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NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
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Subject:	Proposal for a Regulation of the European Parliament and of the Council on substances that deplete the ozone layer and repealing Regulation (EC) No 1005/2009 - Analysis of the final compromise text with a view to agreement

I. INTRODUCTION

1. On 5 April 2022, the Commission transmitted to the European Parliament and the Council, the proposal for a Regulation on substances that deplete the ozone layer.¹
2. The main objectives of the Commission's proposal are to replace the Regulation (EC) No 1005/2009 on substances that deplete the ozone layer (ODS Regulation), which is the main instrument targeting ozone depleting substances in the European Union, while maintaining a strict level of control, notably to align the measures with the European Green Deal by mandating additional emission reductions that are feasible at proportionate costs. The proposal also aims to ensure a more comprehensive monitoring of ODS including of substances that are not (yet) controlled and to simplify and improve the efficiency of existing rules to reduce the administrative costs. The proposal also intends to improve clarity and coherence with other rules.

¹ Doc. 8048/22

3. In the European Parliament, the Committee on the Environment, Public Health and Food Safety (ENVI) is responsible for examining the proposal, with the Committee on Industry, Research and Energy associated. A draft report was prepared by the rapporteur, Jessica Polfjård (EPP, SE). The ENVI Committee adopted its report on the proposal on 1 March 2023. The European Parliament adopted its position on 30 March 2023.
4. The European Economic and Social Committee delivered its opinion on 15 June 2022. The European Committee of the Regions decided not to deliver its opinion.
5. The Council (Environment) agreed on a mandate for negotiations with the European Parliament on 5 April 2023.²
6. On 25 April 2023, the first trilogue was held on this proposal, together with the proposal on F-gases Regulation. The Working Party on the Environment examined the EP amendments at its meeting on 26 April 2023.
7. Following the first trilogue, a number of technical meetings with the Parliament and the Commission were held and substantial progress was made on the ODS-specific provisions. At the second trilogue on 13 June 2023 a provisional agreement was reached on the ODS-specific provisions.
8. The Presidency debriefed Coreper on the results of the second trilogue on 16 June 2023.
9. The remaining provisions, equivalent to those in the F-gases Regulations, were discussed and finalised in the F-gases negotiations, which were concluded on 5 October 2023.

² Doc. 8156/23

II. ANALYSIS OF THE FINAL COMPROMISE TEXT WITH A VIEW TO AGREEMENT

10. On the key political issues, the compromise provisionally agreed with the Parliament consists of the following elements:

a) Laboratory and analytical uses

To ensure that the control of the ozone depleting substances for essential laboratory and analytical uses is feasible, record keeping requirements for those placing, supplying and making available on the market are maintained in Article 8.

b) Requirements related to Annex II

i. Licencing requirement

The compromise agreement reflects the Council position to keep substances listed in Annex II outside the licensing system requirements laid down in Article 16.

ii. Recovery and destruction of used ozone depleting substances

Following the Commission's assurance of no significant increase in administrative burden, Article 20 is extended to substances listed in Annex II. ODS in refrigeration, air-conditioning and heat pump equipment, equipment containing solvents or fire protection systems and fire extinguishers and other equipment are therefore required to be recovered for destruction, recycling or reclamation.

iii. Leakage checks

In Article 21, the provisional agreement expands the requirement on undertakings to take all necessary precautions to prevent and minimise an unintentional release of ozone depleting substances and to ensure that any detected leakage is repaired without undue delay to Annex II substances.

iv. Data communication

To avoid unnecessary administrative burden, requirements laid down in Article 24 for undertakings destroying ODS to communicate data on any purchases from and sales and for undertaking using as feedstock or process agents ODS to communicate data on any purchases and sales are kept limited to substances listed in Annex I, as per Council mandate.

c) Feedstock

To limit the uncontrolled use of ODS in feedstock and to support developing information on alternatives in the sector, the compromise agreement on Article 6 mandates the Commission to establish and update a negative list of banned feedstock uses via a delegated act.

As a safeguard clause, the Commission is also mandated to make an assessment of viable alternative in case the international expert structures under the Montreal Protocol fail to do so.

d) Training programs

Contrary to the original Parliament's proposal to include a requirement for Member States to make training programs available for natural persons, the provisional agreement does not require A recommendation, to Member States, as opposed to a legal requirement, to make training programs available is included in Recital 28a.

III. CONCLUSION

11. Against this background, the Permanent Representatives Committee is invited to:

- (a) approve the final compromise text as set out in the Annex to this note with a view to reaching an agreement at first reading with the European Parliament;
- (b) authorise the Chair of the Permanent Representatives Committee to send a letter to the Chair of the European Parliament's Committee on the Environment, Public Health and Food Safety (ENVI) confirming that, should the European Parliament adopt its position at first reading in the exact form as set out in the Annex to this note, subject to revision by the lawyer-linguists of both institutions, the Council will approve the European Parliament's position and the act will be adopted in the wording which corresponds to the European Parliament's position at first reading.

PE-CONS No/YY - 2022/0100(COD)

REGULATION (EU) 2023/...
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of ...

on substances that deplete the ozone layer and repealing Regulation (EC) No 1005/2009

(18) (Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

Whereas:

- (1) The European Green Deal launched a new growth strategy for the Union that aims to transform the Union into a fair and prosperous society with a modern, resource-efficient and competitive economy. It reaffirms the Commission's ambition to **■** make Europe the first climate-neutral **and zero-pollution** continent by 2050 and aims to protect the health and well-being of citizens from environment-related risks and impacts **while ensuring a fair and just transition, leaving no one behind**. Furthermore, the Union is committed to **ensure the full implementation of the Regulation (EU) 2021/1119 of the European Parliament and of the Council³ ('European Climate Law'), the 8th Environmental Action Programme, and committed to** the 2030 Agenda for Sustainable Development and its Sustainable Development Goals.
- (2) The ozone layer protects humans and other living beings from harmful ultra-violet (UV) radiation from the sun. It is scientifically well established that continuous emissions of ozone depleting substances cause significant damage to the ozone layer, leading to significant adverse impacts on human health and ecosystems, the biosphere as well as to large economic implications if left unaddressed.

- (3) Pursuant to Council Decision 88/540/EEC⁴, the Union became a Party to the 1985 Vienna Convention for the Protection of the Ozone Layer and to its Montreal Protocol on Substances that Deplete the Ozone Layer ('the Protocol') adopted in 1987. The Protocol and subsequent decisions of its Parties constitute a set of globally binding control measures to address ozone depletion.
- (4) Regulation (EC) No 1005/2009 of the European Parliament and of the Council⁵ ensures, *inter alia*, that the Union complies with the Protocol. The Commission in its evaluation of Regulation (EC) No 1005/2009⁶ concluded that the control measures established under that Regulation remain, in general, fit-for-purpose, ***are efficient and have significantly contributed to stratospheric ozone recovery and to reduce climate warming.***

⁴ Council Decision 88/540/EEC of 14 October 1988 concerning the conclusion of the Vienna Convention for the protection of the ozone layer and the Montreal Protocol on substances that deplete the ozone layer (OJ L 297, 31.10.1988, p. 8).

⁵ Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer (OJ L 286, 16.09.2009, p.1).

⁶ Evaluation of Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer, SWD(2019) 407 final of 26 November 2019.

- (5) There is clear evidence of a decrease in the atmospheric burden of ozone depleting substances and of stratospheric ozone recovery. However, *recent assessments show that this* recovery of the ozone layer *is still fragile, and the return* to the *concentration levels* existing before 1980 is not projected to take place before the middle of the 21st century. Therefore, increased UV-radiation persists as a significant threat to health and the environment. Avoiding the risk of further delays in the recovery of the ozone layer remains dependent on ensuring that existing obligations are fully implemented, *that more action is taken on remaining emission sources, and* that the necessary measures are in place to address any upcoming challenges swiftly and effectively.
- (6) Most ozone depleting substances also have high global warming potential and are contributory factors towards increasing the temperature of the planet. Considering the significant findings of the Intergovernmental Panel on Climate Change (IPCC) Special Report,⁷ this Regulation should ensure that all feasible efforts are taken to reduce emissions of ozone depleting substances. Reducing emissions contributes to reaching the objective of the Paris Agreement adopted under the United Nations Framework Convention on Climate Change⁸ of ‘keeping a global temperature rise in this century well below 2 degrees Celsius above pre-industrial levels and to pursue efforts to limit the temperature increase even further to 1.5 degrees Celsius’.

⁷ IPCC Special Report. Global warming of 1.5 C (August 2021).

⁸ OJ L 282, 19.10.2016, p. 4.

- (7) In order to increase awareness on the global warming potential of ozone depleting substances, in addition to the ozone depleting potential of the substances, their respective global warming potential should also be listed in this Regulation.
- (8) Regulation (EC) No 1005/2009 and previous Union legislation, established more stringent control measures than required under the Protocol, requiring more restrictive rules on import and export.
- (9) Under Regulation (EC) No 1005/2009, the production and placing on the market of ozone depleting substances has been phased-out for almost all uses. The placing on the market of products and equipment containing or relying on ozone depleting substances has also been prohibited except for certain cases where the use of such substances is still allowed. Even after the phase-out of ozone depleting substances, under certain conditions, it is necessary to continue to allow for exemptions for certain uses, where alternatives are not yet available.

(9a) The Union's production of controlled ozone depleting substances in 2021 was higher than it had been during the previous 10 years, having increased by 27 % in 2021 compared to 2020. According to a report of the European Environment Agency, 90 % of that increase is due to feedstock use. Feedstock use increased by 11 % compared to 2020⁹. While the derogation for ozone depleting substances used as feedstock in the chemical production of certain goods, including pharmaceuticals, is justified in light of low emission rates and the lack of feasible alternative options, it is important to regularly assess the availability of alternatives as well as the actual emission levels of existing feedstock uses.

The Commission should, if appropriate, adopt delegated acts to establish a list of chemical production processes for which the use of ozone depleting substances listed in Annex I as feedstock is prohibited.

⁹ *Ozone Depleting Substances 2022, European Environment Agency.*

The delegated acts should take into account the availability of technically and economically feasible alternatives, on the basis of the quadrennial reports and other technical reports prepared by the Assessment Panels established under the Montreal Protocol that include assessments on available alternatives to existing feedstock uses and emission levels of existing feedstock uses to the extent that they provide a sufficient basis for taking a decision whether to prohibit specific feedstock uses.

In the absence of such assessments, the Commission should make its own assessment, on the basis of technical data on the existing feedstock uses, their related emissions and their impact on the ozone layer and on the climate, the availability of technically and economically feasible alternatives, and should adopt, where appropriate on the basis of this assessment, a delegated act to establish the list of chemical processes mentioned above. The list may be updated, in light of the findings of the quadrennial reports of the technical bodies under the Montreal Protocol or of the Commission's own assessments.

- (10) Taking into account the small quantities of ozone depleting substances actually used for essential laboratory and analytical uses, a proportionate control measure needs to be established in this respect. The registration obligation under Regulation (EC) No 1005/2009 should be replaced with the requirement to retain records in order to allow controlling unlawful use and monitoring of developments of alternatives.
- (11) The placing on the market and use of halons should only be allowed for critical uses, which should be determined taking into account the availability of alternative substances or technologies and developments of international standards.
- (12) Halons Technical Options Committee (HTOC) established under the Protocol indicated that non-virgin halon stocks for critical uses might not be sufficient to meet the needs from 2030 onwards at global level. To avoid that new production of halons become necessary to meet future needs, it is important to take measures to increase the availability *and to provide adequate monitoring* of stocks of halon recovered from equipment.

- (13) Under Regulation (EC) No 1005/2009, the exemption for ***all*** critical uses of methyl bromide (***including*** for quarantine and pre-shipment purposes) ***have*** ceased. ***The Montreal Protocol contains provisions that governs emergency use. These provisions have so far not been applied within the Union. It is therefore less likely that any actor within the Union would need to make use of these provisions. However, as future emergency situations could not be ruled out, and to align this Regulation to the Montreal Protocol, the possibility to grant a derogation in emergency situations***, namely in the event of unexpected pests or disease outbreaks, ***should remain available*** where such emergency use is to be permitted under Regulation (EC) No 1107/2009 of the European Parliament and of the Council¹⁰ and Regulation (EU) No 528/2012 of the European Parliament and of the Council¹¹. ***In such cases measures to minimize emissions, such as the use of virtually impermeable films for soil treatment, should be specified.***

¹⁰ Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market (OJ L 309, 24.11.2009, p. 1).

¹¹ Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ L 167, 27.6.2012, p. 1).

