 2020, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C 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 controlled substances in Group I of Annex C does not exceed zero. However:

    (a) Each Party may exceed that limit on consumption by up to zero point five per cent of the sum referred to in paragraph 1 of this Article in any such twelve-month period ending before 1 January 2030, provided that such consumption shall be restricted to the servicing of refrigeration and air-conditioning equipment existing on 1 January 2020;

    (b) Each Party may exceed that limit on production by up to zero point five per cent of the average referred to in paragraph 2 of this Article in any such twelve-month period ending before 1 January 2030, provided that

such production shall be restricted to the servicing of refrigeration and air-conditioning equipment existing on 1 January 2020.

7. As of 1 January 1996, each Party shall endeavour to ensure that:

(a) The use of controlled substances in Group I of Annex C is limited to those applications where other more environmentally suitable alternative substances or technologies are not available;

(b) The use of controlled substances in Group I of Annex C is not outside the areas of application currently met by controlled substances in Annexes A, B and C, except in rare cases for the protection of human life or human health; and

(c) Controlled substances in Group I of Annex C are selected for use in a manner that minimizes ozone depletion, in addition to meeting other environmental, safety and economic considerations.

Article 2G
Hydrobromofluorocarbons

Each Party shall ensure that for the twelve-month period commencing on 1 January 1996, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group II of Annex C does not exceed zero. Each Party producing the substances shall, for the same periods, ensure that its calculated level of production of the substances does not exceed zero. 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 uses agreed by them to be essential.

Article 2H
Methyl bromide

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 Annex E does not exceed, annually, its calculated level of consumption in 1991. Each Party producing the substance shall, for the same period, ensure that its calculated level of production of the substance does not exceed, annually, its calculated level of production in 1991. 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 1991.

2. Each Party shall ensure that for the twelve-month period commencing on 1 January 1999, and in the twelve-month period thereafter, its calculated level of consumption of the controlled substance in Annex E does not exceed, annually, seventy-five per cent of its calculated level of consumption in 1991. Each Party producing the substance shall, for the same periods, ensure that its calcu-

lated level of production of the substance does not exceed, annually, seventy-five per cent of its calculated level of production in 1991. 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 1991.

3. Each Party shall ensure that for the twelve-month period commencing on 1 January 2001, and in the twelve-month period thereafter, its calculated level of consumption of the controlled substance in Annex E does not exceed, annually, fifty per cent of its calculated level of consumption in 1991. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed, annually, fifty per cent of its calculated level of production in 1991. 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 1991.

4. Each Party shall ensure that for the twelve-month period commencing on 1 January 2003, and in the twelve-month period thereafter, its calculated level of consumption of the controlled substance in Annex E does not exceed, annually, thirty per cent of its calculated level of consumption in 1991. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed, annually, thirty per cent of its calculated level of production in 1991. 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 1991.

5. 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 Annex E 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, until 1 January 2002 exceed that limit by up to fifteen per cent of its calculated level of production in 1991; thereafter, it may exceed that limit by a quantity equal to the annual average of its production of the controlled substance in Annex E for basic domestic needs for the period 1995 to 1998 inclusive. 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 uses agreed by them to be critical uses.

5 *bis*. 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 production of the controlled substance in Annex E for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed

eighty per cent of the annual average of its production of the substance for basic domestic needs for the period 1995 to 1998 inclusive.

5 *ter*. Each Party shall ensure that for the twelve-month period commencing on 1 January 2015 and in each twelve-month period thereafter, its calculated level of production of the controlled substance in Annex E for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed zero.

6. The calculated levels of consumption and production under this Article shall not include the amounts used by the Party for quarantine and pre-shipment applications.

Article 2I
Bromochloromethane

Each Party shall ensure that for the twelve-month period commencing on 1 January 2002, and in each twelve-month period thereafter, its calculated level of consumption and production of the controlled substance in Group III of Annex C does not exceed zero. 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 uses agreed by them to be essential.

Article 2J
Hydrofluorocarbons

1. Each Party shall ensure that for the twelve-month period commencing on 1 January 2019, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Annex F, expressed in CO_2 equivalents, does not exceed the percentage, set out for the respective range of years specified in subparagraphs (a) to (e) below, of the annual average of its calculated levels of consumption of Annex F controlled substances for the years 2011, 2012 and 2013, plus fifteen per cent of its calculated level of consumption of Annex C, Group I, controlled substances as set out in paragraph 1 of Article 2F, expressed in CO_2 equivalents:

   (a) 2019 to 2023: 90 per cent

   (b) 2024 to 2028: 60 per cent

   (c) 2029 to 2033: 30 per cent

   (d) 2034 to 2035: 20 per cent

   (e) 2036 and thereafter: 15 per cent

2. Notwithstanding paragraph 1 of this Article, the Parties may decide that a Party shall ensure that, for the twelve-month period commencing on 1 January 2020, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Annex F, expressed in CO_2 equivalents, does not

exceed the percentage, set out for the respective range of years specified in subparagraphs (a) to (e) below, of the annual average of its calculated levels of consumption of Annex F controlled substances for the years 2011, 2012 and 2013, plus twenty-five per cent of its calculated level of consumption of Annex C, Group I, controlled substances as set out in paragraph 1 of Article 2F, expressed in CO_2 equivalents:

(a) 2020 to 2024: 95 per cent

(b) 2025 to 2028: 65 per cent

(c) 2029 to 2033: 30 per cent

(d) 2034 to 2035: 20 per cent

(e) 2036 and thereafter: 15 per cent

3. Each Party producing the controlled substances in Annex F shall ensure that for the twelve-month period commencing on 1 January 2019, and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Annex F, expressed in CO_2 equivalents, does not exceed the percentage, set out for the respective range of years specified in subparagraphs (a) to (e) below, of the annual average of its calculated levels of production of Annex F controlled substances for the years 2011, 2012 and 2013, plus fifteen per cent of its calculated level of production of Annex C, Group I, controlled substances as set out in paragraph 2 of Article 2F, expressed in CO_2 equivalents:

(a) 2019 to 2023: 90 per cent

(b) 2024 to 2028: 60 per cent

(c) 2029 to 2033: 30 per cent

(d) 2034 to 2035: 20 per cent

(e) 2036 and thereafter: 15 per cent

4. Notwithstanding paragraph 3 of this Article, the Parties may decide that a Party producing the controlled substances in Annex F shall ensure that for the twelve-month period commencing on 1 January 2020, and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Annex F, expressed in CO_2 equivalents, does not exceed the percentage, set out for the respective range of years specified in subparagraphs (a) to (e) below, of the annual average of its calculated levels of production of Annex F controlled substances for the years 2011, 2012 and 2013, plus twenty-five per cent of its calculated level of production of Annex C, Group I, controlled substances as set out in paragraph 2 of Article 2F, expressed in CO_2 equivalents:

(a) 2020 to 2024: 95 per cent

(b) 2025 to 2028: 65 per cent

(c) 2029 to 2033: 30 per cent

(d) 2034 to 2035: 20 per cent

(e) 2036 and thereafter: 15 per cent

5. Paragraphs 1 to 4 of this Article will apply save to the extent that the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by the Parties to be exempted uses.

6. Each Party manufacturing Annex C, Group I, or Annex F substances shall ensure that for the twelve-month period commencing on 1 January 2020, and in each twelve-month period thereafter, its emissions of Annex F, Group II, substances generated in each production facility that manufactures Annex C, Group I, or Annex F substances are destroyed to the extent practicable using technology approved by the Parties in the same twelve-month period.

7. Each Party shall ensure that any destruction of Annex F, Group II, substances generated by facilities that produce Annex C, Group I, or Annex F substances shall occur only by technologies approved by the Parties.

Article 3
Calculation of control levels

1. For the purposes of Articles 2, 2A to 2J and 5, each Party shall, for each group of substances in Annex A, Annex B, Annex C, Annex E or Annex F, 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, Annex B, Annex C or Annex E, except as otherwise specified in paragraph 2;

      (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; and

   (d) Emissions of Annex F, Group II, substances generated in each facility that generates Annex C, Group I, or Annex F substances by including, among other things, amounts emitted from equipment leaks, process vents and destruction devices, but excluding amounts captured for use, destruction or storage.

2. When calculating levels, expressed in CO_2 equivalents, of production, consumption, imports, exports and emissions of Annex F and Annex C, Group I, substances for the purposes of Article 2J, paragraph 5 *bis* of Article 2 and para-

graph 1 (d) of Article 3, each Party shall use the global warming potentials of those substances specified in Group I of Annex A, Annex C and Annex F.

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.

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

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

1 *quin*. As of 1 January 2004, each Party shall ban the import of the controlled substances in Group I of Annex C from any State not party to this Protocol.

1 *sex*. Within one year of the date of entry into force of this paragraph, each Party shall ban the import of the controlled substance in Group III of Annex C from any State not party to this Protocol.

1 *sept*. Upon entry into force of this paragraph, each Party shall ban the import of the controlled substances in Annex F 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.

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

2 *qua*. Commencing one year of the date of entry into force of this paragraph, each Party shall ban the export of the controlled substance in Annex E to any State not party to this Protocol.

2 *quin*. As of 1 January 2004, each Party shall ban the export of the controlled substances in Group I of Annex C to any State not party to this Protocol.

