



Brussels, 18 January 2024
(OR. en)

5511/24

Interinstitutional File:
2022/0100(COD)

CODEC 97
ENV 59
CLIMA 25
PE 8

INFORMATION NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

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
- Outcome of the European Parliament's first reading
(Strasbourg, 15 to 18 January 2024)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the Joint declaration on practical arrangements for the codecision procedure¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this file at first reading.

In this context, the Chair of the Committee on the Environment, Public Health and Food Safety (ENVI) Pascal CANFIN (Renew, FR) presented on behalf of ENVI a compromise amendment (amendment number 74) to the abovementioned proposal for a Regulation, for which Jessica POLFJÄRD (PPE, SE) had prepared a draft report. This amendment had been agreed during the informal contacts referred to above. No other amendments were tabled.

¹ OJ C 145, 30.6.2007, p. 5.

II. VOTE

When it voted on 16 January 2024, the plenary adopted the compromise amendment (amendment number 74) to the abovementioned proposal for a Regulation. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto².

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

² The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in *bold and italics*. The symbol "■" indicates deleted text.

P9_TA(2024)0001

Ozone depleting substances

European Parliament legislative resolution of 16 January 2024 on the 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 (COM(2022)0151 – C9-0143/2022 – 2022/0100(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2022)0151),
 - having regard to Article 294(2) and Article 192(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0143/2022),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 15 June 2022¹,
 - after consulting the Committee of the Regions,
 - having regard to the provisional agreement approved by the committee responsible under Rule 74(4) of its Rules of Procedure, and the undertaking given by the Council representative by letter of 18 October 2023 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on the Environment, Public Health and Food Safety (A9-0050/2023),
1. Adopts its position at first reading hereinafter set out²;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C 365. 23.9.2022, p. 50.

² This position replaces the amendments adopted on 30 March 2023 (Texts adopted, P9_TA(2023)0093).

Position of the European Parliament adopted at first reading on 16 January 2024 with a view to the adoption of Regulation (EU) 2024/... of the European Parliament and of the Council on substances that deplete the ozone layer, and repealing Regulation (EC) No 1005/2009

(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,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure²,

¹ OJ C 365, 23.9.2022, p. 50.

² *Position of the European Parliament of 16 January 2024.*

Whereas:

- (1) The European Green Deal, *as set out in the Commission communication of 11 December 2019*, 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 an inclusive, fair and just transition, leaving no one behind*. Furthermore, the Union is committed to *ensuring the full implementation of Regulation (EU) 2021/1119 of the European Parliament and of the Council³ and of the 8th Environment Action Programme, established by Decision (EU) 2022/591 of the European Parliament and of the Council⁴, and is committed to the United Nations 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 *effects* on human health and ecosystems, the biosphere as well as to large economic implications if left unaddressed.

³ *Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law')(OJ L 243, 9.7.2021, p. 1).*

⁴ *Decision (EU) 2022/591 of the European Parliament and of the Council of 6 April 2022 on a General Union Environment Action Programme to 2030 (OJ L 114, 12.4.2022, p. 22).*

- (3) Pursuant to Council Decision 88/540/EEC⁵, the Union became a Party to the Vienna Convention for the *Protection* of the *Ozone Layer*⁶ and to *the* Montreal Protocol on *Substances* that *Deplete* the *Ozone Layer*⁷ (the ‘Protocol’). The Protocol and subsequent decisions of its Parties constitute a set of globally binding control measures to address *the depletion of the ozone layer*.
- (4) Regulation (EC) No 1005/2009 of the European Parliament and of the Council⁸ ensures, *inter alia*, that the Union complies with the Protocol. *In* its evaluation of *that* Regulation *the Commission* 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 reducing climate warming*.

⁵ 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).

⁶ OJ L 297, 31.10.1988, p. 10.

⁷ OJ L 297, 31.10.1988, p. 21.

⁸ 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, 31.10.2009, p. 1).

- (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 to reduce emissions, 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 (GWP) and are contributory factors towards increasing the temperature of the planet. Considering the significant findings of the *2021 Special Report of the* Intergovernmental Panel on Climate Change, 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 Change (*UNFCCC*) (*the ‘Paris Agreement’*)⁹ to keep a global temperature rise in this century well below 2 °C above pre-industrial levels and to pursue efforts to limit the temperature increase even further to 1,5 °C.

⁹ OJ L 282, 19.10.2016, p. 4.

- (7) In order to increase awareness *of* the GWP of ozone-depleting substances, in addition to the ozone-depleting potential (ODP) of the substances, their respective GWP should also be listed in this Regulation.
- (8) Regulation (EC) No 1005/2009 and previous Union *legal acts* established more stringent control measures than required under the Protocol, *providing for* 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 ozone-depleting substances *or whose functioning relies upon those 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.

(10) *The Union's production of ozone-depleting substances in 2021 was higher than it had been during the previous 10 years, and had increased by 27 % in 2021 compared to 2020. According to the report of the European Environment Agency entitled 'Ozone-Depleting Substances 2022', 90 % of the increase is due to feedstock use. Feedstock use increased by 11 % in 2021 compared to 2020. While a derogation for ozone-depleting substances used as feedstock in the chemical production of certain goods, including pharmaceuticals, is justified in the 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.*

The delegated acts should take into account the availability of technically and economically feasible alternatives, on the basis of the technical assessments carried out under the Protocol, in particular quadrennial reports and other technical reports prepared by the assessment panels under the Protocol, that include assessments of available alternatives to existing feedstock uses and of emission levels of existing feedstock uses, and that provide a sufficient basis for taking a decision whether to prohibit specific feedstock uses. Where no such assessments carried out under the Protocol are available, 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 and on the availability of technically and economically feasible alternatives, and should adopt, where appropriate and on the basis of that assessment, a delegated act to establish the list of chemical production processes for which the use of ozone-depleting substances listed in Annex I as feedstock is prohibited. The list can be updated, in light of the findings of the quadrennial reports prepared by the assessment panels under the Protocol or of the Commission's own assessment.

- (11) 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 *that* respect. The registration obligation under Regulation (EC) No 1005/2009 should be replaced with the requirement to *keep* records in order to *prevent* unlawful use and monitor *the development* of alternatives.
- (12) 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 *in* international standards.
- (13) *The* Halons Technical Options Committee, established under the Protocol, indicated that non-virgin halon stocks for critical uses might not be sufficient to meet the needs *at global level* from 2030 onwards. To avoid *having to produce* new halons to meet future needs, it is important to take measures to increase the availability, *and provide for adequate monitoring*, of stocks of halon recovered from equipment.

(14) Under Regulation (EC) No 1005/2009, the exemption for **all** critical uses of methyl bromide, **including** for quarantine and pre-shipment purposes, ceased on 18 March 2011. ***The Protocol contains provisions that govern emergency use. Those provisions have not so far been applied within the Union. It is therefore unlikely that any actor within the Union would need to make use of those provisions. However, as future emergency situations cannot be ruled out, and in order to align this Regulation with the Protocol, the possibility to grant a derogation in emergency situations, namely in the event of unexpected outbreaks of particular pests or diseases, should remain available where such emergency use is permitted under Regulations (EC) No 1107/2009¹⁰ and (EU) No 528/2012¹¹ of the European Parliament and of the Council. In such cases, the measures adopted to minimise 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 ***and repealing Council Directives 79/117/EEC and 91/414/EEC*** (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).