- (13a) There is growing concern over the impact on the global emissions of some of the new substances listed in Annex II, including the increase in atmospheric concentration of dichloromethane that could delay the recovery of the stratospheric ozone layer. In 2021, the EU production of new ozone depleting substances not covered by the Protocol, in metric tonnes, was about four times higher than the production of controlled substances albeit, when expressed in ozone depleting potential (ODP) tonnes, the production was about four times lower compared to the substances in Annex I. Further containment measures are necessary and enhanced monitoring is important, including through provision on recovery or destruction, leak repair and the prevention of unintentional release for ozone depleting substances not controlled under the Montreal Protocol.*
- (14) Restrictions set out in this Regulation regarding products and equipment containing ozone depleting substances should also cover products and equipment relying on those substances in order to prevent circumventions of those restrictions.

- (15) It is important to ensure that ozone depleting substances are allowed to be placed on the market for the purpose of reclamation in the Union. Ozone depleting substances and the products and equipment containing those substances or whose functioning relies upon those substances should also be allowed to be placed on the market for the purpose of destruction by technologies approved by the Parties or by technologies not yet approved but that are environmentally equivalent.
- (16) Non-refillable containers for ozone depleting substances, should be banned, considering that an amount of *refrigerant* inevitably remains in these containers when emptied, which is then released into the atmosphere. In this respect, ***this Regulation should*** prohibit their import, placing on the market, subsequent supply or making available on the market, use ***unless*** for laboratory and analytical uses, and their export. ***To ensure that refillable containers are refilled and not discarded, undertakings should be required to produce a declaration of conformity including evidence of the arrangements for the return for the purpose of refilling when placing refillable containers on the market.***

- (17) Regulation (EC) No 1272/2008 of the European Parliament and of the Council¹² provides for the labelling of substances classified as ozone depleting substances and the labelling of mixtures containing such substances. As it is allowed to release for free circulation in the Union market ozone depleting substances produced for feedstock, process agent, laboratory and analytical uses, those substances should be distinguished from substances that are produced for other uses.
- (18) The export of products and equipment containing hydrochlorofluorocarbons may be exceptionally permitted in cases where it may be more beneficial to allow these products and equipment to end their natural life cycle in a third country than to be decommissioned and disposed of in the Union.

¹² Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures (OJ L 353, 31.12.2008, p. 1).

(19) Given that the production process for some ozone depleting substances can result in emissions of the fluorinated greenhouse gas ■ trifluoromethane as **by-products**, such by-product emissions should be destroyed or recovered for subsequent use as a condition for the placing of ozone depleting substance on the market. Producers and importers should ■ be required to document **mitigation** measures adopted to prevent emissions of trifluoromethane during the production process **and evidence for the destruction or recovery for subsequent use of those by-product emissions in line with the best available techniques. Declaration of conformity should be provided at the moment to the placing on the market.**

(19a) In order to facilitate customs controls, it is important to specify the information to be submitted to customs authorities in cases of imports and exports of ozone depleting substances and products covered by this Regulation, as well as the tasks for customs authorities when implementing the prohibitions and restrictions to imports and exports of those substances and the products and equipment covered by this Regulation. Regulation (EU) 2019/1020 of the European Parliament and of the Council, which sets out rules on market surveillance and control of products entering the Union market, applies to the substances and products and equipment covered under this Regulation in so far as there are no specific provisions to regulate in a more specific manner particular aspects of market surveillance and enforcement. Where this Regulation does include specific provisions, for example on customs controls, those prevail as being more specific, complementing the rules set out under the Regulation (EU) 2019/1020. In order to ensure protection of the environment, this Regulation should apply to all forms of supply of ozone depleting substances subject to this Regulation, including online sales as referred to in Article 6 of Regulation (EU) 2019/1020.

(20) To avoid illegal trade of prohibited substances and products covered under this Regulation, the prohibitions established therein as well as the licensing requirements for trade should not only cover the entry of goods into the customs territory for release for free circulation in the Union, but also temporary storage and all other customs procedures established under Union customs law. Licensing facilitations should be allowed for goods under temporary storage, in order to avoid unnecessary burden on operators and customs authorities.

(21) The licensing system on imports and exports of ozone depleting substances is an essential requirement under the Protocol for monitoring trade and preventing illegal activities in this respect. *Licenses should be time-limited to ensure that companies review the use of alternatives at regular intervals.* In order to ensure automatic, real-time, customs controls, at shipment level as well as an electronic exchange and storing of information on all shipments of substances and products and equipment covered by this Regulation presented to customs it is necessary to interconnect the electronic licensing system for ozone depleting substances with the European Union Single Window Environment for Customs established by Regulation (EU) No .../... of the European Parliament and of the Council [*full reference to be inserted once that Regulation has been adopted*].¹³ Given this interconnection with the European Single Windows Environment for Customs it is disproportionate to provide for a shipment licencing system in the Union.

¹³ Regulation (EU) No .../... of the European Parliament and of the Council establishing the European Union Single Window Environment for Customs and amending Regulation (EU) No 952/2013 OJ C., p. [full reference to be added once that Regulation is adopted].

- (22) In order to facilitate customs controls, it is important to specify the information to be submitted to customs authorities in cases of imports and exports of the substances and products covered by this Regulation, as well as the tasks for customs authorities, and market surveillance authorities where relevant, when implementing the prohibitions and restrictions to imports and exports of those substances and the products and equipment covered by this Regulation.
- (23) To ensure that substances as well as products and equipment covered by this Regulation that have been imported illegally in the Union market does not re-enter the market, competent authorities should confiscate or seize these products for disposal. Re-export of products not compliant with this Regulation should be prohibited in any event.
- (24) Member States should ensure that customs authorities carrying out controls under this Regulation have the appropriate resources and knowledge, for example via training made available to them, and are sufficiently equipped in view of addressing cases of illegal trade in the substances and products and equipment covered by this Regulation. Member States should designate those customs offices that meet those conditions and are therefore mandated to carry out customs controls on imports, exports and in cases of transit.

- (25) Cooperation and exchange of the necessary information between all competent authorities involved in the implementation of this Regulation, namely customs authorities, market surveillance authorities, environmental authorities and any other competent authorities with inspection functions, amongst Member States and with the Commission, is extremely important for tackling infringements of this Regulation, notably illegal trade. Due to the confidential nature of the exchange of customs risk-related information, the Customs Risk Management System should be used for that purpose.
- (26) In carrying out the tasks assigned to it by this Regulation, and in view of promoting cooperation and adequate exchange of information between competent authorities and the Commission in cases of compliance checks and illegal trade in ozone depleting substances, the Commission should be assisted by the European Anti-Fraud Office, (OLAF). OLAF should have access to all necessary information to facilitate the performance of its tasks.

- (27) In order to ensure compliance with the Protocol the import and export of ozone depleting substances as well as products and equipment containing those substances or relying on those substances from and to a State not party to the Protocol should be prohibited.
- (28) The intentional release of ozone depleting substances into the atmosphere, where such release is unlawful, is a serious infringement of this Regulation and should be explicitly prohibited. All feasible measures should be taken by undertakings to reduce the unintentional release of ozone depleting substances into the atmosphere also considering their global warming potential. Thus, it is necessary to lay down provisions on the recovery of used ozone depleting substances from products and equipment and the prevention of leakages of such substances. Recovery obligations should also be extended to building owners and contractors when removing certain foams from buildings to maximise emissions reductions.

- (28a) The requirement to recover ozone depleting substances from foams in building material could spur innovation and research and development on demolition, reclamation and recycling technologies and could have positive effects on employment due to the labour-intensiveness of the decommissioning process and the need for more treatment capacity for those types of waste. It is therefore important to make available appropriate training programmes corresponding to the need for appropriately qualified natural persons to carry out the recovery of the substances contained in the foams.*
- (29) It is necessary to lay down rules on new ozone depleting substances not yet covered by the Protocol (listed in Annex II), considering the quantities produced and used in the Union as well as the effect on stratospheric ozone from emissions of these substances. *There are other recognised issues affecting the ozone layer recovery in sectors outside the scope of this Regulation. This includes nitrous oxide (N₂O), one of the most significant ozone-depleting substances remaining, based on ozone depletion potential (ODP)-weighted emissions, which constitute the major part of anthropogenic emissions stemming from agricultural activities, an area which the Commission has committed to target following the Commission Communication of 20 May 2020 entitled ‘A Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system’. In addition, it is also important to prevent intense wildfires which can increase stratospheric aerosol substantially and hence have the potential to perturb stratospheric ozone.*

- (30) Member States should report on cases of illegal trade detected by competent authorities to the Commission including on the penalties issued.
- (31) The use of halons should only be allowed for critical uses established in this Regulation. Member States should report on the quantities of halons installed, used or stored from critical uses, as well as on containment measures to reduce emissions from these substances and on progress made in identifying alternatives. This information is needed for knowing the halon quantities still available in the Union for critical uses, as well as for monitoring technological progress in this area which will signal that for certain uses, halon is no longer necessary.
- (32) The Protocol requires reporting on trade in ozone depleting substances. Producers, importers and exporters of ozone depleting substances should therefore report annually on trade in ozone depleting substances. Trade in ozone depleting substances not yet covered by the Protocol (listed in Annex II), should also be reported in order to be able to assess the need to extend some or all of the control measures applicable for the substances listed in Annex I to also cover those substances.

(32a) The Commission, on behalf of the Union, reports yearly on the import and export of HFCs controlled under the Montreal Protocol to the Ozone Secretariat. Although Member States are responsible for the reporting of production and destruction of HFCs, the Commission should provide draft data on these activities in order to facilitate the early calculation of the consumption for the Union by the Ozone Secretariat. In absence of the notifications extending the REIO clause, the Commission should continue this practice while ensuring that Member States are provided with sufficient time to review the draft reported data to avoid inconsistencies.

- (33) Competent authorities of the Member States, including their environmental authorities, market surveillance and customs authorities, should carry out checks, taking a risk-based approach in order to ensure compliance with all provisions of this Regulation. Such approach is necessary in order to target the activities representing the highest risk of illegal trade or unlawful release of ozone depleting substances into the atmosphere. In addition, competent authorities should carry out checks when in possession of evidence or other relevant information on potential cases of non-compliance. Where relevant and, to the extent possible, such information should be communicated to customs authorities in order to proceed to a risk analysis prior to controls, in accordance with Article 47 of Regulation (EU) No 952/2013 of the European Parliament and of the Council¹⁴. It is important to ensure that competent authorities responsible for issuing penalties are informed of cases of infringements of this Regulation in order to be able to issue the appropriate penalty where needed.

¹⁴ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

(34) Member States should *ensure that* infringements of **■** this Regulation *by undertakings* are *subject to* effective, proportionate and dissuasive *penalties*.

(34a) Member States may lay down rules for administrative as well as criminal penalties for the same infringements. In any case, the imposition of criminal and administrative penalties should not lead to a breach of the right not to be tried or punished twice in criminal proceedings for the same criminal offence (ne bis in idem), as interpreted by the Court of Justice.

■

(37) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards to the establishment of a list of undertakings that may use ozone depleting substances as process agents as well as the maximum quantities to be used for make-up or for consumption, and maximum emission levels for each undertaking; the determination of essential and analytical uses for which production and import is permitted within a certain period and the specification of authorised users, the granting of derogations from the end-dates and cut-off dates established in relation to critical uses of halons; the authorisation of the temporary production, placing on the market, further supply and use of methyl bromide in emergency cases; the authorisation of the export of products and equipment containing hydrochlorofluorocarbons; the detailed arrangements for the declaration of conformity for pre-charged equipment and verification; the evidence to be provided on the destruction or recovery of trifluoromethane by production during the manufacturing of ozone depleting substances; the form and content of labelling requirements; the authorisation of trade with entities not covered by the Protocol; and the format for the submission of information by Member States on critical uses of halons and illegal trade, as well as the format and means of the information to be reported by undertakings in particular on production, import, export, feedstock uses and destruction. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹⁵.

¹⁵ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p.13).

(38) In order to amend certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union ('TFEU') should be delegated to the Commission as regards the processes for which ozone depleting substances may be used as process agents, and the maximum amount permitted for such uses including their emissions in the Union, the conditions for the placing on the market and further distribution of ozone depleting substances for essential laboratory and analytical uses, the timeframes established in Annex V for critical uses of halons, the functioning of the licensing system for ozone depleting substances, additional measures for the monitoring of substances and of products and equipment placed under temporary storage and customs procedures, the rules applicable to the release for free circulation of products and equipment imported from or exported to any entity not covered by the Protocol; the establishment of a list of products and equipment for which the recovery of ozone depleting substances and their destruction is technically and economically feasible, and the specification of the technologies to be applied; amendments of Annexes I and II listing ozone depleting substances; the update of global warming and ozone depleting potentials of listed substances; the reporting requirements for Member States on critical uses of halons and illegal trade and the reporting requirements by undertakings in particular on production, import, export, feedstock uses and destruction.

