

The Amendments were
previously published as
Miscellaneous No. 8
(2001) Cm 5176 and
Miscellaneous No. 3
(2001) Cm 5063

POLLUTION



Treaty Series No. 55 (2002)

Amendments

to the

Montreal Protocol on Substances that Deplete the Ozone Layer

(The United Kingdom instruments of ratification
for both Amendments were deposited on
12 October 2001)

[The Amendment adopted by the Ninth meeting of the Parties at Montreal on 17 September 1997
entered into force for the United Kingdom on 10 January 2002]

[The Amendment adopted at the Eleventh meeting of the Parties at Beijing on 3 December 1999
entered into force for the United Kingdom on 25 February 2002]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
December 2002*

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AMENDMENT TO THE MONTREAL PROTOCOL¹ ON SUBSTANCES THAT DEplete THE OZONE LAYER ADOPTED AT THE NINTH MEETING OF THE PARTIES HELD AT MONTREAL 15–17 SEPTEMBER 1997

ARTICLE 1: AMENDMENT

A. ARTICLE 4, PARAGRAPH 1 QUA.

The following paragraph shall be inserted after paragraph 1 *ter* of Article 4 of the Protocol:

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

B. ARTICLE 4, PARAGRAPH 2 QUA.

The following paragraph shall be inserted after paragraph 2 *ter* of Article 4 of the Protocol:

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

C. ARTICLE 4, PARAGRAPHS 5, 6 AND 7

In paragraphs 5, 6 and 7 of Article 4 of the Protocol, for the words:

and Group II of Annex C

there shall be substituted:

, Group II of Annex C and Annex E

D. ARTICLE 4, PARAGRAPH 8

In paragraph 8 of Article 4 of the Protocol, for the words:

Article 2G

there shall be substituted:

Articles 2G and 2H

E. ARTICLE 4A: CONTROL OF TRADE WITH PARTIES

The following Article shall be added to the Protocol as Article 4A:

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

¹ Treaty Series No. 19 (1990) Cm 977.

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

F. ARTICLE 4B: LICENSING

The following Article shall be added to the Protocol as Article 4B:

1. Each party shall, by 1 January 2000 or within three months of the date of entry into force of this Article for it, whichever is the later, establish and implement a system for licensing the import and export of new, used, recycled and reclaimed controlled substances in Annexes A, B, C and E.
2. Notwithstanding paragraph 1 of this Article, any Party operating under paragraph 1 of Article 5 which decides it is not in a position to establish and implement a system for licensing the import and export of controlled substances in Annexes C and E, may delay taking those actions until 1 January 2005 and 1 January 2002, respectively.
3. Each Party shall, within three months of the date of introducing its licensing system, report to the Secretariat on the establishment and operation of that system.
4. The Secretariat shall periodically prepare and circulate to all Parties a list of the Parties that have reported to it on their licensing systems and shall forward this information to the Implementation Committee for consideration and appropriate recommendations to the Parties.

ARTICLE 2: RELATIONSHIP TO THE 1992 AMENDMENT

No State or regional economic integration organization may deposit an instrument of ratification, acceptance, approval or accession to this Amendment unless it has previously, or simultaneously, deposited such an instrument to the Amendment adopted at the Fourth Meeting of the Parties in Copenhagen, 25 November 1992.¹

ARTICLE 3: ENTRY INTO FORCE

1. This Amendment shall enter into force on 1 January 1999, provided that at least twenty instruments of ratification, acceptance or approval of the Amendment have been deposited by States or regional economic integration organizations that are Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer. In the event that this condition has not been fulfilled by that date, the Amendment shall enter into force on the ninetieth day following the date on which it has been fulfilled.
2. For the purposes of paragraph 1, any such instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.
3. After the entry into force of this Amendment, as provided under paragraph 1, it shall enter into force for any other Party to the Protocol on the ninetieth day following the date of deposit of its instrument of ratification, acceptance or approval.

¹ Treaty Series No. 48 (1995) Cm 2399.