- (15) *There is growing concern over the impact on global emissions of some of the ozone-depleting substances not controlled under the Protocol, 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 Union production, in metric tonnes, of those ozone-depleting substances was approximately four times higher than the production of ozone-depleting substances controlled under the Protocol. However, when expressed in ODP tonnes, the production was approximately four times lower compared to the ozone-depleting substances listed in Annex I. Further containment measures are necessary and enhanced monitoring is important, including through provisions on recovery or destruction, leak repair and the prevention of unintentional release for ozone-depleting substances not controlled under the Protocol.*
- (16) Restrictions set out in this Regulation regarding products and equipment containing ozone-depleting substances should also cover products and equipment *whose functioning relies upon* those substances, in order to prevent circumvention of those restrictions.

- (17) It is important to ensure that ozone-depleting substances are allowed to be placed on the market for the *purposes* of reclamation in the Union. Ozone-depleting substances, and 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 *purposes* of destruction by *technology that* has been approved by the Parties *to the Protocol* or by technology that has not been approved *by the Parties to the Protocol* but complies with Union and national law.
- (18) Non-refillable containers for ozone-depleting substances should be *prohibited since, when those containers are emptied*, an amount of *refrigerant* inevitably remains, which is then released into the atmosphere. *This Regulation should prohibit their export*, import, placing on the market, subsequent supply or making available on the market, *and use, except for the purpose of essential* laboratory and analytical uses. *To ensure that refillable containers for ozone-depleting substances are refilled and not discarded, undertakings should be required to produce a declaration of conformity that includes evidence of the arrangements for the return of refillable containers for the purpose of refilling, when placing them on the market.*

- (19) 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 ozone-depleting substances produced for feedstock, process agent, essential laboratory and analytical uses *for free circulation*, those substances should be distinguished from substances that are produced for other uses.
- (20) *It should be possible in exceptional cases to permit the* export of products and equipment containing hydrochlorofluorocarbons where it *could* be more beneficial to allow *those* 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, *amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006* (OJ L 353, 31.12.2008, p. 1).

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

- (22) *In order to facilitate customs controls, it is important to specify the information to be submitted to customs authorities in Member States (the ‘customs authorities’) where ozone-depleting substances, products and equipment covered by this Regulation are imported or exported, as well as the tasks of customs authorities and, where relevant, market surveillance authorities, when they implement the prohibitions and restrictions on imports or exports of those substances, products and equipment. Regulation (EU) 2019/1020 of the European Parliament and of the Council¹³, which sets out rules on market surveillance and control of products entering the Union market, applies to the substances, products and equipment covered by this Regulation in so far as there are no specific provisions that regulate in a more specific manner particular aspects of market surveillance and enforcement. Where this Regulation lays down specific provisions, for example on customs controls, those more specific provisions prevail, thereby complementing the rules set out under 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 that are subject to this Regulation, including distance sales as referred to in Article 6 of Regulation (EU) 2019/1020.*
- (23) To avoid illegal trade *in* prohibited substances, products *and equipment* covered *by* 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 *of the Union* for release for free circulation, but also temporary storage and 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.

¹³ *Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L 169, 25.6.2019, p. 1).*

(24) 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. *Licences should be time-limited to ensure that undertakings review the use of alternatives at regular intervals.* In order to ensure automatic customs controls *in real time*, at shipment level, as well as *the* electronic exchange and *storage* of information on all shipments of substances, products and equipment covered by this Regulation *that are* presented to customs authorities, it is necessary to interconnect the electronic licensing system for ozone-depleting substances with the European Union Single Window Environment for Customs (*'EU Single Window Environment for Customs'*) established by Regulation (EU) **2022/2399** of the European Parliament and of the Council¹⁴. Given *that* interconnection with the *EU* Single Window Environment for Customs, it *would be* disproportionate to provide for a shipment licencing system in the Union.

¹⁴ Regulation (EU) **2022/2399** of the European Parliament and of the Council *of 23 November 2022* establishing the European Union Single Window Environment for Customs and amending Regulation (EU) No **952/2013** (OJ *L 317*, **9.12.2022**, p. *1*).

- (25) To ensure that substances, products and equipment covered by this Regulation that have been *illegally* imported in the Union market do not re-enter the market, competent authorities of Member States should confiscate or seize *those substances, products and equipment* for disposal. *The re-export of substances, products and equipment which does not comply* with this Regulation should *in any event* be prohibited.
- (26) Member States should ensure that *the customs office personnel* or other authorised persons in accordance with national rules carrying out controls under this Regulation *have* the appropriate resources and knowledge, for example *by way of* training made available to them, and *are* sufficiently equipped *to* address cases of illegal trade in *the ozone-depleting* substances, products and equipment covered by this Regulation. Member States should designate the customs offices or other places that meet those conditions and are therefore mandated to carry out customs controls on imports, exports and in cases of transit.

- (27) Cooperation and exchange of necessary information between all competent authorities of Member States 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, *in particular* 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.
- (28) In carrying out the tasks assigned to it by this Regulation, and *with a view to* promoting cooperation and adequate exchange of information between competent authorities and the Commission in *the* case of compliance checks and illegal trade in ozone-depleting substances, the Commission should make use of the European Anti-Fraud Office (OLAF) *established by Commission Decision 1999/352/EC, ECSC, Euratom*¹⁵. OLAF should have access to all necessary information to facilitate the performance of its tasks.

¹⁵ *Commission Decision 1999/352/EC, ECSC, Euratom of 28 April 1999 establishing the European Anti-fraud Office (OLAF) (OJ L 136, 31.5.1999, p. 20).*

- (29) In order to ensure compliance with the Protocol, the import *from* and export *to a State that is not party to the Protocol* of ozone-depleting substances, and products and equipment containing those substances or *whose functioning relies upon* those substances should be prohibited.
- (30) 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 GWP. *It is therefore* 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 *the reduction of* emissions.

- (31) *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 ozone-depleting substances contained in the foams.*
- (32) *It is necessary to lay down rules on ozone-depleting substances not controlled under 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 those substances. There are other recognised issues affecting the ozone layer recovery in sectors outside the scope of this Regulation. These include nitrous oxide which, based on ODP-weighted emissions, is one of the most significant ozone-depleting substances remaining. Nitrous oxide constitutes 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’. Another issue is intense wildfires, which it is important to prevent, as they can substantially increase stratospheric aerosol and hence have the potential to perturb stratospheric ozone.*

- (33) Member States should report *to the Commission* on cases of illegal trade detected by competent authorities, *including on the penalties imposed*.
- (34) The use of halons should be allowed *only* for critical uses established in this Regulation. Member States should report on the quantities of halons installed, used or stored for critical uses, as well as on containment measures to reduce emissions of *those* substances and on progress made in identifying alternatives. *That* information is needed for knowing the halon quantities still available in the Union for critical uses, as well as for monitoring technological progress in *that* area *to determine when* halon is no longer necessary *for certain uses*.
- (35) The Protocol requires *the* 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 controlled under the Protocol, listed in Annex II, should also be reported in order to be able to assess whether there is a need to extend some or all of the control measures applicable *to ozone-depleting* substances listed in Annex I to also cover those substances.