It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Inter-institutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

- (39) The protection of individuals with regard to the processing of personal data by the Member States is governed by Regulation (EU) No 2016/679 of the European Parliament and of the Council¹⁶ and the protection of individuals with regard to the processing of personal data by the Commission is governed by Regulation (EU) No 2018/1725 of the European Parliament and of the Council¹⁷ in particular as regards the requirements of confidentiality and security of processing, the transfer of personal data from the Commission to the Member States, the lawfulness of processing, and the rights of data subjects to information, access to and rectification of their personal data.
- (40) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) No 2018/1725 and delivered an opinion [*date of issuing of the opinion*].

¹⁶ Regulation (EU) No 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (OJ L 119, 4.5.2016, p. 1).

¹⁷ Regulation (EU) No 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

- (41) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can rather, by reason of the transboundary nature of the environmental problem addressed and the effects of this Regulation on the intra-Union and external trade, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (42) A number of amendments are to be made to Regulation (EC) No 1005/2009. In the interests of clarity, that Regulation should be repealed and replaced,

HAVE ADOPTED THIS REGULATION:

Chapter I
General Provisions

Article 1
Subject matter

This Regulation lays down rules on the production, import, export, placing on the market, *storage and* further supply as well as use, recovery, recycling, reclamation and destruction of ozone depleting substances, on the reporting of information related to those substances and on the import, export, placing on the market, further supply and use of products and equipment containing ozone depleting substances or whose functioning relies upon on those substances.

Article 2
Scope

1. This Regulation applies to the ozone depleting substances listed in Annexes I and II and their isomers, whether alone or in a mixture.
2. This Regulation also applies to products and equipment, and parts thereof, containing ozone depleting substances or whose functioning relies upon those substances.

Article 3

Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) ‘feedstock’ means any ozone depleting substance that undergoes chemical transformation in a process in which it is entirely converted from its original composition and emissions are insignificant;
- (2) ‘process agents’ means ozone depleting substances used as chemical process agents in the applications listed in Annex III;
- (3) ‘import’ means the entry of substances, products and equipment covered by this Regulation into the customs territory of the Union as far as the territory is covered by a ratification of the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer and includes temporary storage and the customs procedures referred to in Articles 201 and 210 of Regulation (EU) No 952/2013;
- (4) ‘export’ means the exit from the customs territory of the Union, in so far as the territory is covered by a ratification of the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer, of substances, products and equipment;

- (5) 'placing on the market' means the ***customs release for free circulation in the Union or the*** supplying or making available to another person within the Union, for the first time, for payment or free of charge ***or*** the use of substances produced or the use of products or equipment manufactured for own use;
- (6) 'use' means, ***in relation to*** ozone depleting substances, ***their utilisation*** in the production, maintenance or servicing, including refilling, of products and equipment, or in other activities ***and processes*** referred to in this Regulation;
- (6a) ***'producer' means any natural or legal person producing ozone depleting substances within the Union;***
- (7) 'recovery' means the collection and the storage of ozone depleting substances from products and equipment or containers during maintenance or servicing, or prior to the disposal of the product, equipment or container;
- (8) 'recycling' means the reuse of a recovered ozone depleting substance following a basic cleaning processes, including filtering and drying;

- (9) 'reclamation' means the reprocessing of an ozone depleting substance *to the equivalent performance* of a virgin substance, taking into account its intended use, *in authorized reclamation facilities that have the appropriate equipment and procedures in place that enable the reclamation of such substances and can assess and attest to the level of the required quality*;
- (10) 'undertaking' means any natural or legal person which carries out an activity referred to in this Regulation;
- (10a) '*container*' means a receptacle which is designed primarily for transporting or storing ozone depleting substances;
- (11) 'products and equipment' means all products and equipment, including parts thereof, except containers, used for the transportation or storage of ozone depleting substances;
- (12) 'virgin *substance*' means *a substance* which *has* not previously been used;

- (13) ‘decommissioning’ means the ***permanent*** removal from operation or usage of a product or equipment, containing ozone depleting substances, including the final shut-down of ***a facility***;
- (14) ‘destruction’ means the process of permanently transforming or decomposing completely, to the extent possible, an ozone depleting substance into one or more stable substances that are not ozone depleting substances;
- (15) ‘establishment within the Union’ means for a natural person to have his or her habitual residence in the Union and for a legal person to have in the Union a permanent business establishment as referred to in Article 5(32) of Regulation (EU) No 952/2013 in the Union.
- (15a) ‘foam panel’ means a structure made of layers containing a foam and a rigid material, such as wood or metal, bound to one or both sides;***
- (15b) ‘laminated board’ means a foam that is covered by a thin skin layer of a non-rigid material, such as plastic.***

Chapter II
Prohibitions

Article 4
Ozone depleting substances

1. The production, placing on the market, any subsequent supply or making available to another person within the Union for payment or free of charge and use of ozone depleting substances listed in Annex I are prohibited.
2. Imports and exports of ozone depleting substances listed in Annex I are prohibited.

Article 5

Products and equipment containing ozone depleting substances or whose functioning relies upon those substances

1. The placing on the market and any subsequent supply or making available to another person within the Union for payment or free of charge, of products and equipment containing ozone depleting substances listed in Annex I or whose functioning relies upon those substances are prohibited.
2. Imports and exports of products and equipment containing ozone depleting substances listed in Annex I or whose functioning relies upon those substances are prohibited.

This paragraph does not apply to personal effects.

Chapter III
Exemptions to prohibitions

Article 6
Feedstock

By way of derogation from Article 4(1), ozone depleting substances listed in Annex I may be produced, placed on the market, and subsequently supplied or made available to another person within the Union for payment or free of charge to be used as feedstock.

The Commission shall, where appropriate, on the basis of the technical assessments carried out under the Montreal Protocol, in particular the quadrennial reports prepared by the technical bodies under the Montreal Protocol, including assessing available alternatives to existing feedstock uses and emission levels of existing feedstock uses, adopt delegated acts in accordance with Article 29 to supplement this Regulation by establishing a list of chemical production processes for which the use of ozone depleting substances listed in Annex I as feedstock shall be prohibited.

In the absence of a technical assessment of available alternatives to existing feedstock uses and the emission levels of existing feedstock uses carried out under the Montreal Protocol providing a sufficient basis for taking a decision whether or not to prohibit a feedstock use, the Commission shall by 31 December 2027 make its own assessment on the basis of scientific recommendations on the existing feedstock uses, the impacts in terms of ozone-depleting potential and the availability of more precise data on the greenhouse gas emissions from feedstock, technological developments resulting in the availability of technically feasible alternatives, and the energy use, efficiency, economic feasibility and cost of those alternatives, and shall adopt, where appropriate on the basis of the finding of its assessment, a delegated act referred to in the first subparagraph. The list may be updated, where necessary, in light of the findings of the quadrennial reports of the technical bodies under the Montreal Protocol or of the Commission's own assessments.

Article 7

Process agents

1. By way of derogation from Article 4(1), ozone depleting substances listed in Annex I may be produced, placed on the market and subsequently supplied or made available to another person within the Union for payment or free of charge to be used as process agents in the processes referred to in Annex III and subject to the conditions laid down pursuant to paragraphs 2 and 3 of this Article.
2. Ozone depleting substances referred to in paragraph 1, may only be used as process agents in installations existing on 1 September 1997, provided that the emissions of ozone depleting substances from those installations are insignificant, subject to the conditions laid down pursuant to paragraph 3.

3. The Commission may, by means of implementing acts, establish a list of undertakings for which the use of ozone depleting substances listed in Annex I, as process agents in the processes referred to in Annex III in the installations referred to in paragraph 2 is permitted, laying down the maximum quantities that may be used for make-up or for consumption as process agents and maximum emission levels for each of the undertakings concerned. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2).
4. The Commission is empowered to adopt delegated acts in accordance with Article 29 to amend Annex III where it is necessary due to technical developments or decisions taken by the Parties to 1987 Montreal Protocol on Substances that Deplete the Ozone Layer ('the Protocol').

Article 8

Essential laboratory and analytical uses

1. By way of derogation from Article 4(1), ozone depleting substances listed in Annex I may be produced, placed on the market and subsequently supplied or made available to another person within the Union for payment or free of charge to be used for essential laboratory and analytical uses, subject to the conditions laid down pursuant to paragraph 2 of this Article.
2. The Commission may, by means of implementing acts, determine any essential laboratory and analytical uses for which the production and import of ozone depleting substances ***listed in Annex I*** may be permitted in the Union, the period for which the exemption is valid and those users which may take advantage of those essential laboratory and analytical uses. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2).

3. The undertaking placing on the market or subsequently supplying or making available to another person within the Union for payment or free of charge ozone depleting substances for essential laboratory and analytical uses referred to in paragraph 1 shall retain records of the following information:
- (a) name of the substances;
 - (b) amount placed on the market or supplied;
 - (c) purpose of their use;
 - (d) list of the purchasers and suppliers.
4. The undertaking using ozone depleting substances for laboratory and analytical uses referred to in paragraph 1 shall retain records of the following information:
- (a) name of the substances;
 - (b) amounts supplied or used;
 - (c) purpose of their use;
 - (d) list of suppliers.

5. The records referred to in paragraphs 3 and 4 shall be retained for a minimum period of five years and shall be made available, upon request, to the competent authorities of the Member States and to the Commission.
6. Ozone depleting substances for essential laboratory and analytical uses referred to in paragraph 1 shall only be placed on the market and subsequently supplied or made available to another person within the Union for payment or free of charge under the conditions set out in Annex IV.
7. The Commission is empowered to adopt delegated acts in accordance with Article 29 to amend Annex IV, where it is necessary due to technical developments or decisions taken by the Parties to the Protocol.

Article 9
Critical uses of halon

1. By way of derogation from Article 4(1), halons may be placed on the market and used for critical uses in accordance with Annex V. Halons may only be placed on the market and subsequently supplied or made available to another person within the Union for payment or free of charge by undertakings authorised by the competent authority of the Member State concerned to store halons for critical uses.
2. Fire protection systems and fire extinguishers containing halons applied for uses referred to in paragraph 1 or whose functioning relies upon those halons shall be decommissioned by the end dates specified in Annex V. Halons contained therein shall be recovered in accordance with Article 20(5).

3. The Commission is empowered to adopt delegated acts in accordance with Article 29 to amend Annex V, where technically and economically feasible alternatives or technologies are not available for the uses listed in that Annex within the timeframes set out in Annex V or are not acceptable due to their impacts on environment or health, or where it is necessary to ensure compliance with the international commitments of the Union concerning critical uses of halons established in particular under the Protocol, the International Civil Aviation Organization (ICAO) or the International Convention for the Prevention of Pollution from Ships (MARPOL).
4. The Commission may, by means of implementing acts, and following a substantiated request of the competent authority of a Member State, grant time-limited derogations from the end dates or cut-off dates specified in Annex V for a specified case where it is demonstrated in the request that no technically and economically feasible alternative is available for that particular application. The Commission **shall** include in those implementing acts reporting requirements, and **shall** require submission of supporting evidence necessary for monitoring the use of the derogation, including evidence on amounts recovered for recycling or reclamation, results of leakage checks and amounts of unused halons in stocks. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2).

Article 10

Emergency use of methyl bromide

1. In case of an emergency, where unexpected outbreaks of particular pests or diseases so require, the Commission may, at the request of the competent authority of a Member State, by means of implementing acts, *and upon notification to the Ozone Secretariat in accordance with Decision IX/7 of the Parties to the Protocol*, authorise the temporary production, placing on the market, and use of methyl bromide, provided that the placing on the market and use of methyl bromide are allowed respectively under Regulation (EC) No 1107/2009 and Regulation (EU) No 528/2012. Any unused quantities of methyl bromide shall be destroyed.
2. Implementing acts referred to in paragraph 1 shall specify measures to be taken to reduce emissions of methyl bromide during use and apply for a period not exceeding 120 days and to a quantity not exceeding 20 metric tonnes of methyl bromide. The Commission *shall* include in those implementing acts reporting requirements and *shall* require submission of supporting evidence necessary for monitoring the use of methyl bromide, including evidence on the destruction of substances following the end of the derogation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2).

Article 11

Products and equipment containing ozone depleting substances or whose functioning relies upon those substances

1. By way of derogation from Article 5(1), products and equipment for which the use of the respective ozone depleting substance is authorised in accordance with Article 8 or Article 9 may be placed on the market, subsequently supplied or made available to another person within the Union for payment or free of charge.
2. Except for the critical uses referred to in Article 9, fire protection systems and fire extinguishers containing halons are prohibited and shall be decommissioned.
3. Products and equipment containing ozone depleting substances *listed in Annexes I and II* or whose functioning relies upon those substances shall be decommissioned when they reach the end of their life.