RATIFICATIONS, ACCESSIONS, EFFECTIVE DATES AND DECLARATIONS

<i>State</i>	<i>Action</i>	<i>Date</i>	<i>Effective Date</i>
Antigua and Barbuda	Ratification	10 Feb 2000	10 May 2000
Argentina	Ratification	15 Feb 2001	16 May 2001
Australia	Acceptance	05 Jan 1999	10 Nov 1999
Azerbaijan	Approval	28 Sep 2000	27 Dec 2000
Bahrain	Ratification	13 Mar 2001	11 Jun 2001
Bangladesh	Acceptance	27 Jul 2001	25 Oct 2001
Bolivia	Accession	12 Apr 1999	10 Nov 1999
Bulgaria	Ratification	24 Nov 1999	22 Feb 2000
Burundi	Acceptance	18 Oct 2001	16 Jan 2002
Canada	Ratification	27 Mar 1998	10 Nov 1999
Cape Verde	Accession	31 Jul 2001	29 Oct 2001
Chad	Ratification	30 May 2001	28 Aug 2001
Chile	Ratification	17 Jun 1998	10 Nov 1999
Congo	Accession	19 Oct 2001	17 Jan 2002
Croatia	Ratification	08 Sep 2000	07 Dec 2000
Czech Republic	Approval	05 Nov 1999	03 Feb 2000
Djibouti	Accession	30 Jul 1999	10 Nov 1999
Egypt	Ratification	20 Jul 2000	18 Oct 2000
El Salvador	Accession	08 Dec 2000	08 Mar 2001
European Community	Approval	17 Nov 2000	15 Feb 2001
Finland	Acceptance	18 Jun 2001	16 Sep 2001
Gabon	Accession	04 Dec 2000	04 Mar 2001
Georgia	Accession	12 Jul 2000	10 Oct 2000
Germany	Ratification	05 Jan 1999	10 Nov 1999
Grenada	Accession	20 May 1999	10 Nov 1999
Guatemala	Accession	21 Jan 2002	21 Apr 2002
Guyana	Acceptance	23 Jul 1999	10 Nov 1999
Haiti	Accession	29 Mar 2000	27 Jun 2000
Hungary	Ratification	26 Jul 1999	10 Nov 1999
Iceland	Ratification	08 Feb 2000	08 May 2000
Iran	Acceptance	17 Oct 2001	17 Jan 2002
Italy	Ratification	01 May 2001	30 Jul 2001
Japan	Acceptance	30 Aug 2002	28 Nov 2002
Jordan	Ratification	03 Feb 1999	10 Nov 1999
Kenya	Ratification	12 Jul 2000	10 Oct 2000
Korea Democratic People's Republic of	Accession	13 Dec 2001	13 Mar 2002
Korea Republic of	Acceptance	19 Aug 1998	10 Nov 1999
Latvia	Acceptance	14 Jun 2002	12 Sep 2002
Lebanon	Accession	31 Jul 2000	30 Oct 2000
Luxembourg	Ratification	08 Feb 1999	10 Nov 1999
Macedonia The FYR of	Accession	31 Aug 1999	29 Nov 1999
Madagascar	Accession	16 Jan 2002	16 Apr 2002
Malaysia	Ratification	26 Oct 2001	24 Jan 2002
Maldives	Ratification	27 Sep 2001	26 Dec 2001
Micronesia	Accession	27 Nov 2001	25 Feb 2002
Monaco	Acceptance	26 Jul 2001	24 Oct 2001
Mongolia	Ratification	28 Mar 2002	26 Jun 2002
Netherlands The	Acceptance	21 Feb 2000	21 May 2000
New Zealand	Ratification	03 Jun 1999	10 Nov 1999
Niger	Ratification	08 Oct 1999	06 Jan 2000
Nigeria	Ratification	27 Sep 2001	26 Dec 2001
Norway	Ratification	30 Dec 1998	10 Nov 1999
Palau	Accession	29 May 2001	27 Aug 2001
Panama	Ratification	05 Mar 1999	10 Nov 1999
Paraguay	Ratification	27 Apr 2001	26 Jul 2001
Poland	Ratification	06 Dec 1999	05 Mar 2000
Romania	Acceptance	21 May 2001	19 Aug 2001
Saint Lucia	Accession	24 Aug 1999	22 Nov 1999