(36) *On behalf of the Union, the Commission reports annually to the Ozone Secretariat on the import and export of ozone-depleting substances controlled under the Protocol. Although Member States are responsible for the reporting of production and destruction of such substances, the Commission should provide draft data on those activities in order to facilitate the early calculation of the Union's consumption by the Ozone Secretariat. In the absence of notifications extending the regional economic integration organisation clause, the Commission should continue that practice of annual reports while ensuring that Member States are provided with sufficient time to review the draft data provided by the Commission in order to avoid inconsistencies.*

(37) The competent authorities of Member States, including environmental authorities, market surveillance and customs authorities, should carry out checks, *on* a risk-based approach, in order to ensure compliance with this Regulation. Such *an* approach is necessary in order to target *those* activities which represent the highest risk of illegal trade *in*, or unlawful release of, ozone-depleting substances *covered by this Regulation*. 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 *carry out* a risk analysis prior to controls, in accordance with Article 47 of Regulation (EU) No 952/2013 of the European Parliament and of the Council¹⁶. It is important to ensure that where cases of infringements of this Regulation have been established by competent authorities, the competent authorities responsible for following up the issuance of penalties are informed in order to be able to *impose* the appropriate penalty where it is needed.

¹⁶ 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](#)).

- (38) Member States should *ensure that* infringements of **■** this Regulation *by undertakings* are *subject to* effective, proportionate and dissuasive *penalties*.
- (39) *Member States should be able to lay down rules for criminal penalties or administrative penalties or both for the same infringement. Where Member States impose both criminal and administrative penalties for the same infringement, those 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 of the European Union.*

- (40) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards:
- 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 *laboratory* 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, *subsequent* 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 *for subsequent use* of trifluoromethane *produced as a* by-product during the production of ozone-depleting substances;
- the form and content of labelling requirements;
- the authorisation of trade with entities not covered by the Protocol;
- the format for the submission of information by Member States on critical uses of halons and illegal trade; *and*
- 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 Council¹⁷.

¹⁷ 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).

- (41) In order to supplement or 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 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 *set out* in Annex V for critical uses of halons;
 - the functioning of the licensing system for ozone-depleting substances;
 - additional measures *to specify what competent authorities of Member States have to take into account when carrying out checks, and additional measures* for the monitoring of substances, products and equipment *covered by this Regulation* placed under temporary storage and *other* 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 technology to be applied;
- amendments of Annexes I and II;
- the update of GWP and ODP of *ozone-depleting* substances;
- the reporting requirements for Member States on critical uses of halons and illegal trade; and
- the reporting requirements for 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-Making¹⁸. 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.

¹⁸ *OJ L 123, 12.5.2016, p. 1.*

- (42) The protection of individuals with regard to the processing of personal data by the Member States is governed by Regulation (EU) 2016/679 of the European Parliament and of the Council¹⁹ and the protection of individuals with regard to the processing of personal data by the Commission is governed by Regulation (EU) 2018/1725 of the European Parliament and of the Council²⁰, 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.
- (43) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered *formal comments on 20 May 2022*.

¹⁹ Regulation (EU) 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 (*General Data Protection Regulation*) (OJ L 119, 4.5.2016, p. 1).

²⁰ Regulation (EU) 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).

- (44) *According to settled case law of the Court of Justice of the European Union, it is for the courts of the Member States to ensure judicial protection of a person's rights under Union law. Furthermore, Article 19(1) of the Treaty on European Union (TEU) requires Member States to provide remedies that are sufficient to ensure effective legal protection in the fields covered by Union law. In that respect, Member States should ensure that the public, including natural or legal persons, has access to justice in line with the obligations that Member States have agreed to under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters²¹ of 25 June 1998 (the 'Aarhus Convention').*
- (45) Since the objectives of this Regulation, *namely to address the depletion of the ozone layer, thereby contributing to stratospheric ozone recovery, to reducing climate warming and to ensuring compliance with the Protocol*, 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 TEU. 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.
- (46) 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 *by this Regulation*,

HAVE ADOPTED THIS REGULATION:

²¹ *OJ L 124, 17.5.2005, p. 4.*

Chapter I
General provisions

Article 1
Subject matter

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

Article 2
Scope

This Regulation applies to:

- (a) the ozone-depleting substances listed in Annexes I and II and their isomers, whether alone or contained in mixtures; ***and***
- (b) 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 *whose* emissions are insignificant;
- (2) ‘process agents’ means *any* 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 into 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 (the ‘Protocol’)*, 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 *of substances, products and equipment* from the customs territory of the Union, in so far as the territory is covered by a ratification of the Protocol;

- (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 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;
- (7) *‘producer’ means any natural or legal person producing ozone-depleting substances within the Union;*
- (8) ‘recovery’ means the collection and storage of ozone-depleting substances from *containers*, products and equipment during maintenance or servicing or prior to the disposal of the containers, *products or* equipment;
- (9) ‘recycling’ means the reuse of a recovered ozone-depleting substance following a basic cleaning process, including filtering and drying;

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

- (15) ‘decommissioning’ means the **permanent** removal from operation or usage of a product or of equipment **that contains** ozone-depleting substances, including the final shutdown of **a facility**;
- (16) ‘destruction’ means the process of transforming or decomposing, permanently and as completely as possible, an ozone-depleting substance into one or more stable substances that are not ozone-depleting substances;
- (17) ‘establishment within the Union’ means, **in relation to** a natural person, **for that person** to have his or her habitual residence in the Union and, **in relation to** a legal person, **for that person** to have a permanent business establishment as referred to in Article 5, **point** (32), of Regulation (EU) No 952/2013 **in the Union**;
- (18) **‘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;**
- (19) **‘laminated board’ means a foam board that is covered by a thin layer of a non-rigid material, such as plastic.**

Chapter II
Prohibitions

Article 4

Prohibitions related to 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, **shall be** prohibited.
2. **The import or** export of ozone-depleting substances listed in Annex I **shall be** prohibited.

Article 5

Prohibitions related to 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, ***shall be*** prohibited.
2. ***The import or*** export of products and equipment containing ozone-depleting substances listed in Annex I or whose functioning relies upon those substances ***shall be*** prohibited. ***That prohibition shall not apply to personal effects.***

Chapter III
Exemptions to prohibitions

Article 6
Feedstock

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 *in order* to be used as feedstock.
2. *The Commission shall, where appropriate, 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 on the basis of the technical assessments carried out under the Protocol, in particular the quadrennial reports prepared by the assessment panels under the Protocol, that include assessments of available alternatives to existing feedstock uses and of emission levels of existing feedstock uses.*

3. *By way of derogation from paragraph 2, where no technical assessments of available alternatives to existing feedstock uses and of emission levels of existing feedstock uses carried out under the Protocol are available that provide a sufficient basis for taking a decision whether 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 (ODP) 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 that assessment, the delegated acts referred to in paragraph 2.*
4. *The list established pursuant to paragraph 2 may be updated, where necessary, in light of the findings of the quadrennial reports prepared by the assessment panels under the 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 *in order* to be used as process agents in the processes referred to in Annex III. *Those substances shall only be used as process agents* subject to the conditions *laid down pursuant to paragraphs 2 and 3 of this Article*.
2. Ozone-depleting substances referred to in paragraph 1 *shall* 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, *and* 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 *of this Article*, 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 *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 **in order** to be used for essential laboratory and analytical uses, **and** 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. *An undertaking that places* on the market *and* subsequently *supplies* or *makes* available to another person within the Union for payment or free of charge ozone-depleting substances for essential laboratory and analytical uses *as* referred to in paragraph 1 shall *keep* records of the following information *for each substance*:
- (a) name;
 - (b) *quantity* placed on the market or supplied;
 - (c) purpose of use;
 - (d) list of the purchasers and suppliers.
4. *An undertaking that uses* ozone-depleting substances for *essential* laboratory and analytical uses as referred to in paragraph 1 shall *keep* records of the following information *for each substance*:
- (a) name;
 - (b) *quantity* supplied or used;
 - (c) purpose of use;
 - (d) list of suppliers.