Article 12

Destruction and reclamation

By way of derogation from Articles 4(1) and 5(1), ozone depleting substances listed in Annex I and products and equipment containing ozone depleting substances *listed in Annex I* or whose functioning relies upon those substances may be placed on the market and subsequently supplied or made available to another person within the Union for payment or free of charge for destruction within the Union pursuant to Article 20(7). Ozone depleting substances listed in Annex I may also be placed on the market for reclamation within the Union.

Article 13

Imports

1. By way of derogation from Article 4(2) and Article 5(2), the following imports are allowed:
 - (a) ozone depleting substances to be used as feedstock in accordance with Article 6;
 - (b) ozone depleting substances to be used as process agents in accordance with Article 7;
 - (c) ozone depleting substances to be used for essential laboratory and analytical uses in accordance with Article 8;

- (d) ozone depleting substances for destruction by technologies referred to in Article 20(7);
- (e) *ozone depleting substances for reclamation referred to in Article 12;*
- (e bis) methyl bromide for emergency uses in accordance with Article 10;*
- (f) recovered, recycled or reclaimed halons, under the condition that they are only imported for critical uses referred to in Article 9(1), by undertakings authorised by the competent authority of the Member State concerned to store halons for critical uses;
- (g) products and equipment containing halons or whose functioning relies upon halons to satisfy critical uses referred to in Article 9(1);
- (h) products and equipment containing ozone depleting substances or whose functioning relies upon those substances for destruction, where applicable by technologies referred to in Article 20(7);
- (i) products and equipment containing ozone depleting substances or whose functioning relies upon those substances to satisfy essential laboratory and analytical uses referred to in Article 8.

2. Imports referred to in paragraph 1 shall be subject to the presentation of a licence to customs authorities issued by the Commission in accordance with Article 16.

The licence referred to in the first subparagraph shall not be required in cases of temporary storage.

Article 14

Export

1. By way of derogation from Article 4(2) and Article 5(2), the following exports are allowed:
- (a) ozone depleting substances to be used for essential laboratory and analytical uses referred to in Article 8;
 - (b) ozone depleting substances to be used as feedstock in accordance with Article 6;
 - (c) ozone depleting substances to be used as process agents in accordance with Article 7;

- (d) virgin or reclaimed hydrochlorofluorocarbons, for uses other than those referred to in points (a) and (b), except for destruction;
- (e) recovered, recycled or reclaimed halons stored for critical uses referred to in Article 9(1) by undertakings authorised by the competent authority of a Member State;
- (f) products and equipment containing halons or whose functioning relies upon halons to satisfy critical uses referred to in Article 9(1);
- (g) products and equipment containing ozone depleting substances imported under Article 13(1), point (i) or whose functioning relies upon those substances.

2. By way of derogation from Article 5(2), the Commission may, by means of implementing acts, following a request by a competent authority of a Member State, authorise the export of products and equipment containing hydrochlorofluorocarbons where it is demonstrated that in view of the economic value and the expected remaining lifetime of the specific good, the prohibition of export would impose a disproportionate burden on the exporter, and such export is in line with national legislation in the destination country. ***Before authorizing the export request, the Commission shall verify that the domestic legislation of the destination country ensures that such products and equipment shall, after the end of their life cycle, be handled in an appropriate way in view of minimising releases of ozone depleting substances.*** Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2).

Prior to such export the Commission shall notify the destination country thereof.

3. Exports referred to in paragraphs 1 and 2 shall be subject to the presentation of a licence to customs authorities issued by the Commission in accordance with Article 16.

The licence referred to in the first subparagraph shall not be required in cases of re-export subsequent to temporary storage.

Article 15
Conditions for exemptions

1. The import, placing on the market, any subsequent supply or making available to another person within the Union for payment or free of charge, utilisation, or export of non-refillable containers for ozone depleting substances, empty, or fully or partially filled, is prohibited, except for essential laboratory and analytical uses referred to in Article 8. Such containers may only be stored or transported for subsequent disposal.

Any prohibited non-refillable containers referred to in the first subparagraph shall be confiscated, seized, withdrawn or recalled from the market by the customs authorities or the market surveillance authorities for disposal **by destruction**. The re-export of prohibited non-refillable containers is prohibited.

The first and second subparagraph applies to:

- (a) containers which cannot be refilled without being adapted for that purpose (non-refillable); and
- (b) containers that could be refilled but are imported or placed on the market without provision having been made for their return for refilling;

- (ba) *Undertakings which place on the market refillable containers for ozone depleting substances shall produce a declaration of conformity that includes evidence confirming there are binding arrangements in place for the return of that container for the purpose of refilling, in particular identifying the relevant actors, their obligatory commitments and the relevant logistical arrangements. Those arrangements shall be made binding on the distributors of the containers to the end-user.*

The undertakings referred to in the first subparagraph shall keep the declaration of conformity for a period of at least five years after the placing on the market of refillable containers and shall make it available, on request, to the competent authorities of Member States and the Commission. Suppliers of the containers to end-users shall keep evidence of the compliance with these arrangements for a period of at least five years after supply to the end-user and shall make it available, on request, to the competent authorities of Member States and the Commission.

The Commission may, by means of implementing acts, determine the requirements for including the elements that are essential for the binding arrangements in the declaration of conformity. Such implementing acts shall be adopted in accordance with Article 28(2).

2. Ozone depleting substances shall not be placed on the market unless producers or importers provide evidence to the competent authority at the time of such placing, that any trifluoromethane produced as a by-product during the manufacturing process, including during the manufacturing of feedstock for their production, has been destroyed or recovered for subsequent use, using best available techniques.

For the purpose of ***providing that*** evidence, importers and producers shall draw up a declaration of conformity and join supporting documentation:

- (a) ***establishing the origin of the ozone depleting substances to be placed on the market;***
- (b) ***identifying the production facility of origin of the ozone depleting substances to be placed on the market, including an identification of those facilities of origin of any precursor substances that involve the generation of chlorodifluoromethane (R22) as part of the manufacturing process to produce the ozone depleting substances to be placed on the market;***

- (c) *proving the availability and operation of the abatement technology at the facilities of origin equivalent to UNFCCC approved baseline methodology AM0001 for incineration of trifluoromethane waste streams or proving the capture and destruction methodology that ensured that emissions of trifluoromethane are destroyed in line with requirements under the Montreal Protocol;*
- (d) *Any additional information facilitating the tracking of the ozone depleting substances prior to import.*

Producers and importers shall keep the declaration of conformity and supporting documentation for a period of at least five years after the placing on the market and make them available, upon request, to national competent authorities and to the Commission.

The Commission may, by means of implementing acts, determine the detailed arrangements relating to the declaration of conformity and supporting documentation referred to in the second subparagraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2).

3. Ozone depleting substances *listed in Annex I* produced or placed on the market as feedstock, as process agents, *for destruction or reclamation* or for essential laboratory and analytical uses as referred to in Articles 6, 7, **8 and 12** may only be used for those purposes.

Containers containing the substances intended for the uses referred to in Articles 6, 7, **8 and 12** shall be labelled with a clear indication that the substance may only be used for the applicable purpose. Where such substances are subject to labelling requirements provided for in Regulation (EC) No 1272/2008, such indication shall be included in the labels referred to in that Regulation.

The Commission may, by means of implementing acts, determine the format and the indication to be used on the labels referred to in the second subparagraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2).

4. *Undertakings that produce (including as by-production or side-production), place on the market, supply to a third person in the Union or receive from a third person in the Union ozone depleting substances listed in Annex I intended for use as feedstock or process agents or intended to be destroyed or reclaimed as well as undertakings that destroy or reclaim these substances or use these substances as feedstock or as process agents shall keep records containing at least the following information, as applicable:*
- (a) Name of the substance or mixture;*
 - (b) Quantity produced, imported, exported, reclaimed or destroyed during the given calendar year;*
 - (c) Quantity supplied and received during the given calendar year; per individual supplier or receiver;*

- (d) Names and contact details of the suppliers or receivers;*
- (e) Quantity used (specifying the actual use) during the given calendar year; and*
- (f) Quantity stored on 1 January and 31 December of the given calendar year.*

The undertakings shall keep these records for at least 5 years after production, placing on the market, supply or receipt and shall make them available to the Commission or competent authorities of the Member States upon request. The Commission and the competent authorities of the Member States concerned shall ensure confidentiality of information contained in the records.

Chapter IV

Trade

Article 16

Licensing System

1. The Commission shall set up and ensure the operation of the electronic licensing system for ozone depleting substances listed in Annex I and products and equipment containing those substances or whose functioning relies upon those substances ('the licensing system').
2. Undertakings that wish to obtain the licences respectively required in accordance with Article 13(2) and Article 14(3) shall submit applications using the licensing system. Before submitting such an application, undertakings shall have a valid registration in the licensing system. Undertakings shall also ensure that they have a valid registration in the licensing system before reporting pursuant to Article 24.

Applications for licences shall be processed within 30 days. Licences shall be issued in accordance with the rules and procedures laid down in Annex VII.

3. Licenses may be issued to undertakings established in the Union and to undertakings established outside the Union.

Undertakings established outside the Union shall mandate an only representative with an establishment within the Union that assumes the full responsibility for complying with this Regulation. The only representative may be the same as the one mandated pursuant to Article 8 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council¹⁸.

4. Licenses ***shall*** be time-limited. They shall remain valid until they expire, until they are suspended or revoked by the Commission pursuant to this Article, or until they are withdrawn by the undertaking. ***In the case of imports or exports of recovered, recycled or reclaimed halon for the critical uses referred to in Article 9, the time limit shall be set not beyond the end date for the critical use as set out in Annex V.***

¹⁸ Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p.1).

5. Each undertaking that holds a licence shall, during the period of validity of the license, notify the Commission *without undue delay* of any changes which might occur during the period of validity of the licence in relation to the information submitted in accordance with Annex VII.
6. The Commission may request additional information where needed to confirm the accuracy and completeness of the information provided by the undertakings in accordance with Annex VII.
7. Competent authorities of the Member States including the customs authorities, or the Commission, may require a certificate attesting the nature or composition of substances to be imported or exported and may request a copy of the licence issued by the country from which the import or to which the export takes place.

8. The Commission may share the data submitted in the licensing system to the extent necessary in specific cases with competent authorities of the Parties to the Protocol concerned.
9. A license shall be suspended where there is reasonable suspicion that any relevant obligations set out in this Regulation is not complied with. A license shall be revoked where there is evidence that any obligation set out in this Regulation is not complied with. The license application shall also be rejected or the license revoked where there is evidence of serious or repeated infringements of Union customs or environmental legislation by the undertaking related to its activities under this Regulation.

Undertakings shall be informed, as soon as possible, of any licence application being rejected or of any licence being suspended or revoked, specifying the reasons for rejection, suspension or revocation. Member States shall also be informed of such cases.

10. Undertakings shall take all necessary measures to ensure that an export of ozone depleting substances does not:
- (a) constitute a case of illegal trade;
 - (b) impact adversely on the implementation of control measures of the destination country taken to comply with its obligations under the Protocol
 - (c) lead to an excess of the quantitative limits under the Protocol for the country referred to in point (b).
11. Competent authorities of the Member States, including customs authorities, shall have access to the licensing system for the purpose of enforcing this Regulation. Access to the licensing system by customs authorities shall be ensured via the European Union Single Window Environments for Customs referred to in paragraphs 14 and 15.
12. The Commission and competent authorities of the Member States shall ensure the confidentiality of the information included in the licensing system.

13. The Commission is empowered to adopt delegated acts in accordance with Article 29 to amend Annex VII where it is necessary to ensure the smooth functioning of the licensing system, to facilitate the enforcement of customs controls, or where it is necessary to comply with the Protocol.
14. The Commission shall ensure the interconnection of the licensing system with the European Union Single Window Environment for Customs through the European Union Customs Single Window - Certificate Exchange System established by Regulation (EU) No .../... *[full reference to be inserted once that Regulation has been adopted]*.¹⁹
15. Member States shall ensure the interconnection of their national single window environments for customs with the European Union Customs Single Window - Certificate Exchange System for the purpose of exchanging information with the licensing system.

¹⁹ Regulation (EU) No .../... of the European Parliament and of the Council establishing the European Union Single Window Environment for Customs and amending Regulation (EU) No 952/2013 OJ C., p. [full reference to be added once that Regulation is adopted].