2 *sex*. Within one year of the date of entry into force of this paragraph, each Party shall ban the export of the controlled substance in Group III of Annex C to any State not party to this Protocol.

2 *sept*. Upon entry into force of this paragraph, each Party shall ban the export of the controlled substances in Annex F 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 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.

3 *ter*. Within three years of the date of 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 controlled substances in Group II of Annex C. 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.

4 *ter*. Within five years of the date of 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 Group II of Annex C. 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 in Annexes A, B, C, E and F.

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 in Annexes A, B, C, E and F.

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 in Annexes A, B, C, E and F.

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

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.

10. By 1 January 1996, the Parties shall consider whether to amend this Protocol in order to extend the measures in this Article to trade in controlled substances in Group I of Annex C and in Annex E with States not party to the Protocol.

Article 4A
Control of trade with Parties

1. Where, after the phase-out date applicable to it for a controlled substance, a Party is unable, despite having taken all practicable steps to comply with its obligation under the Protocol, to cease production of that substance for domestic consumption, other than for uses agreed by the Parties to be essential, it shall ban the export of used, recycled and reclaimed quantities of that substance, other than for the purpose of destruction.

2. Paragraph 1 of this Article shall apply without prejudice to the operation of Article 11 of the Convention and the non-compliance procedure developed under Article 8 of the Protocol.

Article 4B
Licensing

1. Each Party shall, by 1 January 2000 or within three months of the date of entry into force of this Article for it, whichever is the later, establish and implement a system for licensing the import and export of new, used, recycled and reclaimed controlled substances in Annexes A, B, C and E.

2. Notwithstanding paragraph 1 of this Article, any Party operating under paragraph 1 of Article 5 which decides it is not in a position to establish and implement a system for licensing the import and export of controlled substances in Annexes C and E, may delay taking those actions until 1 January 2005 and 1 January 2002, respectively.

2 *bis*. Each Party shall, by 1 January 2019 or within three months of the date of entry into force of this paragraph for it, whichever is later, establish and implement a system for licensing the import and export of new, used, recycled and reclaimed controlled substances in Annex F. Any Party operating under paragraph 1 of Article 5 that decides it is not in a position to establish and implement such a system by 1 January 2019 may delay taking those actions until 1 January 2021.

3. Each Party shall, within three months of the date of introducing its licensing system, report to the Secretariat on the establishment and operation of that system.

4. The Secretariat shall periodically prepare and circulate to all Parties a list of the Parties that have reported to it on their licensing systems and shall forward this information to the Implementation Committee for consideration and appropriate recommendations to the Parties.

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, provided that any further amendments to the adjustments or Amendment adopted at the Second Meeting of the Parties in London, 29 June 1990, shall apply to the Parties operating under this paragraph after the review provided for in paragraph 8 of this Article has taken place and shall be based on the conclusions of that review.

1 *bis*. The Parties shall, taking into account the review referred to in paragraph 8 of this Article, the assessments made pursuant to Article 6 and any other relevant

information, decide by 1 January 1996, through the procedure set forth in paragraph 9 of Article 2:

(a) With respect to paragraphs 1 to 6 of Article 2F, what base year, initial levels, control schedules and phase-out date for consumption of the controlled substances in Group I of Annex C will apply to Parties operating under paragraph 1 of this Article;

(b) With respect to Article 2G, what phase-out date for production and consumption of the controlled substances in Group II of Annex C will apply to Parties operating under paragraph 1 of this Article; and

(c) With respect to Article 2H, what base year, initial levels and control schedules for consumption and production of the controlled substance in Annex E will apply to Parties operating under paragraph 1 of this Article.

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 relating to consumption.

(b) For controlled substances under Annex B, the average of its annual calculated level of 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 relating to consumption.

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

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

4. If a Party operating under paragraph 1 of this Article, at any time before the control measures obligations in Articles 2A to 2J 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 Articles 2I and 21J, and with any control measures in Articles 2F to 2H that are decided pursuant to paragraph 1 *bis* of this Article, and their implementation by those same Parties will depend upon the effective implementation of 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 and Articles 2I and 2J, or any or all obligations in Articles 2F to 2H that are decided pursuant to paragraph 1 *bis* of this Article, 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.

8 *bis*. Based on the conclusions of the review referred to in paragraph 8 above:

(a) With respect to the controlled substances in Annex A, a Party operating under paragraph 1 of this Article shall, in order to meet its basic domestic needs, be entitled to delay for ten years its compliance with the control measures adopted by the Second Meeting of the Parties in London, 29 June 1990, and reference by the Protocol to Articles 2A and 2B shall be read accordingly;

(b) With respect to the controlled substances in Annex B, a Party operating under paragraph 1 of this Article shall, in order to meet its basic domestic needs, be entitled to delay for ten years its compliance with the control measures adopted by the Second Meeting of the Parties in London, 29 June 1990, and reference by the Protocol to Articles 2C to 2E shall be read accordingly.