5. The records referred to in paragraphs 3 and 4 shall be *kept* for *at least 5* years and shall be made available, upon request, to the competent authorities of the Member State concerned or to the Commission.
6. Ozone-depleting substances for essential laboratory and analytical uses *as* 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 *halons*

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 *critical* uses referred to in paragraph 1 of this Article or whose functioning relies upon those halons shall be decommissioned by the end dates *set out* in Annex V. *The halons* contained in *fire protection systems and fire extinguishers* 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 technology is not available for the *critical* uses listed in that Annex within the timeframes set out *therein* or not acceptable due to their *effect* on *the* 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, by the International Civil Aviation Organization or under the International Convention for the Prevention of Pollution from Ships.

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 *set out* in Annex V for a *specific* case where it is demonstrated in the *derogation* request that no technically and economically feasible alternative is available for that particular application. The Commission *shall* include *reporting requirements* in those implementing acts and *shall* require *the* submission of supporting evidence necessary for monitoring the use of the derogation, including evidence on *quantities of halons* recovered for recycling or reclamation, results of leak checks and *quantities* 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 *the* 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 Regulations (EC) No 1107/2009 and (EU) No 528/2012. Any unused quantities of methyl bromide shall be destroyed.
2. *The implementing* acts referred to in paragraph 1 of this Article 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 *the* submission of supporting evidence necessary for monitoring the use of methyl bromide, including evidence on the destruction of *the substance* 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

Exemptions relating to 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 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(1), fire protection systems and fire extinguishers containing halons ***shall be*** prohibited and shall be decommissioned.
3. Products and equipment containing ozone-depleting substances or whose functioning relies upon those substances shall be decommissioned when they reach the end of their life ***cycle***.

Article 12
Destruction and reclamation

By way of derogation from Article 4(1) and *Article* 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, 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(6). 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 technology *as* referred to in Article 20(6);
- (e) *ozone-depleting substances for reclamation as referred to in Article 12;*
- (f) *methyl bromide for emergency use in accordance with Article 10;*
- (g) 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;
- (h) products and equipment containing halons or whose functioning relies upon halons, *for the purposes of* critical uses referred to in Article 9(1);
- (i) products and equipment containing ozone-depleting substances, or whose functioning relies upon those substances, for destruction, where applicable by technology *as* referred to in Article 20(6);
- (j) products and equipment containing ozone-depleting substances or whose functioning relies upon those substances, *for the purposes of* essential laboratory and analytical uses *as* referred to in Article 8.

2. *The imports referred to in paragraph 1 of this Article shall be subject to the presentation of a valid licence to customs authorities issued by the Commission pursuant to Article 16, except in the case of temporary storage.*

Article 14

Exports

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 *as* 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 *as* referred to in Article 9(1) by undertakings authorised by the competent authority of a Member State *concerned to store halons for critical uses*;
- (f) products and equipment containing halons or whose functioning relies upon halons, *for the purposes of* critical uses *as* referred to in Article 9(1);
- (g) products and equipment containing ozone-depleting substances imported under Article 13(1), point (j), 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 *accordance* with *domestic* legislation of the country of destination. ***Before authorising the export request, the Commission shall verify that the domestic legislation of the country of destination ensures that such products and equipment shall, after the end of their life cycle, be handled in an appropriate way with a view to 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 country of destination thereof.

3. ***The exports*** referred to in paragraphs 1 and 2 of this Article shall be subject to the presentation of a *valid* licence to customs authorities issued by the Commission *pursuant to* Article 16, ***except in the case*** 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, *use* or export of non-refillable containers for ozone-depleting substances, empty, or fully or partially filled, **shall be prohibited**, except for essential laboratory and analytical uses *as* referred to in Article 8. Such containers may only be stored or transported for subsequent disposal.

The first *subparagraph shall apply* to non-refillable containers, namely:

- (a) containers which cannot be refilled without being adapted for that purpose; and
 - (b) containers *which* could be refilled but are imported or placed on the market without provision having been made for their return for refilling.
2. Any non-refillable containers *as referred to in paragraph 1, point (a)*, shall be seized, **confiscated**, withdrawn or recalled from the market by the customs authorities or the market surveillance authorities for disposal *by destruction*. It shall be prohibited to re-export non-refillable containers that *are prohibited pursuant to paragraph 1*.

3. *Undertakings which place on the market refillable containers for ozone-depleting substances shall produce a declaration of conformity that includes evidence confirming that there are binding arrangements in place for the return of those containers 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 refillable containers for ozone-depleting substances to the end-user.*

The undertakings referred to in the first subparagraph shall keep the declaration of conformity for a period of at least 5 years from the placing on the market of the refillable containers for ozone-depleting substances and shall make that declaration available, upon request, to the competent authority of the Member State concerned or to the Commission. Suppliers of refillable containers for ozone-depleting substances to end-users shall keep evidence of compliance with the binding arrangements referred to in the first subparagraph for a period of at least 5 years from supply to the end-user and shall make that evidence available, upon request, to the competent authority of the Member State concerned or to the Commission.

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

4. The placing on the market of ozone-depleting substances shall be prohibited, unless producers or importers provide evidence to the competent authority of a Member State at the time of such placing *on the market*, that any trifluoromethane, produced as a by-product during the production process *of the ozone-depleting substances*, including during the production of feedstock for the production *of those substances*, has been destroyed or recovered for subsequent use, using best available techniques.

For the purpose of *providing that* evidence, producers and importers shall draw up a declaration of conformity, *accompanied by* 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 (R-22) as part of the production 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 accordance with the requirements under the Protocol;*
- (d) *on 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 5 years from the placing on the market and make them available, upon request, to the competent authority of the Member State concerned or 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).

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

Containers containing the *ozone-depleting* substances intended for the uses referred to in Articles [6](#), [7](#), [8](#) and [12 of this Regulation](#) shall be labelled with a clear indication that the substance may only be used for the applicable purpose. Where such substances are subject to *the* 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\(2\)](#).