Article 17
Controls of trade

1. Customs authorities and market surveillance authorities shall enforce the prohibitions and other restrictions set out in this Regulation with regards to imports and exports.
2. For the purpose of imports, the undertaking holding the license pursuant to Article 13(2) shall be the importer, or where not available the declarant, indicated in the customs declaration, ***that is the holder of the authorisation for a special procedure other than transit, unless there is a transfer of rights and obligations according to Article 218 of Regulation (EU) 952/2013 allowing another person to be the declarant, and in the case of transit procedure, the holder of the procedure.***

For the purpose of export, the undertaking holding the license pursuant to Article 14(3) shall be the exporter indicated in the customs declaration.

3. In cases of imports of ozone depleting substances listed in Annex I and of products and equipment containing those substances or whose functioning relies upon those substances the importer, or where not available the declarant, indicated in the customs declaration or in the temporary storage declaration and in cases of exports the exporter indicated in the customs declaration, shall provide to customs authorities in the declaration the following, where relevant:
 - (a) ***the licensing system registration identification number and*** the number of the licence pursuant to Article 13(2) and Article 14(3);

- (b) the Economic Operators Registration and Identification (EORI) number;
- (c) the net mass of ozone depleting substance(s), also when included in products and equipment;
- (d) the net mass multiplied by the ozone depletion potential of the ozone depleting substance(s), also when included in products and equipment;
- (e) the commodity code under which the goods are classified.
4. Customs authorities shall verify, in particular, that in cases of imports the importer indicated in the customs declaration, or where not available the declarant, and in cases of exports the exporter indicated in the customs declaration, has a valid license pursuant to Article 13(2) and Article 14(3).
5. Where relevant, customs authorities shall communicate information regarding the customs clearance of goods to the licensing system via the European Union Single Window Environment for Customs.

6. Importers of ozone depleting substances listed in Annex I in refillable containers *as referred to in Article 15(1)(b)* shall make available to customs authorities at the time the customs declaration related to the release for free circulation is submitted, a declaration of conformity including evidence confirming the arrangements in place for the return of the container for the purpose of refilling.
7. Importers of halons in accordance with Article 13(1), point (f), and exporters of halons in accordance with Article 14(1), point (e), shall make available to customs authorities at the time the customs declaration related to the release for free circulation or to the export is submitted a certificate confirming the nature of the substance as listed in Article 13(1), point (f) and Article 14(1), point (e).
8. Importers of ozone depleting substances shall make available to customs authorities at the time the customs declaration related to the release for free circulation is submitted, the evidence referred to in Article 15(2).

9. Customs authorities shall verify compliance with the rules on imports and exports set out in this Regulation, when carrying out the controls based on risk analysis in the context of Customs Risk Management Framework and in accordance with Article 46 of Regulation (EU) No 952/2013. The risk analysis shall take into account in particular any available information on the likelihood of illegal trade of ozone depleting substances, and the compliance history of the undertaking concerned.
10. Based on risk analysis, when carrying out physical customs controls of the substances and products and equipment covered by this Regulation, the customs authority shall, in particular, verify the following on imports and exports:
- (a) that the goods presented correspond to those described in the licence and in the customs declaration;
 - (b) that the goods are appropriately labelled in accordance with Article 15(3) before releasing the goods for free circulation.

The importer or exporter shall make its licence available to customs authorities during controls in accordance with Article 15 of Regulation (EU) No 952/2013.

11. Customs authorities shall confiscate or seize ■ the substances and products and equipment that are prohibited by this Regulation ■ for their disposal in accordance with Articles 197 and 198 of Regulation (EU) No 952/2013 *or shall inform the competent authorities for ensuring the confiscation and seizure of such substances, the substances and products and equipment for disposal*. Market surveillance authorities shall also withdraw or recall from the market such substances and products and equipment in accordance with Article 16 of Regulation (EU) No 2019/1020 of the European Parliament and the Council.

The re-export of substances and products and equipment that do not comply with this Regulation is prohibited.

- 11a. Customs authorities or market surveillance authorities shall take all necessary measures to prevent attempts to import or export the substances, products and equipment covered under this Regulation that were already not allowed to enter or exit the territory.*

12. Member States customs authorities shall designate or approve customs offices or other places and shall specify the route to those offices and places, in accordance with Articles 135 and 267 of Regulation (EU) No 952/2013, for the presentation to customs of ozone depleting substances listed in Annex I and of products and equipment containing those substances or whose functioning relies upon those substances at their entry into or at their exit from the customs territory of the Union. ***Controls shall be carried out by personnel of the custom office or by other authorised persons in line with national rules, knowledgeable on matters related to the prevention of illegal activities by this Regulation and having access to suitable equipment for carrying out of the relevant physical controls based on risk analysis.***

Only the designated or approved places and customs offices referred to in the first subparagraph shall be authorised to open or end a transit procedure of ozone depleting substances listed in Annex I and products and equipment containing, or whose functioning relies upon, such substances.

Article 18

Measures to monitor illegal trade

1. ***On the basis of regular monitoring of trade in ozone depleting substances and assessment of the potential risks of illegal trade linked to the movements of ozone depleting substances, products and equipment containing those gases or whose functioning relies upon those substances, the Commission is empowered to adopt delegated acts in accordance with Article 29 to:***
 - (i) ***supplement Article 26 by specifying the criteria to be taken into account by the competent authorities of Member States when carrying out checks to establish whether undertakings comply with their obligations under the Regulation;***
 - (ii) ***supplement Articles 17 by specifying the requirements to be checked when monitoring ozone depleting substances, products and equipment containing those substances or whose functioning relies upon those substances, placed under temporary storage or under a custom procedure, including customs warehousing or free zone procedure or in transit through the customs territory of the Union;***

(iii) to amend Article 13 and 14 by adding tracing methodologies for ozone depleting substances placed on the market for the monitoring of import and export of ozone depleting substances, products and equipment containing those substances or whose functioning relies upon those substances, placed under temporary storage or under a customs procedure.

1a. The Commission, when adopting a delegated act under paragraph 1, shall take into account the environmental benefits and socio-economic impacts of the methodology to be established under points (i), (ii) and (iii) of paragraph 1.

Article 19

Trade with states or regional economic integration organisations and territories not covered by the
Protocol

1. Import and export of ozone depleting substances listed in Annex I and of products and equipment containing those substances or whose functioning relies upon those substances from and to any state or regional economic integration organisation that has not agreed to be bound by the provisions of the Protocol applicable to a particular controlled substance shall be prohibited.

2. The Commission is empowered to adopt delegated acts in accordance with Article 29 to supplement this Regulation by establishing the rules applicable to the release for free circulation in the Union and export of products and equipment imported from and exported to any state or regional economic integration organisation subject to paragraph 1, which were produced using ozone depleting substances listed in Annex I, but do not contain substances which can be positively identified as ozone depleting substances listed in that Annex, as well as rules on the identification of such products and equipment. When adopting those delegating acts the Commission shall take into account the relevant decisions taken by the Parties to the Protocol and, as regards the rules on the identification of such products and equipment, periodical technical advice given to the Parties to the Protocol.

3. By way of derogation from paragraph 1, trade with any state or regional economic integration organisation subject to paragraph 1 in ozone depleting substances listed in Annex I and equipment containing those substances or whose functioning relies upon those substances or which are produced by means of one or more such substances may be authorised by the Commission, by means of implementing acts, to the extent that the state or regional economic integration organisation is determined by a meeting of the Parties to the Protocol pursuant to Article 4(8) of the Protocol to be in full compliance with the Protocol and has submitted data to that effect as specified in Article 7 of the Protocol. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2).
4. Subject to any decision taken under paragraph 2, paragraph 1 shall apply to any territory not covered by the Protocol in the same way as such decisions apply to any state or regional economic integration organisation subject to paragraph 1.

5. Where the authorities of a territory not covered by the Protocol are in full compliance with the Protocol and have submitted data to that effect as specified in Article 7 of the Protocol, the Commission may decide, by means of implementing acts, that some or all of the provisions of paragraph 1 of this Article shall not apply in respect of that territory. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2).

Chapter V

Emission Control

Article 20

Recovery and destruction of used ozone depleting substances

1. Ozone depleting substances listed in *Annexes I and II* contained in refrigeration, air-conditioning and heat pump equipment, equipment containing solvents or fire protection systems and fire extinguishers shall, during the maintenance or servicing of equipment or before the dismantling or disposal of equipment, be recovered for destruction, recycling or reclamation, ***unless where such recovery is being regulated under other Union legislation.***

2. *As from 1 January [OP: please add date: a year following the entry into force of this Regulation]* building owners and contractors shall ensure that during renovation, refurbishing or demolition activities implying the removal of **foam** panels that contain foams with ozone depleting substances listed in Annex I are avoided to the extent possible by *handling the foams or the substances contained therein in a way that ensures the* destruction of the *substances therein. In the case of recovery of the* substances contained *in the foams, the recovery shall be carried out by appropriately qualified natural persons.*
3. *As from 1 January [OP: please add date: a year following the entry into force of this Regulation]* building owners and contractors shall ensure that during renovation, refurbishing or demolition activities implying the removal of foams in laminated boards installed in cavities or built-up structures that contain ozone depleting substances listed in Annex I are avoided to the extent possible by *handling the foams in the boards or the substances contained therein in a way that ensures the* destruction of the *substances contained therein. In the case of recovery of* the substances contained *in the foams, the recovery shall be carried out by appropriately qualified natural persons.*
4. Where recovery of the foams referred to in the first subparagraph is not technically feasible, the building owner or contractor shall draw up documentation providing evidence for the infeasibility of the recovery in the specific case. Such documentation shall be retained for five years and shall be made available, upon request, to the competent authorities and the Commission.

5. Halons contained in fire protection systems and fire extinguishers shall, during the maintenance or servicing of equipment or before the dismantling or disposal of equipment, be recovered for recycling or reclamation.

Destruction of halon is prohibited unless there is documented evidence that the purity of the recovered or recycled substance does not technically allow its reclamation and subsequent re-use. Undertakings destroying halons in such cases shall retain this documentation for a minimum period of five years. Such documentation shall be made available, upon request, to competent authorities and the Commission.

6. Ozone depleting substances listed in *Annexes I and II* contained in products and equipment other than those mentioned in paragraphs 1 to 5 shall, if technically and economically feasible, be recovered for destruction, recycling or reclamation, or shall be destroyed without prior recovery, ***unless where such recovery is being regulated under other Union legislation.***

7. Ozone depleting substances listed in Annex I and products and equipment containing such substances shall only be destroyed by technologies approved by the Parties to the Protocol or by destruction technologies that are not yet approved, but are environmentally equivalent and comply with Union and national legislation on waste and with additional requirements under such legislation.
8. The Commission is empowered to adopt delegated acts in accordance with Article 29 to supplement this Regulation by establishing a list of products and equipment for which the recovery of ozone depleting substances or destruction of products and equipment without prior recovery of ozone depleting substances shall be considered technically and economically feasible, specifying, if appropriate, the technologies to be applied.
9. Member States shall promote the recovery, recycling, reclamation and destruction of ozone depleting substances listed in Annex I and shall establish the minimum qualification requirements for the personnel involved.

Article 21

Release of ozone depleting substances and leakage checks

1. The intentional release of ozone depleting substances including when contained in products and equipment into the atmosphere shall be prohibited where the release is not technically necessary for the intended uses permitted under this Regulation.
 2. Undertakings shall take all necessary precautions to prevent and minimise any unintentional release of ozone depleting substances listed in *Annexes I and II* during production, including inadvertently produced in the course of the manufacture of other chemicals, equipment manufacturing process, use, storage and transfer from one container or system to another or transport.
- 2a. *Operators of refrigeration, air conditioning or heat pump equipment, or fire protection systems, including their circuits, which contain ozone depleting substances listed in Annex I shall ensure that the stationary equipment or systems:*
- (a) *with a fluid charge of 3 kg or more but less than 30 kg of ozone depleting substances listed in Annex I are checked for leakage at least once every 12 months; this shall not apply to equipment with hermetically sealed systems, which are labelled as such and contain less than 6 kg of controlled substances;*

(b) with a fluid charge of 30 kg or more but less than 300 kg of ozone depleting substances listed in Annex I are checked for leakage at least once every 6 months;

(c) with a fluid charge of 300 kg or more of controlled substances are checked for leakage at least once every 3 months;

3. Undertakings operating equipment containing ozone depleting substances listed in *Annexes I and II*, shall ensure that any detected leakage is repaired without undue delay, without prejudice to the prohibition to use the ozone depleting substances, *unless where such recovery is being regulated under other Union legislation.*
4. Undertakings referred to in paragraph 3 shall retain records on the quantity and type of *halons added and of* ozone depleting substances *listed in Annex I* recovered during maintenance *or* servicing and final disposal of the equipment or system. They shall also retain records of other relevant information including the identification of the company or technician which performed the maintenance or servicing, as well as the dates and results of the leakage checks carried out. These records shall be retained for a minimum period of five years and shall be made available, upon request, to the competent authority of a Member State and to the Commission.
5. Member States shall establish the minimum qualification requirements for the personnel carrying out activities referred to in paragraph 3.