8 *ter*. Pursuant to paragraph 1 *bis* above:

(a) Each Party operating under paragraph 1 of this Article shall ensure that for the twelve-month period commencing on 1 January 2013, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed, annually, the average of its calculated levels of consumption in 2009 and 2010. Each Party operating under paragraph 1 of this Article shall ensure that for the twelve-month period commencing on 1 January 2013 and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex C does not exceed, annually, the average of its calculated levels of production in 2009 and 2010;

(b) Each Party operating under paragraph 1 of this Article shall ensure that for the twelve-month period commencing on 1 January 2015, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed, annually, ninety per cent of the average of its calculated levels of consumption in 2009 and 2010. Each such Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the controlled substances in Group I of Annex C does not exceed, annually, ninety per cent of the average of its calculated levels of production in 2009 and 2010;

(c) Each Party operating under paragraph 1 of this Article shall ensure that for the twelve-month period commencing on 1 January 2020, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed, annually, sixty-five per cent of the average of its calculated levels of consumption in 2009 and 2010. Each such Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the controlled substances in Group I of Annex C does not exceed, annually, sixty-five per cent of the average of its calculated levels of production in 2009 and 2010;

(d) Each Party operating under paragraph 1 of this Article shall ensure that for the twelve-month period commencing on 1 January 2025, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed, annually, thirty-two point five per cent of the average of its calculated levels of consumption in 2009 and 2010. Each such Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the controlled substances in Group I of Annex C does not exceed, annually, thirty-two point five per cent of the average of its calculated levels of production in 2009 and 2010;

(e) Each Party operating under paragraph 1 of this Article shall ensure that for the twelve-month period commencing on 1 January 2030, and in each twelve-month period thereafter, its calculated level of consumption

of the controlled substances in Group I of Annex C does not exceed zero. Each such Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the controlled substances in Group I of Annex C does not exceed zero. However:

(i) Each such Party may exceed that limit on consumption in any such twelve-month period so long as the sum of its calculated levels of consumption over the ten-year period from 1 January 2030 to 1 January 2040, divided by ten, does not exceed two point five per cent of the average of its calculated levels of consumption in 2009 and 2010, and provided that such consumption shall be restricted to the servicing of refrigeration and air-conditioning equipment existing on 1 January 2030;

(ii) Each such Party may exceed that limit on production in any such twelve-month period so long as the sum of its calculated levels of production over the ten-year period from 1 January 2030 to 1 January 2040, divided by ten, does not exceed two point five per cent of the average of its calculated levels of production in 2009 and 2010, and provided that such production shall be restricted to the servicing of refrigeration and air-conditioning equipment existing on 1 January 2030.

(f) Each Party operating under paragraph 1 of this Article shall comply with Article 2G;

(g) With regard to the controlled substance contained in Annex E:

(i) As of 1 January 2002 each Party operating under paragraph 1 of this Article shall comply with the control measures set out in paragraph 1 of Article 2H and, as the basis for its compliance with these control measures, it shall use the average of its annual calculated level of consumption and production, respectively, for the period of 1995 to 1998 inclusive;

(ii) Each Party operating under paragraph 1 of this Article shall ensure that for the twelve-month period commencing on 1 January 2005, and in each twelve-month period thereafter, its calculated levels of consumption and production of the controlled substance in Annex E do not exceed, annually, eighty per cent of the average of its annual calculated levels of consumption and production, respectively, for the period of 1995 to 1998 inclusive;

(iii) Each Party operating under paragraph 1 of this Article shall ensure that for the twelve-month period commencing on 1 January 2015 and in each twelve-month period thereafter, its calculated levels of consumption and production of the controlled substance in Annex E do not exceed zero. 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 uses agreed by them to be critical uses;

(iv) The calculated levels of consumption and production under this subparagraph shall not include the amounts used by the Party for quarantine and pre-shipment applications.