6. *Undertakings that produce, including as by-production or side-production, place on the market, supply to another person in the Union or receive from another person in the Union ozone-depleting substances listed in Annex I intended for use as feedstock, as process agents or intended to be destroyed or reclaimed, as well as undertakings that destroy or reclaim those substances or use those substances as feedstock or as process agents, shall keep records containing at least the following information for each ozone-depleting substance, as applicable:*
- (a) name of the ozone-depleting substance or mixture containing such substance;*
 - (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 during the given calendar year and specifying the actual use; and*
- (f) quantity stored on 1 January and 31 December of the given calendar year.*

The undertakings shall keep the records referred to in the first subparagraph for at least 5 years after production, placing on the market, supply or receipt, and shall make them available, upon request, to the competent authorities of the Member State concerned or to the Commission. Those competent authorities and the Commission shall ensure the confidentiality of information contained in those 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 for products and equipment containing those substances or whose functioning relies upon those substances (the ‘licensing system’).
2. Undertakings that wish to obtain the licences required in accordance with Article [13\(2\)](#) *or* Article 14(3) shall submit *an* application 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 *set out* in Annex VII.

3. *Licences* may be issued to undertakings *with an establishment within* the Union and to undertakings *with an establishment* outside the Union.

Undertakings *with an establishment* outside the Union shall *appoint* an only representative with an establishment within the Union that assumes the full responsibility for *compliance* with this Regulation. The only representative may be the same as the one *appointed* pursuant to Article 8 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council²².

4. *Licences shall* be time-limited. They shall remain valid until they expire, are suspended or revoked by the Commission pursuant to this Article, or are withdrawn by the undertaking. *In the case of imports or exports of recovered, recycled or reclaimed halons stored for critical uses referred to in Article 9(1), the time limit shall not exceed the end date for the critical use set out in Annex V.*
5. Each undertaking that holds a licence shall, during the period of validity of the *licence*, 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. The competent authorities of 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.

²² 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).

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 *licence* shall be suspended where there is reasonable suspicion that any obligation set out in this Regulation is not complied with. A *licence* shall be revoked where there is evidence that any obligation set out in this Regulation is not complied with. The *licence* application shall also be rejected or the *licence* revoked where there is evidence of serious or repeated infringements of Union customs *law* or *Union* environmental *law* 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 taken by the country of destination 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. The competent authorities of 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 Environment for Customs ('EU Single Window Environment for Customs') referred to in paragraphs 14 and 15.
12. The competent authorities of Member States and the Commission 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 *EU* Single Window Environment for Customs through the European Union Customs Single Window Certificate Exchange System established by Regulation (EU) **2022/2399**.
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.

Article 17

Trade controls

1. Customs authorities and market surveillance authorities shall enforce the prohibitions and other restrictions set out in this Regulation with regard to imports and exports.
2. For the *purposes* of import, the undertaking holding the *licence* pursuant to Article 13(2) *of this Regulation* shall be the importer. *Where the importer is* not available, the *undertaking holding that* licence *shall be the* declarant indicated in the customs declaration *who is the holder of the authorisation for a special procedure other than transit, unless there is a transfer of rights and obligations pursuant to Article 218 of Regulation (EU) No 952/2013 to allow another person to be the declarant. In the case of transit procedure, the undertaking holding the licence shall be the holder of the procedure.*

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

3. In cases of imports of ozone-depleting substances, and 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 the following *information*, where relevant, *in the customs declaration*:
 - (a) *licensing system registration identification number and* the number of the licence pursuant to Article 13(2) and Article 14(3);

- (b) Economic Operators Registration and Identification (EORI) number;
 - (c) net mass of ozone-depleting substance(s), also when included in products and equipment;
 - (d) net mass multiplied by the ODP of the ozone-depleting substance(s), also when included in products and equipment;
 - (e) commodity code under which the goods are classified.
4. Customs authorities shall verify, in particular, *whether* 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 *licence* 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 *EU* Single Window Environment for Customs.

6. Importers of ozone-depleting substances listed in Annex I in refillable containers shall make available to customs authorities at the time *when* the customs declaration related to the release for free circulation is submitted a declaration of conformity *as referred to in Article 15(3)*, 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 (g), and exporters of halons in accordance with Article 14(1), point (e), shall make available to customs authorities at the time *when* 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 (g) and Article 14(1), point (e).
8. Importers of ozone-depleting substances shall make available to customs authorities at the time *when* the customs declaration related to the release for free circulation is submitted the evidence referred to in Article 15(4).

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 *the* Customs Risk Management System and in accordance with Article 46 of Regulation (EU) No 952/2013. *That* risk analysis shall take into account, in particular, any available information on the likelihood of illegal trade *in* ozone-depleting substances and the compliance history of the undertaking concerned.
10. Based on risk analysis, when carrying out physical customs controls *on the ozone-depleting* substances, 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(5) before *those goods are released* for free circulation.

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

11. Customs authorities shall confiscate or seize **■** the *ozone-depleting* substances, 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 in order to ensure the confiscation and seizure of such substances, products and equipment for their disposal*. Market surveillance authorities shall also withdraw or recall from the market such substances, products and equipment in accordance with Article 16 of Regulation (EU) 2019/1020.

The re-export of *ozone-depleting* substances, products and equipment *covered by this Regulation* that do not comply with this Regulation *shall be* prohibited.

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

13. Member States 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 authorities of ozone-depleting substances listed in Annex I *to this Regulation*, 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 customs office personnel or by other authorised persons in accordance with national rules, who are* knowledgeable about matters related to the prevention of illegal activities *covered by* this Regulation *and have access to suitable equipment to carry out the relevant physical controls based on risk analysis.*

Only the designated or approved *customs offices or other* places referred to in the first subparagraph shall be authorised to open or end a transit procedure of ozone-depleting substances listed in Annex I, *or of* products and equipment containing *those substances* or whose functioning relies upon *those* 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, and products and equipment containing those substances or whose functioning relies upon those substances, the Commission is empowered to adopt delegated acts in accordance with Article 29 to:***
 - (a) ***supplement this Regulation by specifying the criteria to be taken into account by the competent authorities of Member States when carrying out checks, in accordance with Article 26, to establish whether undertakings comply with their obligations under this Regulation;***
 - (b) ***supplement this Regulation by specifying the requirements to be checked when monitoring, in accordance with Article 17, ozone-depleting substances, and products and equipment containing those substances or whose functioning relies upon those substances, placed under temporary storage or *under a customs* procedure, including customs warehousing or the free zone procedure, or in transit through the customs territory of the Union;***

(c) amend this Regulation by adding tracing methodologies for ozone-depleting substances placed on the market for the monitoring, in accordance with Articles 13 and 14, of imports and exports of ozone-depleting substances, and products and equipment containing those substances or whose functioning relies upon those substances, placed under temporary storage or under a customs procedure.

2. When adopting a delegated act under paragraph 1, the Commission shall take into account the environmental benefits and socio-economic impacts of the methodology to be established under points (a), (b) and (c) of that paragraph.