Chapter VI

Lists of ozone depleting substances and reporting

Article 22

Amendments to the lists of ozone depleting substances

1. The Commission is empowered to adopt delegated acts in accordance with Article 29 to amend Annex II to include in that Annex any substances that are not covered by this Regulation but have been found by the Scientific Assessment Panel ('SAP'), established under the Protocol, or by another recognised authority of equivalent stature to have a significant ozone-depleting potential.
2. The Commission is empowered to adopt delegated acts in accordance with Article 29 to amend Annex I to include in that Annex any substances that fulfil the conditions set out in paragraph 1, and are exported, imported, produced or placed on the market in significant quantities and, if appropriate, to determine possible exemptions from the restrictions set out in Chapters I, II, or IV.

3. The Commission is empowered to adopt delegated acts in accordance with Article 29 to amend Annexes I and II as regards the global warming potential and the ozone depleting potential of the listed substances, where it is necessary in the light of new Assessments Reports by the Intergovernmental Panel on Climate Change or new reports of the SAP, established under the Protocol, ***and to add, where available, the global warming potential of those substances on a 20-year timescale.***

Article 23

Reporting by the Member States

1. Each year by 30 June [*OP: Please insert the year of application of this Regulation*] Please add year of application of the Regulation], Member States shall report the following information in an electronic format to the Commission, for the previous calendar year:
- (a) the quantities of halons installed, used and stored for critical uses, pursuant to Article 9(1), the measures taken to reduce their emissions and an estimate of such emissions, and progress in evaluating and using adequate alternatives;
 - (b) cases of illegal trade, in particular those detected during the checks carried out pursuant to Article 26, including the imposition of penalties referred to in Article 27 where applicable.

2. The Commission may, if appropriate, by means of implementing acts, determine the format for the submission of the information referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2).
3. The Commission is empowered to adopt delegated acts in accordance with Article 29 to amend paragraph 1 of this Article where it is necessary in view of the decisions of the Parties to the Protocol.

Article 24

Reporting by undertakings

1. **■** *By 31 March [OP: Please insert the year of application of this Regulation], and every year thereafter* each undertaking shall report, via an electronic reporting tool, to the Commission the data listed in Annex VI for each ozone depleting substance ***listed in Annex I and II*** for the previous calendar year.

Member States shall also have access to the electronic reporting tool of the undertakings falling under their jurisdiction.

Prior to reporting, undertakings shall register in the licensing system.

2. The Commission and the competent authorities of the Member States shall take appropriate measures to protect the confidentiality of the information submitted to it in accordance with this Article.
3. Where necessary, the Commission shall, by means of implementing acts, establish the format and means of the reporting referred to in Annex VI. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2).
4. The Commission is empowered to adopt delegated acts in accordance with Article 29 to amend Annex VI, where it is necessary in view of the decisions of the Parties to the Protocol.

Chapter VII

Enforcement

Article 25

Cooperation and exchange of information

1. ***When required to ensure compliance with this Regulation,*** the competent authorities of Member States, including customs authorities, market surveillance authorities, environmental authorities and other authorities with inspection functions shall cooperate with each other, with ***the competent*** authorities ***of*** other Member States, with the Commission, and if necessary, with administrative authorities of third countries **■** .

When cooperation with customs authorities is needed to ensure a proper implementation of the customs risk management framework, competent authorities shall provide all necessary information to customs in accordance with Article 47(2) of Regulation (EU) No 952/2013.

2. When customs authorities, market surveillance authorities or any other competent authority of a Member State have detected an infringement of this Regulation, that competent authority shall notify the environmental authority or if not relevant any other authority responsible for the enforcement of penalties in accordance with Article 27.
3. Member States shall ensure that their competent authorities are able to efficiently have access to and exchange between them any information necessary for the enforcement of this Regulation. Such information shall include customs related data, information on ownership and financial status, any environmental violations, as well as data recorded in the licensing system.

That information shall also be made available to competent authorities of other Member States and to the Commission when needed to ensure the enforcement of this Regulation.

4. Competent authorities shall alert competent authorities of other Member States when they detect infringement of this Regulation that may affect more than one Member State. Competent authorities shall, in particular, inform competent authorities of other Member States when they detect a relevant product on the market that is not compliant with this Regulation, to enable that it is seized, confiscated, withdrawn or recalled from the market for disposal.

The Customs Risk Management System shall be used for the *exchange of customs risk-related information*.

Customs authorities shall also exchange any relevant information related to infringement of the provisions of this Regulation in accordance with **Council** Regulation (EC) No 515/97²⁰ and shall request assistance from the other Member States and the Commission where necessary.

²⁰ Regulation (EC) No 515/97 of the European Parliament and of the Council of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters (OJ L 82, 22.3.1997, p. 1).

Article 26

Obligation to carry out checks

1. The competent authorities of Member States shall carry out checks to establish whether undertakings comply with their obligations under this Regulation.
2. The checks shall be carried out following a risk-based approach, which takes into consideration, in particular, the history of compliance of undertakings, the risk of non-compliance of a specific product with this Regulation, and any other relevant information received from the Commission, national customs authorities, market surveillance authorities, environmental authorities and other authorities with inspection functions or from competent authorities of third countries.

Competent authorities shall also conduct checks when they are in possession of evidence or other relevant information, including based on substantiated concerns provided by third parties, *or the Commission*, concerning potential non-compliance with this Regulation.

3. Checks referred to in paragraphs 1 and 2, shall include on-site visits of establishments with the appropriate frequency and verification of relevant documentation and equipment.
- 3a. *Checks referred to in paragraphs 1 and 2, shall also include checks of online platforms pursuant to this paragraph. Without prejudice to Regulation (EU) 2022/2065, in case an online platform, falling within the scope of Section 4 of Chapter 3 of that Regulation, that allows consumers to conclude distance contracts with undertakings offering ozone depleting substances or products and equipment that contain such substances, competent authorities shall verify whether the undertaking, the ozone depleting substances, the products or the equipment offered comply with the requirements laid down in this Regulation. Competent authorities shall inform and cooperate with the Commission and with the relevant competent authorities referred to in Article 49 of Regulation (EU) 2022/2065 for the purpose of ensuring compliance with that Regulation.*

Checks shall be carried out without prior warning of the undertaking, except where prior notification is necessary in order to ensure the effectiveness of the checks. Member States shall ensure that undertakings afford the competent authorities all necessary assistance to enable those authorities to carry out the checks provided for by this Article.

4. The competent authorities shall keep records of the checks indicating in particular their nature and results, as well as on the measures taken in case of non-compliance. Records of all checks shall be kept for at least five years.
5. At the request of another Member State, a Member State may conduct checks or other formal investigations of undertakings suspected of being engaged in the illegal movement of substances and products and equipment covered by this Regulation and which are operating on the territory of that Member State. The requesting Member State shall be informed about the result of the check.
6. In carrying out the tasks assigned to it by this Regulation, the Commission may request all necessary information from the competent authorities of the Member States and from undertakings. When requesting information from an undertaking the Commission shall at the same time forward a copy of the request to the competent authority of the Member State within the territory of which the undertaking's seat is situated.
7. The Commission shall take appropriate steps to promote an adequate exchange of information and cooperation between competent authorities of the Member States and between competent authorities of the Member States and the Commission. The Commission shall take appropriate steps to protect the confidentiality of information obtained under this Article.

Chapter VII
Penalties, committee procedure and exercise of delegation

Article 27
Penalties

1. ***Without prejudice to the obligations of Member States under Directive 2008/99/EC of the European Parliament and of the Council***, Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. Member States shall, by 1 January [OP please insert = **2 years** following the **date of** entry into force of this Regulation], notify the Commission of those rules and of those **measures** and shall notify it, without delay, of any subsequent amendment affecting them.
2. ***The penalties provided for in paragraph 1 shall be effective, proportionate and dissuasive, and shall give due regard to the following, as applicable:***
 - (a) ***the nature and gravity of the infringement;***

- (b) *the human population or the environment affected by the infringement, taking into account the need to ensure a high level of protection of human health and the environment;*
- (c) *any previous infringements of this Regulation by the undertaking held responsible;*
- (d) *the financial situation of the undertaking held responsible.*

3. *The penalties shall include:*

- (a) *administrative financial penalties proportionate to the environmental damage, where applicable, and that effectively deprive those responsible of the economic benefits derived from their infringements, and gradually increasing the level of such fines for repeated infringements.*

In cases of unlawful production, import, export, placing on the market, or use of ozone depleting substances or of products and equipment containing those substances or whose functioning relies on those substances, the maximum amount of administrative financial penalty shall be at least five times the market value of the concerned substances or products and equipment concerned. In case of a repeated infringement within a five-year period the maximum amount of fines shall be at least eight times the value of the substances or products and equipment concerned.

Member States may also, or alternatively, use criminal penalties provided that they are equivalently effective, proportionate and dissuasive to the administrative financial penalties referred to in this subparagraph;

- (b) confiscation or seizure, or withdrawal or removal from the market, or taking possession by the competent authorities of illegally obtained goods;*
- (c) temporary prohibition from using, producing, importing, exporting, placing on the market, of ozone depleting substances concerned or of products and equipment concerned containing ozone depleting substances or whose functioning relies on them, in the event of a serious infringement or of repeated infringements.*

I

Article 28
Committee procedure

1. The Commission shall be assisted by the Committee on ozone depleting substances. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 29
Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in **Article 6(1)**, Article 7(4), Article 8(7), Article 9(3), Article 16(13), Article 18, Article 19(2), Article 20(8), Article 22, Article 23(3) and Article 24(4) shall be conferred on the Commission for an indeterminate period of time [*from the date of application of the Regulation*].

3. The delegation of power referred to in Article 7(4), Article 8(7), Article 9(3), Article 16(13), Article 18, Article 19(2), Article 20(8), Article 22, Article 23(3) and Article 24(4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Inter-institutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 7(4), Article 8(7), Article 9(3), Article 16(13), Article 18, Article 19(2), Article 20(8), Article 22, Article 23(3) and Article 24(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Chapter VIII
Transitional and final provisions

Article 30
Review

By 1 January **2030**, the Commission shall publish a report on the implementation of this Regulation.

The report shall include an assessment on the availability of alternatives to ozone depleting substances for uses regulated under Articles 6, 7, 8 and 9.

The European Scientific Advisory Board on Climate Change established under Article 10a of Regulation (EC) No 401/2009 may, on its own initiative, provide scientific advice and issue reports on the coherence of this Regulation with the objectives of Regulation (EC) No 2021/1119 and the Union's international commitments under the Paris Agreement.

Article 31
Repeal *and transitional provisions*

1. Regulation (EC) No 1005/2009 is repealed.
2. *Article 18 of Regulation (EC) No 1005/2009 as applicable on [OP: please insert the date = the day before the date of entry into force of this Regulation] shall continue to apply until 2 March 2025.*
3. *Article 27 of Regulation (EC) No 1005/2009 as applicable on [OP: please insert the date = the day before the date of entry into force of this Regulation] shall continue to apply with regard to the reporting period from [OP: please insert the date = the first day of the year prior to the year of entry into force of this Regulation] to [OP: please insert the date = the last day of the year prior to the year of entry into force of this Regulation].*
4. References to the repealed Regulation shall be construed as references to this Regulation and read in accordance with the correlation table in Annex VIII.