8 *qua* (a) Each Party operating under paragraph 1 of this Article, subject to any adjustments made to the control measures in Article 2J in accordance with paragraph 9 of Article 2, shall be entitled to delay its compliance with the control measures set out in subparagraphs (a) to (e) of paragraph 1 of Article 2J and subparagraphs (a) to (e) of paragraph 3 of Article 2J and modify those measures as follows:

(i) 2024 to 2028: 100 per cent

(ii) 2029 to 2034: 90 per cent

(iii) 2035 to 2039: 70 per cent

(iv) 2040 to 2044: 50 per cent

(v) 2045 and thereafter: 20 per cent

(b) Notwithstanding subparagraph (a) above, the Parties may decide that a Party operating under paragraph 1 of this Article, subject to any adjustments made to the control measures in Article 2J in accordance with paragraph 9 of Article 2, shall be entitled to delay its compliance with the control measures set out in subparagraphs (a) to (e) of paragraph 1 of Article 2J and subparagraphs (a) to (e) of paragraph 3 of Article 2J and modify those measures as follows:

(i) 2028 to 2031: 100 per cent

(ii) 2032 to 2036: 90 per cent

(iii) 2037 to 2041: 80 per cent

(iv) 2042 to 2046: 70 per cent

(v) 2047 and thereafter: 15 per cent

(c) Each Party operating under paragraph 1 of this Article, for the purposes of calculating its consumption baseline under Article 2J, shall be entitled to use the average of its calculated levels of consumption of Annex F controlled substances for the years 2020, 2021 and 2022, plus sixty-five per cent of its baseline consumption of Annex C, Group I, controlled substances as set out in paragraph 8 *ter* of this Article.

(d) Notwithstanding subparagraph (c) above, the Parties may decide that a Party operating under paragraph 1 of this Article, for the purposes of calculating its consumption baseline under Article 2J, shall be entitled to use the average of its calculated levels of consumption of Annex F controlled substances for the years 2024, 2025 and 2026, plus sixty-five per

cent of its baseline consumption of Annex C, Group I, controlled substances as set out in paragraph 8 *ter* of this Article.

(e) Each Party operating under paragraph 1 of this Article and producing the controlled substances in Annex F, for the purposes of calculating its production baseline under Article 2J, shall be entitled to use the average of its calculated levels of production of Annex F controlled substances for the years 2020, 2021 and 2022, plus sixty-five per cent of its baseline production of Annex C, Group I, controlled substances as set out in paragraph 8 *ter* of this Article.

(f) Notwithstanding subparagraph (e) above, the Parties may decide that a Party operating under paragraph 1 of this Article and producing the controlled substances in Annex F, for the purposes of calculating its production baseline under Article 2J, shall be entitled to use the average of its calculated levels of production of Annex F controlled substances for the years 2024, 2025 and 2026, plus sixty-five per cent of its baseline production of Annex C, Group I, controlled substances as set out in paragraph 8 *ter* of this Article.

(g) Subparagraphs (a) to (f) of this paragraph will apply to calculated levels of production and consumption save to the extent that a high-ambient-temperature exemption applies based on criteria decided by the 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 2J 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.

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 Groups I and II of Annex C, for the year 1989;

– in Annex E, for the year 1991,

– in Annex F, for the years 2011 to 2013, except that Parties operating under paragraph 1 of Article 5 shall provide such data for the years 2020 to 2022, but those Parties operating under paragraph 1 of Article 5 to which subparagraphs (d) and (f) of paragraph 8 *qua* of Article 5 applies shall provide such data for the years 2024 to 2026;

or the best possible estimates of such data where actual data are not available, not later than three months after the date when the provisions set out in the Protocol with regard to the substances in Annexes B, C, E and F respectively enter into force for that Party.

3. Each Party shall provide to the Secretariat statistical data on its annual production (as defined in paragraph 5 of Article 1) of each of the controlled substances listed in Annexes A, B, C, E and F and, separately, for each substance,

– Amounts used for feedstocks,

– Amounts destroyed by technologies approved by the Parties, and

– Imports from and exports to Parties and non-Parties respectively,

for the year during which provisions concerning the substances in Annexes A, B, C, E and F respectively entered into force for that Party and for each year thereafter. Each Party shall provide to the Secretariat statistical data on the annual amount of the controlled substance listed in Annex E used for quarantine and pre-shipment applications. Data shall be forwarded not later than nine months after the end of the year to which the data relate.

3 *bis*. Each Party shall provide to the Secretariat separate statistical data of its annual imports and exports of each of the controlled substances listed in Group II of Annex A and Group I of Annex C that have been recycled.

3 *ter*. Each Party shall provide to the Secretariat statistical data on its annual emissions of Annex F, Group II, controlled substances per facility in accordance with paragraph 1 (d) of Article 3 of the Protocol.

4. For Parties operating under the provisions of paragraph 8(a) of Article 2, the requirements in paragraphs 1, 2, 3 and 3 *bis* of this Article in respect of statistical data on production, imports and exports shall be satisfied if the regional economic integration organization concerned provides data on production, 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 substances or otherwise reducing their emissions;
   (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, Article 2I and Article 2J, and any control measures in Articles 2F to 2H that are decided pursuant to paragraph 1 *bis* of Article 5 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. Where a Party operating under paragraph 1 of Art-

icle 5 chooses to avail itself of funding from any other financial mechanism that could result in meeting any part of its agreed incremental costs, that part shall not be met by the financial mechanism under Article 10 of this Protocol.