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 substance controlled under the Protocol, 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 and export of products and equipment imported from and exported to any *State* or regional economic integration organisation *within the meaning of* 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, *any* periodic 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 *within the meaning of* paragraph 1 in ozone-depleting substances listed in Annex I, and in *products 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 by the Parties to the Protocol, as referred to in 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 *within the meaning of* 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 *which are* contained in refrigeration and air-conditioning equipment and heat pumps, 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 such recovery is regulated under other Union legal acts.*

2. ***From 1 January 2025, 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, ***emissions*** are avoided to the extent possible by ***handling the foams or the substances contained therein in a way that ensures the*** destruction of those ***substances***. ***In the case of recovery of those substances, the recovery shall be carried out only by appropriately qualified natural persons.***

3. ***From 1 January 2025, 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, emissions are avoided to the extent possible by ***handling the foams or the substances contained therein in a way that ensures the*** destruction of those ***substances***. ***In the case of recovery of those substances, the recovery shall be carried out only by appropriately qualified natural persons.***

Where removal of the foams referred to in the first subparagraph is not technically feasible, the building owner or contractor shall draw up documentation providing evidence on the infeasibility of the removal in the specific case. Such documentation shall be ***kept*** for ***5*** years and shall be made available, upon request, to the competent authority of the Member State concerned or ***to*** the Commission.

4. 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.

The destruction of *halons shall be* 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 *keep* this documentation for *at least 5* years. Such documentation shall be made available, upon request, to the competent authority of the Member State concerned or *to* the Commission.

5. Ozone-depleting substances contained in products and equipment other than those mentioned in paragraphs 1 to 4 shall, if technically and economically feasible, be recovered for destruction, recycling or reclamation, or shall be destroyed without prior recovery, *unless such recovery is regulated under other Union legal acts*.

6. Ozone-depleting substances listed in Annex I, and products and equipment containing such substances, shall be destroyed **only** by destruction technology **that has been** approved by the Parties to the Protocol.

Other ozone-depleting substances for which the destruction technology has not been approved shall be destroyed only by destruction technology that complies with Union and national law on waste and where additional requirements under such law are met.

7. 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 technology to be applied.

8. 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 leak checks

1. The intentional release of ozone-depleting substances into the atmosphere, including when contained in products and equipment, 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 during production, including *where a release is* inadvertently produced in the course of the production of other chemicals, equipment manufacturing process, use, storage and transfer from one container or system to another or transport.
3. ***Operators of refrigeration and air conditioning equipment or heat pumps, or fire protection systems, including their circuits, which contain ozone-depleting substances listed in Annex I shall ensure that 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 leaks at least once every 12 months, with the exception of equipment with hermetically sealed systems which are labelled as such and contain less than 6 kg of ozone-depleting substances listed in Annex I;***

- (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 leaks at least once every 6 months;*
- (c) *with a fluid charge of 300 kg or more of ozone-depleting substances listed in Annex I are checked for leaks at least once every 3 months.*
4. Operators of equipment *or systems* containing ozone-depleting substances shall ensure that any detected leakage is repaired without undue delay, without prejudice to the prohibition to use *those* ozone-depleting substances, *unless such recovery is regulated under other Union legal acts.*
5. Operators referred to in paragraph 4 shall *keep* records of 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 systems referred to in that paragraph.* They shall also *keep* records of other relevant information, including the identification of the *undertaking* which performed leak checks, the maintenance or servicing, as well as the dates and results of the leak checks carried out. *Those* records shall be *kept* for *at least 5* years and shall be made available, upon request, to the competent authority of the Member State concerned or to the Commission.
6. Member States shall establish the minimum qualification requirements for the personnel carrying out activities referred to in paragraphs 3 and 4.

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 ODP.

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 *of this Article*, 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 Chapter 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 (GWP) and ODP of *those* substances, where it is necessary in the light of new *assessment reports* by the Intergovernmental Panel on Climate Change or new reports *by* the SAP, *and to add, where available, GWP of those substances over a 20-year timescale to those Annexes.*

Article 23

Reporting by the Member States

1. **By 30 June 2024, and every year thereafter,** 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 or stored for critical uses, *referred to in* 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 of this Article. 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 2025 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 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 competent authorities of Member States and the Commission shall take appropriate measures to protect the confidentiality of the information submitted to *them* 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. **Where required to ensure compliance with this Regulation**, the competent authorities of each Member State, including customs authorities, market surveillance authorities, environmental authorities and **any** other **competent** authority 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 .

Where cooperation with customs authorities is needed to ensure a proper implementation of the **Customs Risk Management System**, competent authorities of Member States shall provide all necessary information to customs **authorities** in accordance with Article 47(2) of Regulation (EU) No 952/2013.

2. *Where the* customs authorities, *the* market surveillance authorities or any other competent authority of a Member State *detect* 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 violation *of environmental law*, as well as data recorded in the licensing system.

The information referred to in the first subparagraph 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 **an** 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 **does not comply** 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 **infringements** of this Regulation in accordance with **Council** Regulation (EC) No 515/97²³ and shall request assistance from the other Member States and the Commission where necessary.

²³ **Council** Regulation (EC) No 515/97 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, customs authorities, market surveillance authorities, environmental authorities and other authorities with inspection functions *of the Member States*, or from competent authorities of third countries.

The competent authorities of Member States shall also *carry out* 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. *The checks* referred to in paragraphs 1 and 2 shall include:

(a) on-site visits of establishments with the appropriate frequency and verification of relevant documentation and equipment; *and*

(b) *checks of online platforms pursuant to this paragraph.*

Without prejudice to Regulation (EU) 2022/2065 of the European Parliament and of the Council²⁴, where an online platform, falling within the scope of Chapter III, Section 4, of that Regulation, allows distance contracts to be concluded with undertakings offering ozone-depleting substances or products and equipment that contain such substances, competent authorities of Member States 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 *given to* the undertaking, except where prior notification is necessary in order to ensure the effectiveness of the checks. Member States shall ensure that undertakings *provide* the competent authorities *with* all necessary assistance to enable those authorities to carry out the checks provided for in this Article.

²⁴ *Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) (OJ L 277, 27.10.2022, p. 1).*

4. The competent authorities of Member States shall keep records of the checks, indicating in particular their nature and results, *and of* the measures taken in *the event* of non-compliance. Records of all checks shall be kept for at least 5 years.
5. At the request of another Member State, a Member State may carry out checks or other formal investigations of undertakings suspected of being engaged in the illegal movement of substances, products or 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 or of the investigation.
6. In carrying out the tasks assigned to it by this Regulation, the Commission may request all necessary information from competent authorities of 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 Member States and between those competent authorities and the Commission. The Commission shall take appropriate steps to protect the confidentiality of information obtained under this Article.

Chapter VIII

Penalties, committee procedure and exercise of *the* 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 Council²⁵, Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that *those penalties* are implemented. **Before 1 January 2026**, Member States shall 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 shall be effective, proportionate and dissuasive, and shall be determined while having due regard to the following, as applicable:***
 - (a) ***the nature and gravity of the infringement;***

²⁵ ***Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law (OJ L 328, 6.12.2008, p. 28).***

- (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 in accordance with paragraph 4; however, Member States may also, or alternatively, use criminal penalties, provided that they are equivalently effective, proportionate and dissuasive as the administrative financial penalties;*
- (b) *confiscation or seizure, or withdrawal or removal from the market, or taking possession by the competent authorities of Member States of illegally obtained goods;*
- (c) *temporary prohibition from using, producing, importing, exporting or placing on the market the ozone-depleting substances or products and equipment containing ozone-depleting substances or whose functioning relies upon them, in the event of a serious infringement or of repeated infringements.*

4. *Administrative financial penalties referred to in paragraph 3, point (a), shall be proportionate to the environmental damage, where applicable, and effectively deprive those responsible of the economic benefits derived from their infringements. The level of administrative financial penalties shall gradually increase for repeated infringements.*

In the case 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 upon those substances, the maximum amount of the administrative financial penalty shall be at least five times the market value of the ozone-depleting substances or products and equipment concerned. Where such infringements are repeated within a five-year period, the maximum amount of the administrative financial penalty shall be at least eight times the market value of the ozone-depleting substances or products and equipment concerned.