<i>State</i>	<i>Action</i>	<i>Date</i>	<i>Effective Date</i>
Samoa	Acceptance	04 Oct 2001	02 Jan 2002
Sao Tome and Principe	Accession	19 Nov 2001	17 Feb 2002
Senegal	Accession	12 Aug 1999	10 Nov 1999
Seychelles	Accession	26 Aug 2002	24 Nov 2002
Sierra Leone	Accession	29 Aug 2001	27 Nov 2001
Singapore	Accession	22 Sep 2000	21 Dec 2000
Slovak Republic	Approval	03 Nov 1999	01 Feb 2000
Slovenia	Ratification	15 Nov 1999	13 Feb 2000
Solomon Islands	Accession	17 Aug 1999	15 Nov 1999
Somalia	Accession	01 Aug 2001	30 Oct 2001
Spain	Acceptance	11 May 1999	10 Nov 1999
Sri Lanka	Accession	20 Aug 1999	18 Nov 1999
St Kitts and Nevis	Ratification	25 Feb 1999	10 Nov 1999
Sweden	Ratification	12 Jul 1999	10 Nov 1999
Switzerland	Ratification	28 Aug 2002	26 Nov 2002
Syria	Accession	30 Nov 1999	28 Feb 2000
Togo	Acceptance	26 Nov 2001	24 Feb 2002
Trinidad and Tobago	Ratification	10 Jun 1999	10 Nov 1999
Tunisia	Ratification	19 Oct 1999	17 Jan 2000
Tuvalu	Acceptance	31 Aug 2000	29 Nov 2000
Uganda	Accession	23 Nov 1999	21 Feb 2000
United Kingdom ¹	Ratification	12 Oct 2001	10 Jan 2002
Uruguay	Accession	16 Feb 2000	16 May 2000
Venezuela	Ratification	13 May 2002	11 Aug 2002
Yemen	Accession	23 Apr 2001	22 Jul 2001

1. In this regard, the Secretary-General received the following objection:

United Kingdom of Great Britain and Northern Ireland (20 December 1999):

“With regard to the authentic English text, the Government of the United Kingdom considers the original text of both article 3(1) and article 3(3) of the Amendment to be correct. The Government therefore objects to the proposal to correct the text of these two paragraphs by the addition of the words “or accession”.

The Government of the United Kingdom respectfully draws the attention of the Secretary-General to article 9, paragraph 5, of the Vienna Convention for the Protection of the Ozone Layer, and to article 14 of the Montreal Protocol on Substances that Deplete the Ozone Layer. The effect of these provisions is that amendments to the Protocol are subject to ratification, approval or acceptance. There is no provision for accession to amendments. The Government therefore believes that the addition of the words proposed by the Secretary-General would be inconsistent with the provisions of the Vienna Convention and the Montreal Protocol which apply to the entry into force of amendments to the Protocol.

The Government of the United Kingdom also notes that the existing wording of the authentic English text of article 3(1) and article 3(3) of the 1997 Amendment is consistent with the wording used in previous amendments to the Montreal Protocol, namely article 2 of the Amendment to the Montreal Protocol adopted at London in 1990 and article 3 of the Amendment to the Montreal Protocol adopted at Copenhagen in 1992.

The Secretary-General’s Depositary Notification refers to errors in the first sentence of article 3(1) (except French version). The Government of the United Kingdom has not seen the authentic French version of article 3(1), which was not attached to the Depositary Notification, but would respectfully suggest that the Secretary-General may wish to consider whether there are errors in the French version.”

**AMENDMENT TO THE MONTREAL PROTOCOL ON SUBSTANCES THAT
DEplete THE OZONE LAYER¹**

ARTICLE 1: AMENDMENT

A. Article 2, paragraph 5

In paragraph 5 of Article 2 of the Protocol, for the words:

Articles 2A to 2E

there shall be substituted:

Articles 2A to 2F

B. Article 2, paragraphs 8(a) and 11

In paragraphs 8(a) and 11 of Article 2 of the Protocol, for the words:

Articles 2A to 2H

there shall be substituted:

Articles 2A to 2I

C. Article 2F, paragraph 8

The following paragraph shall be added after paragraph 7 of Article 2F of the Protocol:

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

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

However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to fifteen per cent of its calculated level of production of the controlled substances in Group I of Annex C as defined above.

D. Article 2I

The following Article shall be inserted after Article 2H of the Protocol:

Article 2I: Bromochloromethane

Each Party shall ensure that for the twelve-month period commencing on 1 January 2002, and in each twelve-month period thereafter, its calculated level of consumption and production of the controlled substance in Group III of Annex C does not exceed zero. This paragraph will apply save to the extent that the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be essential.