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;

(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.

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.

[The Article 10 in question is that of the original Protocol adopted in 1987.]

4. The functions of the 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;

(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;

(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.

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 2J and Article 4, that 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*	100-Year Global Warming Potential
Group I			
$CFCl_3$	(CFC-11)	1.0	4,750
CF_2Cl_2	(CFC-12)	1.0	10,900
$C_2F_3Cl_3$	(CFC-113)	0.8	6,130
$C_2F_4Cl_2$	(CFC-114)	1.0	10,000
C_2F_5Cl	(CFC-115)	0.6	7,370
Group II			
CF_2BrCl	(halon-1211)	3.0	
CF_3Br	(halon-1301)	10.0	
$C_2F_4Br_2$	(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
Group I		
CF_3Cl	(CFC-13)	1.0
C_2FCl_5	(CFC-111)	1.0
$C_2F_2Cl_4$	(CFC-112)	1.0
C_3FCl_7	(CFC-211)	1.0
$C_3F_2Cl_6$	(CFC-212)	1.0
$C_3F_3Cl_5$	(CFC-213)	1.0
$C_3F_4Cl_4$	(CFC-214)	1.0
$C_3F_5Cl_3$	(CFC-215)	1.0
$C_3F_6Cl_2$	(CFC-216)	1.0
C_3F_7Cl	(CFC-217)	1.0
Group II		
CCl_4	carbon tetrachloride	1.1
Group III		
$C_2H_3Cl_3$*	1,1,1-trichloroethane* (methyl chloroform)	0.1

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

Annex C
Controlled substances

Group	Substance	Number of isomers	Ozone-Depleting Potential	100-Year Global Warming Potential***
Group I				
$CHFCl_2$	(HCFC-21)**	1	0.04	151
CHF_2Cl	(HCFC-22)**	1	0.055	1810
CH_2FCl	(HCFC-31)	1	0.02	
C_2HFCl_4	(HCFC-121)	2	0.01–0.04	
$C_2HF_2Cl_3$	(HCFC-122)	3	0.02–0.08	
$C_2HF_3Cl_2$	(HCFC-123)	3	0.02–0.06	77
$CHCl_2CF_3$	(HCFC-123)**	–	0.02	
C_2HF_4Cl	(HCFC-124)	2	0.02–0.04	609
$CHFClCF_3$	(HCFC-124)**	–	0.022	
$C_2H_2FCl_3$	(HCFC-131)	3	0.007–0.05	
$C_2H_2F_2Cl_2$	(HCFC-132)	4	0.008–0.05	
$C_2H_2F_3Cl$	(HCFC-133)	3	0.02–0.06	
$C_2H_3FCl_2$	(HCFC-141)	3	0.005–0.07	
CH_3CFCl_2	(HCFC-141b)**	–	0.11	725
$C_2H_3F_2Cl$	(HCFC-142)	3	0.008–0.07	
CH_3CF_2Cl	(HCFC-142b)**	–	0.065	2310
C_2H_4FCl	(HCFC-151)	2	0.003–0.005	
C_3HFCl_6	(HCFC-221)	5	0.015–0.07	
$C_3HF_2Cl_5$	(HCFC-222)	9	0.01–0.09	
$C_3HF_3Cl_4$	(HCFC-223)	12	0.01–0.08	
$C_3HF_4Cl_3$	(HCFC-224)	12	0.01–0.09	
$C_3HF_5Cl_2$	(HCFC-225)	9	0.02–0.07	
$CF_3CF_2CHCl_2$	(HCFC-225ca)**	–	0.025	122
CF_2ClCF_2CHClF	(HCFC-225cb)**	–	0.033	595
C_3HF_6Cl	(HCFC-226)	5	0.02–0.10	
$C_3H_2FCl_5$	(HCFC-231)	9	0.05–0.09	
$C_3H_2F_2Cl_4$	(HCFC-232)	16	0.008–0.10	
$C_3H_2F_3Cl_3$	(HCFC-233)	18	0.007–0.23	
$C_3H_2F_4Cl_2$	(HCFC-234)	16	0.01–0.28	
$C_3H_2F_5Cl$	(HCFC-235)	9	0.03–0.52	
$C_3H_3FCl_4$	(HCFC-241)	12	0.004–0.09	
$C_3H_3F_2Cl_3$	(HCFC-242)	18	0.005–0.13	
$C_3H_3F_3Cl_2$	(HCFC-243)	18	0.007–0.12	
$C_3H_3F_4Cl$	(HCFC-244)	12	0.009–0.14	
$C_3H_4FCl_3$	(HCFC-251)	12	0.001–0.01	
$C_3H_4F_2Cl_2$	(HCFC-252)	16	0.005–0.04	
$C_3H_4F_3Cl$	(HCFC-253)	12	0.003–0.03	
$C_3H_5FCl_2$	(HCFC-261)	9	0.002–0.02	
$C_3H_5F_2Cl$	(HCFC-262)	9	0.002–0.02	