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(2)**, Article 7(4), Article 8(7), Article 9(3), Article 18(1), Article 19(2), Article 20(7), Article 22, Article 23(3) and Article 24(4) shall be conferred on the Commission for an indeterminate period of time *from ...[date of entry into force of this Regulation]*.

The power to adopt delegated acts referred to in Article 16(13) shall be conferred on the Commission for an indeterminate period of time from 3 March 2025.

3. The delegation of power referred to in **Article 6(2)**, Article 7(4), Article 8(7), Article 9(3), Article 16(13), Article 18(**I**), Article 19(2), Article 20(7), 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 Interinstitutional 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 6(2)*, Article 7(4), Article 8(7), Article 9(3), Article 16(13), Article 18(*I*), Article 19(2), Article 20(7), 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 *by* 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 *IX*
Transitional and final provisions

Article 30
Review

1. By 1 January 2030, the Commission shall publish a report on the effects of this Regulation. *The report shall include an assessment of the availability of alternatives to ozone-depleting substances for uses regulated under Articles 6 to 9.*
2. *The European Scientific Advisory Board on Climate Change established under Article 10a of Regulation (EC) No 401/2009 of the European Parliament and of the Council²⁶ may, on its own initiative, provide scientific advice and issue reports on the coherence of this Regulation with the objectives of Regulation (EU) 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 ... [one 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 ... [one day before the date of entry into force of this Regulation] shall continue to apply with regard to the reporting period from 1 January 2023 to 31 December 2023.*
4. References to the repealed Regulation shall be construed as references to this Regulation and *shall be* read in accordance with the correlation table in Annex VIII.

²⁶ *Regulation (EC) No 401/2009 of the European Parliament and of the Council of 23 April 2009 on the European Environment Agency and the European Environment Information and Observation Network (OJ L 126, 21.5.2009, p. 13).*

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*.

Article 16(1), (2) *and* (4) to (15), *Article* 17(5) *and Annex VII, 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 *for all other import procedures and for* export.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ...,

For the European Parliament

For the Council

The President

The President

ANNEX I

Ozone-depleting substances referred to in Article 2, *point (a)*¹

Group	Substance			Ozone-depleting potential (ODP) ²	<i>Global warming potential (GWP)</i> ³
Group I	CFC ₁₃	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	(*)

¹ ***This Annex includes the ozone-depleting substances and their isomers. As per Article 2, point (a), mixtures containing the ozone-depleting substances listed in this Annex are considered as ozone-depleting substances covered by this Regulation.***

² The figures relating to ODP 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, GWP not yet available.

Group	Substance			Ozone-depleting potential (ODP) ²	<i>Global warming potential (GWP)³</i>
	C ₃ F ₂ Cl ₆	CFC-212	Hexachlorodifluoropropane	1,0	(*)
	C ₃ F ₃ Cl ₅	CFC-213	Pentachlorotrifluoropropane	1,0	(*)
	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	(*)

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

Group	Substance			Ozone-depleting potential (ODP) ²	<i>Global warming potential (GWP)³</i>
	CHF ₂ Br	HBFC-22 B1	Bromodifluoromethane	0,74	380
	CH ₂ FBr	HBFC-31 B1	Bromofluoromethane	0,73	(*)
	C ₂ HFBr ₄	HBFC-121 B4	Tetrabromofluoroethane	0,8	(*)
	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 HFBBr 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-	Tribromotetrafluoropropane	2,2	(*)

Group	Substance			Ozone-depleting potential (ODP) ²	<i>Global warming potential (GWP)³</i>
		224 B3			
	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	(*)
	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	(*)

Group	Substance			Ozone-depleting potential (ODP) ²	<i>Global warming potential (GWP)³</i>
	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	CHFCl ₂	HCFC-21 ⁵	Dichlorofluoromethane	0,040	160
	CHF ₂ Cl	HCFC-22 ⁴	Chlorodifluoromethane	0,055	1 960
	CH ₂ FCl	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 FCl 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

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

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 (ODP) ²	<i>Global warming potential (GWP)³</i>
	C ₂ H ₃ FCl 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 FCl	HCFC-151	Chlorofluoroethane	0,005	10 ⁵
	C ₃ HFCl ₆	HCFC-221	Hexachlorofluoropropane	0,070	110 ⁵
	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-	Trichlorotrifluoropropane	0,230	1 495 ⁵

Group	Substance			Ozone-depleting potential (ODP) ²	<i>Global warming potential (GWP)³</i>
		233			
	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
	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, **point (a)**, not controlled under the Protocol³⁷

Substance		Ozone-depleting potential (ODP) ³⁸	Global warming potential (GWP)³⁹
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 ⁴⁰	(*)
CH ₂ Cl ₂	Dichloromethane (DCM)	non zero ⁴¹	11,2

³⁷ ***This Annex includes the ozone-depleting substances and their isomers. As per Article 2, point (a), mixtures containing the ozone-depleting substances listed in this Annex are considered as ozone-depleting substances covered by this Regulation.***

³⁸ The figures relating to ODP are estimates based on existing knowledge and will be reviewed and revised periodically in the light of decisions taken by the Parties.

³⁹ 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, GWP not yet available.

⁴⁰ 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)

Substance		Ozone-depleting potential (ODP) ³⁸	<i>Global warming potential (GWP)³⁹</i>
C ₂ Cl ₄	Tetrachloroethene (Perchloroethylene (PCE))	0.006 — 0.007 ⁴	(*)

⁴¹ [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 *the* production of cyclodime.

The maximum *quantity* of ozone-depleting substances that may be used as process agents within the Union shall not exceed 921 metric tonnes per year. The maximum *quantity* 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 *subsequent supply or making available* of ozone-depleting substances for essential laboratory and analytical uses *as* 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

Those 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 essential laboratory and analytical uses.

2. Ozone-depleting substances referred to in point 1 and mixtures containing those substances shall be supplied only in reclosable containers or *in* high pressure cylinders smaller than 3 dm^3 or in 10 cm^3 or smaller glass ampoules, marked clearly as substances that deplete the ozone layer, restricted to essential 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-depleting substances referred to in point 1 and mixtures containing those substances shall be collected and recycled if practical. Those substances and mixtures *containing those substances* shall be destroyed, if recycling is not practical.

