

# Environment: substances depleting the ozone layer. Recast

2008/0165(COD) - 22/01/2009

The Committee on the Environment, Public Health and Food Safety adopted the report drawn up by Johannes BLOKLAND (IND, NL) amending, under the first reading of the codecision procedure, the proposal for a regulation of the European Parliament and of the Council on substances that deplete the ozone layer (ODS).

MEPs believe that it is desirable to minimise and eliminate the production and use of ODS where technically feasible alternatives are available. The report stresses that it is now appropriate to **prohibit progressively the use of ODS** and of products and equipment containing such substances.

The main amendments adopted by the committee are as follows:

**Definitions:** Regulation (EC) No 2037/2000 used the Montreal Protocol's traditional definition of 'production', which deducted destruction when calculating 'production' levels. MEPs believe that this provision is no longer appropriate and propose that the definition of production should exclude destruction. MEPs also clarified the definition of 'placing on the market' and introduced a definition of 'products and equipment relying on controlled substances'.

**Phase-out schedule:** while the Commission is proposing that the deadline for the production of hydrochlorofluorocarbons (HCFCs) in Europe for export be brought forward (from 2025 to 2020), MEPs believe that the production of HCFCs should have stopped by the **end of 2014**.

A small production (under strict reporting and monitoring) of hydrochlorofluorocarbons in Europe for laboratory and analytical uses shall be allowed until 3 December 2019 (in accordance with the Montreal Protocol as amended in 2007). However, the calculated level of production is to be decreased from not exceeding 14% to not exceeding **3%** of the calculated level of production of hydrochlorofluorocarbons in 1997.

**Review of derogations:** the regulation should provide for a regular review process in order to reduce and eliminate derogations in cases where feasible alternatives exist. These measures shall be adopted in accordance with the regulatory procedure with scrutiny.

**Labelling:** MEPs stress that the risk that ozone depleting substances produced for feedstock are used for other purposes applies also for laboratory and analytical uses. They therefore propose that these labelling requirements should also apply for laboratory and analytical uses, which would improve the prevention of illegal trade. The Commission may determine the form and content of the label to be used. The measures shall be adopted in accordance with the regulatory procedure with scrutiny.

MEPs also believe that it is preferable to register undertakings instead of persons using ODS for laboratory and analytical uses in order to avoid a disproportional administrative burden.

**Maximum amounts:** MEPs make the following clarifications: (i) the maximum amount of controlled substances that may be used as process agents within the Community shall not exceed 1 083 metric tonnes per year; (ii) the maximum amount of controlled substances that may be emitted from process agent uses within the Community shall not exceed 17 metric tonnes per year. Given that the list of process agents in Annex III is technically out-of-date in places, MEPs propose that this list should be updated.

**Annual ceiling:** under the initial proposal, the total quantity annually authorised under licences shall not exceed 130%. MEPs believe that the proposed ceiling of 130% does not reflect the need to move away from the use of ODS and should therefore be lowered to 100%.

**Registers:** according to MEPs, Member States shall maintain registers of companies that place reclaimed hydrochlorofluorocarbons on the market. Only companies listed on the registers shall be permitted to place reclaimed hydrochlorofluorocarbons on the market. By 1 January 2010, Member States shall notify the Commission of their registration programme. Member States shall make the register available to allow companies receiving reclaimed hydrochlorofluorocarbons to confirm the source of the substance.

**Methyl bromide:** following Commission Decision 2008/753/EC of 18 September 2008 concerning the non-inclusion of methyl bromide in Annex I of Directive 91/414/EEC, the authorisation of methyl bromide will expire on 18 March 2009. MEPs therefore propose that methyl bromide should be prohibited in the context of this Regulation. The use of methyl bromide for quarantine and pre-shipment applications should also be banned by 18 March 2010.

**Export:** for ethical and environmental reasons, MEPs introduced amendments to limit the export of ozone depleting substances as far as possible, especially in the case of Halons and CFCs.

**Recovery and destruction of controlled substances:** MEPs believe that the recovery of blowing agents from foam in fridges should be stated clearly as a requirement. The Commission shall establish an Annex to this Regulation with performance standards which specify the level of recovery of ozone depleting substances in each category of product and equipment, and monitoring standards, reflecting best environmental practices. Those measures shall be adopted in accordance with the regulatory procedure with scrutiny. The Commission should formally call upon the experience and expertise of all interested parties in preparing the new Annex, including Member States, industry and NGOs.

MEPs also believe it is important to ensure that the banked compounds are re-captured. To ensure this, dates are added in relation to the implementation measures.

**Containment:** the report stresses that Article 3 of the F-gases Regulation (EC) No 842/2006 has more precise provisions in relation to leakages and emissions of controlled substances. For consistency reasons and for having more safeguards against emissions, MEPs believe that it is better to implement the same text in this regulation.

**New substances:** Decision IX/24 of the Montreal Protocol states that any Party may bring to the attention of the Secretariat the existence of new substances which it believes have the potential to deplete the ozone layer and have the likelihood of substantial production, but which are not listed as controlled substances under Article 2 of the Protocol. According to MEPs, these substances should be added to Annex II, Part B so that their production and use can be monitored appropriately.

**Inspections:** Member States shall ensure that inspections are performed in compliance with Recommendation 2001/331/EC providing for minimum criteria for environmental inspections in the Member States. The results of those inspections shall be published on the internet.