Group	Substance	Number of isomers	Ozone-Depleting Potential	100-Year Global Warming Potential***
C_3H_6FCl	(HCFC-271)	5	0.001–0.03	
Group II				
$CHFBr_2$		1	1.00	
CHF_2Br	(HBFC-22B1)	1	0.74	
CH_2FBr		1	0.73	
C_2HFBr_4		2	0.3–0.8	
$C_2HF_2Br_3$		3	0.5–1.8	
$C_2HF_3Br_2$		3	0.4–1.6	
C_2HF_4Br		2	0.7–1.2	
$C_2H_2FBr_3$		3	0.1–1.1	
$C_2H_2F_2Br_2$		4	0.2–1.5	
$C_2H_2F_3Br$		3	0.7–1.6	
$C_2H_3FBr_2$		3	0.1–1.7	
$C_2H_3F_2Br$		3	0.2–1.1	
C_2H_4FBr		2	0.07–0.1	
C_3HFBr_6		5	0.3–1.5	
$C_3HF_2Br_5$		9	0.2–1.9	
$C_3HF_3Br_4$		12	0.3–1.8	
$C_3HF_4Br_3$		12	0.5–2.2	
$C_3HF_5Br_2$		9	0.9–2.0	
C_3HF_6Br		5	0.7–3.3	
$C_3H_2FBr_5$		9	0.1–1.9	
$C_3H_2F_2Br_4$		16	0.2–2.1	
$C_3H_2F_3Br_3$		18	0.2–5.6	
$C_3H_2F_4Br_2$		16	0.3–7.5	
$C_3H_2F_5Br$		8	0.9–1.4	
$C_3H_3FBr_4$		12	0.08–1.9	
$C_3H_3F_2Br_3$		18	0.1–3.1	
$C_3H_3F_3Br_2$		18	0.1–2.5	
$C_3H_3F_4Br$		12	0.3–4.4	
$C_3H_4FBr_3$		12	0.03–0.3	
$C_3H_4F_2Br_2$		16	0.1–1.0	
$C_3H_4F_3Br$		12	0.07–0.8	
$C_3H_5FBr_2$		9	0.04–0.4	
$C_3H_5F_2Br$		9	0.07–0.8	
C_3H_6FBr		5	0.02–0.7	
Group III				
CH_2BrCl	bromochloromethane	1	0.12	

* Where a range of ODPs is indicated, the highest value in that range shall be used for the purposes of the Protocol. The ODPs listed as a single value have been determined from calculations based on laboratory measurements. Those listed as a range are

based on estimates and are less certain. The range pertains to an isomeric group. The upper value is the estimate of the ODP of the isomer with the highest ODP, and the lower value is the estimate of the ODP of the isomer with the lowest ODP.

** Identifies the most commercially viable substances with ODP values listed against them to be used for the purposes of the Protocol.

*** For substances for which no GWP is indicated, the default value 0 applies until a GWP value is included by means of the procedure foreseen in paragraph 9 (a) (ii) of Article 2.

Annex D*
A list of products** containing controlled substances specified in Annex A

Products			Customs code number
1.	Automobile and truck air conditioning units (whether incorporated in vehicles or not)		....
2.	Domestic and commercial refrigeration and air conditioning/heat pump equipment***		....
	e.g.	Refrigerators	....
		Freezers	....
		Dehumidifiers	....
		Water coolers	....
		Ice machines	....
		Air conditioning and heat pump units	....
3.	Aerosol products, except medical aerosols		....
4.	Portable fire extinguisher		....
5.	Insulation boards, panels and pipe covers		....
6.	Pre-polymers		....

* This Annex was adopted by the Third Meeting of the Parties in Nairobi, 21 June 1991 as required by paragraph 3 of Article 4 of the Protocol.

** Though not when transported in consignments of personal or household effects or in similar non-commercial situations normally exempted from customs attention.