ANNEX V

Critical uses of *halons* referred to in Article 9(1)

For the purposes of this Annex, the following definitions 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 (31 December of the stated year)	End date (31 December of the stated year)
Category of equipment or facility	Purpose	Type of extinguisher	Type of halon		
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 power units	Fixed system	1301 1211 2402	2014	2040
	4.4. For the inerting of fuel tanks	Fixed system	1301 2402	2011	2040
	4.5. 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’ *means* the *quantity* of ozone-depleting substances produced intentionally or inadvertently, including as a by-product unless that by-product is destroyed as part of the production process or following a documented procedure in compliance with this Regulation and Union and national *law* on waste, but not including the *quantities* 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 *for the purposes of* essential laboratory and analytical uses in the Union;
 - (d) any production *for the purposes of* 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 *quantities* 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, separately identifying imports for feedstock and process agent uses, for essential laboratory and analytical uses and for destruction; **importers** which imported **ozone-depleting** 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 country *of origin*.

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, *for* essential laboratory and analytical uses and *for* 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 destination.
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 ozone-depleting substances *as feedstock or process agents* 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 ozone-depleting substances listed in Annex I *as feedstock or process agents* 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:
 - (a) 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), *second subparagraph*;
 - (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), *second subparagraph*;
 - (d) a description of the undertaking's business activities, including whether the undertaking is an importer of *ozone-depleting* substances or exporter of *these* 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), *second subparagraph*;
 - (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 *contained in* a mixture;
 - (b) in the case of imports or exports of products and equipment containing *ozone-depleting substances* or whose functioning relies upon *these 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 TARIC.
 - (c) in the case of imports of *ozone-depleting* substances *listed in Annex I* or products and equipment for destruction, the name and address of the facility where they will be destroyed;
 - (d) any further information *considered* 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

Regulation (EC) No 1005/2009	This Regulation
Article 1	Article 1
Article 2	Article 2
Article 3, point (1)	
Article 3, point (2)	-
Article 3, point (3)	-
Article 3, point (4)	-
Article 3, point (5)	-
Article 3, point (6)	-
Article 3, point (7)	-
Article 3, point (8)	-
Article 3, point (9)	-
Article 3, point (10)	-
Article 3, point (11)	Article 3, point (1)
Article 3, point (12)	Article 3, point (2)
Article 3, point (13)	<i>Article 3, point (7)</i>
Article 3, point (14)	Annex VI, point (1)
Article 3, point (15)	-
Article 3, point (16)	-
Article 3, point (17)	-
Article 3, point (18)	Article 3, point (3)
Article 3, point (19)	Article 3, point (4)
Article 3, point (20)	Article 3, point (5)
Article 3, point (21)	Article 3, point (6)

Regulation (EC) No 1005/2009	This Regulation
Article 3, point (22)	-
Article 3, point (23)	Article 3, point (8)
Article 3, point (24)	Article 3, point (9)
Article 3, point (25)	Article 3, point (10)
Article 3, point (26)	Article 3, point (11)
Article 3, point (27)	-
Article 3, point (28)	-
Article 3, point (29)	-
Article 3, point (30)	Article 3, point (14)
Article 3, point (31)	Article 3, point (13)
Article 4	Article 4(1)
Article 5(1)	Article 4(1)
Article 5(2)	Article 15(1), first subparagraph
Article 5(3)	-
Article 6(1)	Article 5(1) and 11(1)
Article 6(2)	Article 11(2)
Article 7(1)	Article 6
Article 7(2)	Article 15(5)
Article 8(1)	Article 7(1)
Article 8(2)	Article 7(2)
Article 8(3)	Article 15(5)
Article 8(4), first subparagraph	Article 7(3)
Article 8(4), second and third subparagraphs	Annex III
Article 8(5)	Article 7(4)
Article 9	Article 12

Regulation (EC) No 1005/2009	This Regulation
Article 10(1)	Article 8(1)
Article 10(2)	Article 8(2)
Article 10(3), first and second subparagraphs	Article 15(5)
Article 10(3), third subparagraph	Article 8(6)
Article 10(4) to (8)	-
Article 11	-
Article 12(1)	-
Article 12(2)	-
Article 12(3)	Article 10(1) and (2)
Article 13(1)	Article 9(1)
Article 13(2)	Article 9(3)
Article 13(3)	Article 9(2)
Article 13(4)	Article 9(4)
Article 14	-
Article 15(1)	Article 4(2) and Article 5(2)
Article 15(2), points (a) to (d)	Article 13(1), points (a) to (d)
Article 15(2), point (e)	-
Article 15(2), point (f) first phrase	Article 13(f)
Article 15(2), point (f) second and third phrases	-
Article 15(2), point (g)	Article 13(1), point (g)
Article 15(2), point (h)	Article 13(1), point (i)
Article 15(2), point (i)	Article 13(1), point (j)
Article 15(2), point (j)	Article 13(1), point (h)
Article 15(2), point (k)	-

Regulation (EC) No 1005/2009	This Regulation
Article 15(3)	Article 13(2)
Article 16	-
Article 17(1)	Article 4(2) and Article 5(2)
Article 17(2), points (a), (b) and (c)	Article 14(1), points (a), (b) and (c)
Article 17(2), points (d)	Article 14(1), point (g)
Article 17(2), point (e)	Article 14(1), point (e)
Article 17(2), point (f)	Article 14(1), point (d)
Article 17(2), points (g) and (h)	-
Article 17(3)	Article 14(2)
Article 17(4)	Article 14(3)
Article 18(1)	Article 16(1)
Article 18(2)	Article 16(2)
Article 18(3)	Annex <i>VII</i> , point 2
Article 18(4)	Article 16(5)
Article 18(5)	Article 16(7)
Article 18(6), introductory wording	Article 16(8)
Article 18(6), points (a) and (b)	-
Article 18(7)	-
Article 18(8)	-
Article 18(9)	Article 16(13)
Article 19	Article 18
Article 20	Article 19
Article 21	-
Article 22(1)	Article 20(1)
Article 22(2)	Article 20(6)

Regulation (EC) No 1005/2009	This Regulation
Article 22(3)	-
Article 22(4), first subparagraph	Article 20(5)
Article 22(4), second subparagraph	Article 20(7)
Article 22(5), first subparagraph	Article 20(8)
Article 22(5), second and third subparagraphs	-
Article 23(1)	Article 21(2)
Article 23(2)	Article 21(3)
Article 23(3)	Article 21(5)
Article 23(4), first subparagraph first sentence	Article 21(6)
Article 23(4), first subparagraph second sentence, and second subparagraph	-
Article 23(5)	Article 21(2)
Article 23(6)	Article 21(2)
Article 23(7)	-
Article 24(1)	-
Article 24(2)	-
Article 24(3)	Article 22(1)
Article 25	Article 28
Article 26	Article 23
Article 27(1)	Article 24(1)
Article 27(2) to (6)	Annex VI
Article 27(7)	-
Article 27(8)	Article 24(2)
Article 27(9)	Article 24(3)

Regulation (EC) No 1005/2009	This Regulation
Article 27(10)	Article 24(4)
Article 28(1), first sentence	Article 26(1)
Article 28(1), second sentence	Article 26(2), <i>second</i> subparagraph
Article 28(2)	-
Article 28(3)	Article 25(6)
Article 28(4)	Article 26(7)
Article 28(5)	Article 26(5)
Article 29	Article 27(1)
Article 30	Article 31
Article 31	Article 32
Annex I	Annex I
Annex II	Annex II
Annex III	Annex III
Annex IV	-
Annex V	Annex IV
Annex VI	Annex V
Annex VII	-
Annex VIII	Annex VIII