Article 32

Entry into force *and application*

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Articles 16(1), **(2) and (4) to (15)**, and *Article 17(5) and Annex VIII, point 2* of this Regulation shall apply from:

3 March 2025 for release for free circulation as referred to in Article 201 of Regulation (EU) No 952/2013 and export;

Article 16(3) and Annex VII point 1 shall apply from [OP: please insert the date = the day of entry into force of this Regulation]

Done at Strasbourg,

For the European Parliament

For the Council

The President

The President

ANNEX I

Ozone depleting substances referred to in Article 2(1) ¹

Group	Substance			Ozone-depleting potential ²	GWP ³
Group I	CFC1 ₃	CFC-11	Trichlorofluoromethane	1,0	5 560
	CF ₂ Cl ₂	CFC-12	Dichlorodifluoromethane	1,0	11 200
	C ₂ F ₃ Cl ₃	CFC-113	Trichlorotrifluoroethane	0,8	6 520
	C ₂ F ₄ Cl ₂	CFC-114	Dichlorotetrafluoroethane	1,0	9 430
	C ₂ F ₅ Cl	CFC-115	Chloropentafluoroethane	0,6	9 600
Group II	CF ₃ Cl	CFC-13	Chlorotrifluoromethane	1,0	16 200
	C ₂ FCl ₅	CFC-111	Pentachlorofluoroethane	1,0	(*)
	C ₂ F ₂ Cl ₄	CFC-112	Tetrachlorodifluoroethane	1,0	4 620
	C ₃ FCl ₇	CFC-211	Heptachlorofluoropropane	1,0	(*)
	C ₃ F ₂ Cl ₆	CFC-212	Hexachlorodifluoropropane	1,0	(*)
	C ₃ F ₃ Cl ₅	CFC-213	Pentachlorotrifluoropropane	1,0	(*)

¹ The Annex includes the substances listed therein and their isomers. ***Mixtures containing the substances listed in this Annex are considered as ozone depleting substances covered by the rules of this Regulation (Article 2(1)).***

² The figures relating to ozone-depleting potential are estimates based on existing knowledge and will be reviewed and revised periodically in the light of decisions taken by the Parties.

³ Based on the Sixth Assessment Report, Chapter 7: The Earth's energy budget, climate feedbacks, and climate sensitivity - Supplementary Material adopted by the Intergovernmental Panel on Climate Change, unless otherwise indicated.

* Default value, global warming potential not yet available.

Group	Substance			Ozone-depleting potential ²	GWP ³
	C ₃ F ₄ Cl ₄	CFC-214	Tetrachlorotetrafluoropropane	1,0	(*)
	C ₃ F ₅ Cl ₃	CFC-215	Trichloropentafluoropropane	1,0	(*)
	C ₃ F ₆ Cl ₂	CFC-216	Dichlorohexafluoropropane	1,0	(*)
	C ₃ F ₇ Cl	CFC-217	Chloroheptafluoropropane	1,0	(*)
Group III	CF ₂ BrCl	halon-1211	Bromochlorodifluoromethane	3,0	1 930
	CF ₃ Br	halon-1301	Bromotrifluoromethane	10,0	7 200
	C ₂ F ₄ Br ₂	halon-2402	Dibromotetrafluoroethane	6,0	2 170
	CB ₂ F ₂	halon-1202	Dibromodifluoromethane	1,25	216
Group IV	CCl ₄	CTC	Tetrachloromethane (carbon tetrachloride)	1,1	2 200
Group V	C ₂ H ₃ Cl ₃ ⁴	1,1,1-TCA	1,1,1-Trichloroethane (methylchloroform)	0,1	161
Group VI	CH ₃ Br	methyl bromide	Bromomethane	0,6	2,43
Group VII	CH ₂ Br ₂	HBFC-21 B2	Dibromofluoromethane	1,00	(*)
	CHF ₂ Br	HBFC-22 B1	Bromodifluoromethane	0,74	380
	CH ₂ FBr	HBFC-31 B1	Bromofluoromethane	0,73	(*)
	C ₂ H ₂ Br ₄	HBFC-121 B4	Tetrabromofluoroethane	0,8	(*)

⁴ This formula does not refer to 1,1,2-trichloroethane.

Group	Substance			Ozone-depleting potential ²	GWP ³
	C ₂ HF ₂ Br ₃	HBFC-122 B3	Tribromodifluoroethane	1,8	(*)
	C ₂ HF ₃ Br ₂	HBFC-123 B2	Dibromotrifluoroethane	1,6	(*)
	C ₂ HF ₄ Br	HBFC-124 B1	Bromotetrafluoroethane	1,2	201
	C ₂ H ₂ FBr ₃	HBFC-131 B3	Tribromofluoroethane	1,1	(*)
	C ₂ H ₂ F ₂ Br ₂	HBFC-132 B2	Dibromodifluoroethane	1,5	(*)
	C ₂ H ₂ F ₃ Br	HBFC-133 B1	Bromotrifluoroethane	1,6	177
	C ₂ H ₃ FBr ₂	HBFC-141 B2	Dibromofluoroethane	1,7	(*)
	C ₂ H ₃ F ₂ Br	HBFC-142 B1	Bromodifluoroethane	1,1	(*)
	C ₂ H ₄ FBr	HBFC-151 B1	Bromofluoroethane	0,1	(*)
	C ₃ HFBr ₆	HBFC-221 B6	Hexabromofluoropropane	1,5	(*)
	C ₃ HF ₂ Br ₅	HBFC-222 B5	Pentabromodifluoropropane	1,9	(*)
	C ₃ HF ₃ Br ₄	HBFC-223 B4	Tetrabromotrifluoropropane	1,8	(*)
	C ₃ HF ₄ Br ₃	HBFC-224 B3	Tribromotetrafluoropropane	2,2	(*)
	C ₃ HF ₅ Br ₂	HBFC-225 B2	Dibromopentafluoropropane	2,0	(*)
	C ₃ HF ₆ Br	HBFC-226 B1	Bromohexafluoropropane	3,3	(*)
	C ₃ H ₂ FBr ₅	HBFC-231 B5	Pentabromofluoropropane	1,9	(*)

Group	Substance			Ozone-depleting potential ²	GWP ³
	C ₃ H ₂ F ₂ Br ₄	HBFC-232 B4	Tetrabromodifluoropropane	2,1	(*)
	C ₃ H ₂ F ₃ Br ₃	HBFC-233 B3	Tribromotrifluoropropane	5,6	(*)
	C ₃ H ₂ F ₄ Br ₂	HBFC-234 B2	Dibromotetrafluoropropane	7,5	(*)
	C ₃ H ₂ F ₅ Br	HBFC-235 B1	Bromopentafluoropropane	1,4	(*)
	C ₃ H ₃ FBr ₄	HBFC-241 B4	Tetrabromofluoropropane	1,9	(*)
	C ₃ H ₃ F ₂ Br ₃	HBFC-242 B3	Tribromodifluoropropane	3,1	(*)
	C ₃ H ₃ F ₃ Br ₂	HBFC-243 B2	Dibromotrifluoropropane	2,5	(*)
	C ₃ H ₃ F ₄ Br	HBFC-244 B1	Bromotetrafluoropropane	4,4	(*)
	C ₃ H ₄ FBr ₃	HBFC-251 B1	Tribromofluoropropane	0,3	(*)
	C ₃ H ₄ F ₂ Br ₂	HBFC-252 B2	Dibromodifluoropropane	1,0	(*)
	C ₃ H ₄ F ₃ Br	HBFC-253 B1	Bromotrifluoropropane	0,8	(*)
	C ₃ H ₅ FBr ₂	HBFC-261 B2	Dibromofluoropropane	0,4	(*)
	C ₃ H ₅ F ₂ Br	HBFC-262 B1	Bromodifluoropropane	0,8	(*)
	C ₃ H ₆ FBr	HBFC-271 B1	Bromofluoropropane	0,7	(*)
Group VIII	CHFC ₂	HCFC-21 ⁵	Dichlorofluoromethane	0,040	160

⁵ Identifies the most commercially viable substance as prescribed in the Protocol.

Group	Substance			Ozone-depleting potential ²	GWP ³
	CHF ₂ Cl	HCFC-22 ⁴	Chlorodifluoromethane	0,055	1 960
	CH ₂ FCI	HCFC-31	Chlorofluoromethane	0,020	79,4
	C ₂ HFCl ₄	HCFC-121	Tetrachlorofluoroethane	0,040	58,3
	C ₂ HF ₂ Cl ₃	HCFC-122	Trichlorodifluoroethane	0,080	56,4
	C ₂ HF ₃ Cl ₂	HCFC-123 ⁴	Dichlorotrifluoroethane	0,020	90,4
	C ₂ HF ₄ Cl	HCFC-124 ⁴	Chlorotetrafluoroethane	0,022	597
	C ₂ H ₂ FCI ₃	HCFC-131	Trichlorofluoroethane	0,050	30 ⁶
	C ₂ H ₂ F ₂ Cl ₂	HCFC-132	Dichlorodifluoroethane	0,050	122
	C ₂ H ₂ F ₃ Cl	HCFC-133	Chlorotrifluoroethane	0,060	275 ⁵
	C ₂ H ₃ FCI ₂	HCFC-141	Dichlorofluoroethane	0,070	46,6
	CH ₃ CFCl ₂	HCFC-141b ⁴	1,1-Dichloro-1-fluoroethane	0,110	860
	C ₂ H ₃ F ₂ Cl	HCFC-142	Chlorodifluoroethane	0,070	175 ⁵
	CH ₃ CF ₂ Cl	HCFC-142b ⁴	1-Chloro-1,1-difluoroethane	0,065	2 300
	C ₂ H ₄ FCI	HCFC-151	Chlorofluoroethane	0,005	10 ⁵
	C ₃ HFCl ₆	HCFC-	Hexachlorofluoropropane	0,070	110 ⁵

⁶ Scientific Assessment of Ozone Depletion: 2018; Appendix A Summary of Abundances, Lifetimes, Ozone Depletion Potentials (ODPs), Radiative Efficiencies (REs), Global Warming Potentials (GWPs), and Global Temperature change Potentials (GTPs).

Group	Substance			Ozone-depleting potential ²	GWP ³
		221			
	C ₃ HF ₂ Cl ₅	HCFC-222	Pentachlorodifluoropropane	0,090	500 ⁵
	C ₃ HF ₃ Cl ₄	HCFC-223	Tetrachlorotrifluoropropane	0,080	695 ⁵
	C ₃ HF ₄ Cl ₃	HCFC-224	Trichlorotetrafluoropropane	0,090	1 090 ⁵
	C ₃ HF ₅ Cl ₂	HCFC-225	Dichloropentafluoropropane	0,070	1 560 ⁵
	CF ₃ CF ₂ CHCl ₂	HCFC-225ca ⁴	3,3-Dichloro-1,1,1,2,2-pentafluoropropane	0,025	137
	CF ₂ ClCF ₂ CHClF	HCFC-225cb ⁴	1,3-Dichloro-1,1,2,2,3-pentafluoropropane	0,033	568
	C ₃ HF ₆ Cl	HCFC-226	Chlorohexafluoropropane	0,100	2 455 ⁵
	C ₃ H ₂ FCl ₅	HCFC-231	Pentachlorofluoropropane	0,090	350 ⁵
	C ₃ H ₂ F ₂ Cl ₄	HCFC-232	Tetrachlorodifluoropropane	0,100	690 ⁵
	C ₃ H ₂ F ₃ Cl ₃	HCFC-233	Trichlorotrifluoropropane	0,230	1 495 ⁵
	C ₃ H ₂ F ₄ Cl ₂	HCFC-234	Dichlorotetrafluoropropane	0,280	3 490 ⁵
	C ₃ H ₂ F ₅ Cl	HCFC-235	Chloropentafluoropropane	0,520	5 320 ⁵
	C ₃ H ₃ FCl ₄	HCFC-241	Tetrachlorofluoropropane	0,090	450 ⁵
	C ₃ H ₃ F ₂ Cl ₃	HCFC-242	Trichlorodifluoropropane	0,130	1 025 ⁵
	C ₃ H ₃ F ₃ Cl ₂	HCFC-243	Dichlorotrifluoropropane	0,120	2 060 ⁵

Group	Substance			Ozone-depleting potential ²	GWP ³
	C ₃ H ₃ F ₄ Cl	HCFC-244	Chlorotetrafluoropropane	0,140	3 360 ⁵
	C ₃ H ₄ FCl ₃	HCFC-251	Trichlorofluoropropane	0,010	70 ⁵
	C ₃ H ₄ F ₂ Cl ₂	HCFC-252	Dichlorodifluoropropane	0,040	275 ⁵
	C ₃ H ₄ F ₃ Cl	HCFC-253	Chlorotrifluoropropane	0,030	665 ⁵
	C ₃ H ₅ FCl ₂	HCFC-261	Dichlorofluoropropane	0,020	84 ⁵
	C ₃ H ₅ F ₂ Cl	HCFC-262	Chlorodifluoropropane	0,020	227 ⁵
	C ₃ H ₆ FCl	HCFC-271	Chlorofluoropropane	0,030	340 ⁵
Group IX	CH ₂ BrCl	BCM	Bromochloromethane	0,12	4,74

ANNEX II

Ozone depleting substances referred to in Article 2(1)¹

Substance		Ozone-depleting potential ²	GWP ³
C ₃ H ₇ Br	1-Bromopropane (n-propyl bromide)	0,02 — 0,10	0,052
C ₂ H ₅ Br	Bromoethane (ethyl bromide)	0,1 — 0,2	0,487
CF ₃ I	Trifluoroiodomethane (trifluoromethyl iodide)	0,01 — 0,02	(*)
CH ₃ Cl	Chloromethane (methyl chloride)	0,02	5,54
C ₃ H ₂ BrF ₃	2-bromo-3,3,3-trifluoroprop-1-en (2-BTP)	<0,05 ⁴	(*)
CH ₂ Cl ₂	Dichloromethane (DCM)	non zero ⁵	11,2
C ₂ Cl ₄	Tetrachloroethene (Perchloroethylene (PCE))	0.006 — 0.007 ⁴	(*)

¹ The Annex includes the substances listed therein and their isomers. ***Mixtures containing the substances listed in this Annex are considered as ozone depleting substances covered by the rules of this Regulation (Article 2(1)).***

² The figures relating to ozone-depleting potential are estimates based on existing knowledge and will be reviewed and revised periodically in the light of decisions taken by the Parties.