*** When containing controlled substances in Annex A as a refrigerant and/or in insulating material of the product.

Annex E
Controlled substance

Group	Substance	Ozone-Depleting Potential
Group I		
CH_3Br	methyl bromide	0.6

Annex F
Controlled substances

Group	Substance	100-Year Global Warming Potential
Group I		
CHF_2CHF_2	HFC-134	1,100
CH_2FCF_3	HFC-134a	1,430
CH_2FCHF_2	HFC-143	353
$CHF_2CH_2CF_3$	HFC-245fa	1,030
$CF_3CH_2CF_2CH_3$	HFC-365mfc	794
CF_3CHFCF_3	HFC-227ea	3,220
$CH_2FCF_2CF_3$	HFC-236cb	1,340
CHF_2CHFCF_3	HFC-236ea	1,370
$CF_3CH_2CF_3$	HFC-236fa	9,810
$CH_2FCF_2CHF_2$	HFC-245ca	693
$CF_3CHFCHFCF_2CF_3$	HFC-43-10mee	1,640
CH_2F_2	HFC-32	675
CHF_2CF_3	HFC-125	3,500
CH_3CF_3	HFC-143a	4,470
CH_3F	HFC-41	92
CH_2FCH_2F	HFC-152	53
CH_3CHF_2	HFC-152a	124
Group II		
CHF_3	HFC-23	14,800

Schedule 4
New Schedule 6 inserted

r 23

Schedule 6
Limits on allocation of new bulk HFCs

rr 7C(3), 7K

Year	**Limit on importation (in carbon dioxide equivalent tonnes)**
2020	1,338,300
2021	1,177,700
2022	1,177,700
2023	1,017,100
2024	1,017,100
2025	856,500
2026	856,500
2027	695,900
2028	695,900
2029	535,300
2030	535,300
2031	441,700
2032	441,700
2033	441,700
2034	348,000
2035	348,000
2036 onwards	254,300

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations amend the Ozone Layer Protection Regulations 1996 (the **principal regulations**) to give effect to New Zealand’s obligations under the Kigali Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer. The Kigali Amendment requires New Zealand to phase down its use of hydrofluorocarbons (**HFCs**).

These regulations add HFCs to the list of controlled substances in the principal regulations. The effect of this change is that a person cannot export bulk HFCs without an export permit and cannot manufacture HFCs in New Zealand.

These regulations also prohibit the importation of bulk HFCs without a permit. The prohibition applies on and from 1 January 2020. Permits will allocate the amount of bulk HFCs that can be imported into New Zealand. The total amount of new bulk HFCs imported into New Zealand in a calendar year (other than those that are transhipped or offset by exports) must not exceed the limit on imports for that year as set out in *new Schedule 6* of the principal regulations.

The amendments create the following 4 different types of permits:

- grandparented permits to import new bulk HFCs:
- special permits to import new bulk HFCs:
- exporters' permits to import new bulk HFCs:
- permits to import bulk recycled HFCs.

Up to 80% of the limit of imports of new bulk HFCs allowed for a year will be allocated to holders of grandparented permits. A person who imported new bulk HFCs into New Zealand during the 3-year period beginning on 1 January 2015 (the **eligibility period**) can apply to be eligible to apply for a grandparented permit. The application for eligibility must be made no later than 18 March 2019. On receipt of an application, the Environmental Protection Authority (the **EPA**) will grant an eligibility to the applicant based on the percentage of the total amount of HFCs imported into New Zealand during the eligibility period that the applicant imported.

An eligibility allows a person to apply for a grandparented permit. (An eligibility does not allow the holder to import HFCs without a permit.) Applications for grandparented permits must be made no later than 1 September of the year before the calendar year to which the permit relates. (Grandparented permits relate to only 1 calendar year.)

A person who is eligible to apply for a grandparented permit may transfer part or all of that eligibility to another person, on a temporary or permanent basis. If an eligibility is not used, or is only partly used, for 2 consecutive calendar years, the EPA may revoke the part of the eligibility that is not used.

The remainder of the limit of imports of new bulk HFCs allowed for a year will be allocated to holders of special permits. (The total amount available to be allocated to holders of special permits will be the amount of the limit in *new Schedule 6* for the year that has not been allocated to holders of grandparented permits, including any amounts relating to revoked eligibility to apply for grandparented permits.) Any person may apply for a special permit. Applications for special permits must be made no later than 1 July of the year before the first calendar year to which the permit relates. (Special permits relate to a period of up to 3 calendar years.)

A person who exports new bulk HFCs may apply for an exporter's permit to import new bulk HFCs. The EPA may grant an applicant a permit that allows the applicant to import up to the amount of new bulk HFCs that the applicant exported during the calendar year (not including amounts that were transhipped). The imports permitted under the permit must be made in the same calendar year as the exports.

Any person may apply, at any time, for a permit to import an HFC that is a bulk recycled substance.

These regulations come into force on 18 February 2019, except for regulations that relate to export and manufacture of HFCs, which come into force on 1 January 2020.

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These regulations are administered by the Ministry for the Environment.

Wellington, New Zealand:

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