³ Based on the Sixth Assessment Report, Chapter 7: The Earth's energy budget, climate feedbacks, and climate sensitivity - Supplementary Material adopted by the Intergovernmental Panel on Climate Change, unless otherwise indicated.

* Default value, global warming potential not yet available.

⁴ Scientific Assessment of Ozone Depletion: 2018; Appendix A Summary of Abundances, Lifetimes, Ozone Depletion Potentials (ODPs), Radiative Efficiencies (REs), Global Warming Potentials (GWPs), and Global Temperature change Potentials (GTPs)

⁵ New Ozone-Depleting substances that have been reported by the Parties: Decisions XIII/5, X/8 and IX/24 (Updated May 2012).

https://ozone.unep.org/resources?term_node_tid_depth%5B883%5D=883

ANNEX III

Process agents

Processes referred to in Article 7 shall be any of the following:

- (a) use of carbon tetrachloride for the elimination of nitrogen trichloride in the production of chlorine and caustic soda;
- (b) use of carbon tetrachloride in the manufacture of chlorinated rubber;
- (c) use of carbon tetrachloride in the manufacture of poly-phenylene-terephthalamide;
- (d) use of CFC-12 in the photochemical synthesis of perfluoropolyetherpolyperoxide precursors of Z-perfluoropolyethers and difunctional derivatives;
- (e) use of carbon tetrachloride in production of cyclodime.

The maximum amount of ozone depleting substances that may be used as process agents within the Union shall not exceed 921 metric tonnes per year. The maximum amount of ozone depleting substances that may be released from process agent uses within the Union shall not exceed 15 metric tonnes per year.

ANNEX IV

Conditions for the placing on the market and further distribution of ozone depleting substances for essential laboratory and analytical uses referred to in Article 8(6)

1. Ozone depleting substances for essential laboratory and analytical uses shall be of the following purities:

Substance	%
CTC (reagent grade)	99,5
1,1,1-trichloroethane	99,0
CFC 11	99,5
CFC 13	99,5
CFC 12	99,5
CFC 113	99,5
CFC 114	99,5
Other ozone depleting substances with a boiling point > 20 °C	99,5
Other ozone depleting substances with a boiling point < 20 °C	99,0

These ozone depleting substances may be subsequently mixed by producers, agents, or distributors with other chemicals whether or not subject to control under the Protocol as is customary for laboratory and analytical uses.

2. Ozone depleting substances referred to in point 1 and mixtures containing those substances shall be supplied only in re-closable containers or high pressure cylinders smaller than three **dm³** or in 10 **cm³** or smaller glass ampoules, marked clearly as substances that deplete the ozone layer, restricted to laboratory and analytical uses and specifying that used or surplus substances are to be collected and recycled, if practical. The material shall be destroyed if recycling is not practical.
3. Used or surplus ozone depleted substances referred to in point 1 and mixtures containing those substances shall be collected and recycled if practical. Those substances and their mixtures shall be destroyed, if recycling is not practical.

ANNEX V

Critical uses of halon referred to in Article 9(1)

For the purposes of this Annex, the following definitions shall apply:

1. 'cut-off date' means the date after which halons shall not be used for fire extinguishers or fire protection systems in new equipment and new facilities for the application concerned;
2. 'new equipment' means equipment for which, by the cut-off date, neither of the following events has occurred:
 - (a) signature of the relevant procurement or development contract;
 - (b) submission of a request for type approval or type certification to the appropriate regulatory authority. For aircraft, submission of a request for type certification refers to a submission of a request for a new aircraft type certification;
3. 'new facilities' means facilities for which, by the cut-off date, neither of the following events has occurred:
 - (a) signature of the relevant development contract;
 - (b) submission of a request for planning consent to the appropriate regulatory authority;

4. 'end date' means the date after which halons shall not be used for the application concerned and by which date the fire extinguishers or fire protection systems containing halons shall be decommissioned;
5. 'inerting' means preventing the initiation of combustion of a flammable or explosive atmosphere by means of the addition of an inhibiting or diluting agent;
6. 'normally occupied space' means a protected space in which it is necessary for persons to be present most or all of the time in order for the equipment or facility to function effectively. For military applications, the occupancy status of the protected space *is* applicable during a combat situation;
7. 'normally unoccupied space' means a protected space that is occupied for limited periods only, in particular for undertaking maintenance, and where the continual presence of persons is not necessary for the effective functioning of the equipment or facility.

CRITICAL USES OF HALONS					
Application				Cut-off date	End date
Category of equipment or facility	Purpose	Type of extinguisher	Type of halon	(31 December of the stated year)	(31 December of the stated year)
1.On military ground vehicles	1.1. For the protection of engine compartments	Fixed system	1301 1211 2402	2010	2035
	1.2. For the protection of crew compartments	Fixed system	1301 2402	2011	2040
2.On military surface ships	2.1. For the protection of normally occupied machinery spaces	Fixed system	1301 2402	2010	2040
	2.2. For the protection of normally unoccupied engine spaces	Fixed system	1301 1211 2402	2010	2035
	2.3. For the protection of normally unoccupied electrical compartments	Fixed system	1301 1211	2010	2030
	2.4. For the protection of command centres	Fixed system	1301	2010	2030

	2.5. For the protection of fuel pump rooms	Fixed system	1301	2010	2030
	2.6. For the protection of flammable liquid storage compartments	Fixed system	1301 1211 2402	2010	2030
3.On military submarines	3.1. For the protection of machinery spaces	Fixed system	1301	2010	2040
	3.2. For the protection of command centres	Fixed system	1301	2010	2040
	3.3. For the protection of diesel generator spaces	Fixed system	1301	2010	2040
	3.4. For the protection of electrical compartments	Fixed system	1301	2010	2040
4.On aircraft	4.1. For the protection of normally unoccupied cargo compartments	Fixed system	1301 1211 2402	2024	2040
	4.2. For the protection of cabins and crew compartments	Portable extinguisher	1211 2402	2014	2025
	4.3. For the protection of engine nacelles and auxiliary	Fixed system	1301 1211 2402	2014	2040

	power units				
	4.4. For the inerting of fuel tanks	Fixed system	1301 2402	2011	2040
	4.6. For the protection of dry bays	Fixed system	1301 1211 2402	2011	2040
<i>5. In land-based command and communications facilities essential to national security</i>	<i>For the protection of normally occupied spaces</i>	<i>Fixed system</i>	<i>1301 2402</i>	<i>2010</i>	<i>2025</i>

ANNEX VI

Reporting referred to in Article 24

1. For the purpose of this Annex, production covers the amount of ozone depleting substances produced intentionally or inadvertently, including as a by-product unless that by-product is destroyed as part of the manufacturing process or following a documented procedure in compliance with this Regulation and Union and national legislation on waste, but not including the amounts recycled or reclaimed.
2. Each producer shall communicate the following data separately for each ozone depleting substance:
 - (a) its total production;
 - (b) any production placed on the market or used for the producer's own account within the Union, separately identifying production for feedstock, process agent and other uses;
 - (c) any production to meet the essential laboratory and analytical uses in the Union;
 - (d) any production to satisfy essential laboratory and analytical uses of another Party to the Protocol;
 - (e) any quantity recycled, reclaimed or destroyed and the technology used for the destruction, including amounts produced and destroyed as by-product as referred to in point 1;

- (f) any stocks *held at the beginning and the end of the reporting period*;
 - (g) any purchases from and sales to other undertakings in the Union;
 - (h) any emissions, including those related to production, by-production, storage and transport, including the transfer from one container to another.
3. Each importer shall communicate the following data separately for each ozone depleting substance:
- (a) any quantities released for free circulation in the Union, separately identifying imports for feedstock and process agent uses, for essential laboratory and analytical uses and for destruction. Importers which imported controlled substances for destruction shall also communicate the actual final destination or destinations of each of the substances, providing separately for each destination the quantity of each of the substances and the name and address of destruction facility where the substance was delivered;
 - (b) any quantities imported under other customs procedures separately identifying the customs procedure and the designated uses;
 - (c) any quantities of used substances imported for recycling or reclamation;
 - (d) any stocks *held at the beginning and the end of the reporting period*;
 - (e) any purchases from and sales to other undertakings in the Union;
 - (f) the origin country.

4. Each exporter shall communicate the following data separately for each ozone depleting substance:
- (a) any quantities of such substances exported, separately identifying quantities exported to each country of destination and quantities exported for feedstock and process agent uses, essential laboratory and analytical uses and critical uses;
 - (b) any stocks *held at the beginning and the end of the reporting period*;
 - (c) any purchases from and sales to other undertakings in the Union;
 - (d) the country of origin.
5. Each undertaking destroying ozone depleting substances and not covered by point 2(e) of this Annex, shall communicate the following data, separately for each substance:
- (a) any quantities destroyed, *specifying separately any* quantities contained in products or equipment, *and any quantities generated as by-product and destroyed, on the basis of information, where available, provided by producers or importers*;
 - (b) any stocks, *held at the beginning and the end of the reporting period*, waiting to be destroyed, including quantities contained in products or equipment;
 - (c) the technology used for the destruction;
 - (d) any emissions, including those linked to destruction, transport and storage, including the transfer from one container to another.

Each undertaking destroying ozone depleting substances listed in Annex I and not covered by point 2(e) of this Annex shall also communicate data on any purchases from and sales to other undertakings in the Union.

6. Each undertaking using as feedstock or process agents ozone depleting substances, shall communicate the following data, separately for each substance:
- (a) any quantities used as feedstock or process agents;
 - (b) any stocks *held at the beginning and the end of the reporting period*;
 - (c) the *types of feedstock uses and* processes and any emissions, including those linked to transport and storage, including the transfer from one container to another.

Each undertaking using as feedstock or process agents ozone depleting substances listed in Annex I shall also communicate data on any purchases from and sales to other undertakings in the Union.

ANNEX VII

Licensing System

1. Undertakings shall provide the following information to the Commission for registration purposes in the licensing system referred to in Article 16:
 - (b) the undertaking's contact details, including a telephone number, name as it appears in relevant official documents and its full address including, where applicable, of the only representative referred to in Article 16(3);
 - (b) the Economic Operators Registration and Identification (EORI) number;
 - (c) the full name and electronic address of a contact person of the undertaking including where applicable, of the only representative referred to in Article 16(3);
 - (d) a description of the undertaking's business activities (including whether the undertaking is an importer of substances or exporter of substances);
 - (e) written confirmation of the undertaking's intention to register confirming the correctness and accuracy of the information provided in the licensing system, signed by a beneficial owner or employee of the undertaking who is authorised to make legally binding statements on behalf of the undertaking, and, where applicable, also by the undertaking's only representative referred to in Article 16(3);
 - (f) any other information necessary for the identification of the legal or financial format or business specifications of the undertaking.

2. Undertakings shall provide the following information to the Commission for the purpose of applying for a licence required under Article 13(2) and Article 14(3), via an electronic format provided by the licensing system:
- (a) in the case of imports or exports of ozone depleting substances, a description of each of these substances, including:
 - (i) the name and intended use of the substance;
 - (ii) the tariff classification number of the goods in the integrated Tariff of the European Union 'TARIC';
 - (iii) whether the substance is in a mixture.
 - (b) In the case of imports or exports of products and equipment containing, or whose functioning relies upon, ozone depleting substances:
 - (i) the type and intended use of the products and equipment;
 - (ii) the name of the substance;
 - (iii) the tariff classification number of the goods in the integrated Tariff of the European Union 'TARIC'.
 - (c) in the case of imports of controlled substances or products and equipment for destruction, the name(s) and address(es) of the facility(ies) where they will be destroyed;
 - (d) any further information deemed necessary to ensure the correct implementation of the import and export rules under this Regulation and in accordance with international obligations.

ANNEX VIII

Correlation table

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