E. Article 3

In Article 3 of the Protocol, for the words:

Articles 2, 2A to 2H

¹ Treaty Series No. 19 (1990) Cm 977.

there shall be substituted:

Articles 2, 2A to 2I

F. Article 4, paragraphs 1 *quin*, and 1 *sex*.

The following paragraphs shall be added to Article 4 of the Protocol after paragraph 1 *qua*:

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

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

G. Article 4, paragraphs 2 *quin*, and 2 *sex*.

The following paragraphs shall be added to Article 4 of the Protocol after paragraph 2 *qua*:

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

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

H. Article 4, paragraphs 5 to 7

In paragraphs 5 to 7 of Article 4 of the Protocol, for the words:

Annexes A and B, Group II of Annex C and Annex E

there shall be substituted:

Annexes A, B, C and E

I. Article 4, paragraph 8

In paragraph 8 of Article 4 of the Protocol, for the words:

Articles 2A to 2E, Articles 2G and 2H

there shall be substituted:

Articles 2A to 2I

J. Article 5, paragraph 4

In paragraph 4 of Article 5 of the Protocol, for the words:

Articles 2A to 2H

there shall be substituted:

Articles 2A to 2I

K. Article 5, paragraphs 5 and 6

In paragraphs 5 and 6 of Article 5 of the Protocol, for the words:

Articles 2A to 2E

there shall be substituted:

Articles 2A to 2E and Article 2I

L. Article 5, paragraph 8 ter(a)

The following sentence shall be added at the end of subparagraph 8 ter(a) of Article 5 of the Protocol:

- As of 1 January 2016 each Party operating under paragraph 1 of this Article shall comply with the control measures set out in paragraph 8 of Article 2F and, as the basis for its compliance with these control measures, it shall use the average of its calculated levels of production and consumption in 2015;

M. Article 6

In article 6 of the Protocol, for the words:

Articles 2A to 2H

there shall be substituted:

Articles 2A to 2I

N. Article 7, paragraph 2

In paragraph 2 of Article 7 of the Protocol, for the words:

Annexes B and C

there shall be substituted:

Annex B and Groups I and II of Annex C

O. Article 7, paragraph 3

The following sentence shall be added after the first sentence of paragraph 3 of Article 7 of the Protocol:

Each Party shall provide to the Secretariat statistical data on the annual amount of the controlled substance listed in Annex E used for quarantine and pre-shipment applications.

P. Article 10

In paragraph 1 of Article 10 of the Protocol, for the words:

Articles 2A to 2E

there shall be substituted:

Articles 2A to 2E and Article 2I

Q. Article 17

In Article 17 of the Protocol, for the words:

Articles 2A to 2H

there shall be substituted:

Articles 2A to 2I

R. Annex C

The following group shall be added to Annex C to the Protocol:

<i>Group</i>	<i>Substance</i>	<i>Number of Isomers</i>	<i>Ozone-Depleting Potential</i>
Group III CH ₂ BrC	bromochloromethane	1	0.12

Article 2: Relationship to the 1997 Amendment

No State or regional economic integration organisation may deposit an instrument of ratification, acceptance or approval of or accession to this Amendment unless it has previously, or simultaneously, deposited such an instrument to the Amendment adopted at the Ninth Meeting of the Parties in Montreal, 17 September 1997.¹

Article 3: Entry into Force

1. This Amendment shall enter into force on 1 January 2001, provided that at least twenty instruments of ratification, acceptance or approval of the Amendment have been deposited by States or regional economic integration organizations that are Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer. In the event that this condition has not been fulfilled by that date, the Amendment shall enter into force on the ninetieth day following the date on which it has been fulfilled.
2. For the purposes of paragraph 1, any such instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.
3. After the entry into force of this Amendment, as provided under paragraph 1, it shall enter into force for any other Party to the Protocol on the ninetieth day following the date of deposit of its instrument of ratification, acceptance or approval.

¹ Treaty Series No. 64 (1977) Cm 3778.

RATIFICATIONS, ACCESSIONS, EFFECTIVE DATES AND DECLARATIONS

<i>State</i>	<i>Action</i>	<i>Date</i>	<i>Effective Date</i>
Bulgaria	Accession	15 Apr 2002	14 Jul 2002
Burundi	Acceptance	18 Oct 2001	25 Feb 2002
Canada	Acceptance	09 Feb 2001	25 Feb 2002
Chile	Ratification	03 May 2000	25 Feb 2002
Congo	Accession	19 Oct 2001	25 Feb 2002
Croatia	Ratification	25 Apr 2002	24 Jul 2002
Czech Republic	Acceptance	09 May 2001	25 Feb 2002
European Community	Approval	25 Mar 2002	23 Jun 2002
Finland	Acceptance	18 Jun 2001	25 Feb 2002
Gabon	Accession	04 Dec 2000	25 Feb 2002
Guatemala	Accession	21 Jan 2002	21 Apr 2002
Hungary	Approval	23 Apr 2002	22 Jul 2002
Japan	Acceptance	30 Aug 2002	28 Nov 2002
Jordan	Ratification	01 Feb 2001	25 Feb 2002
Korea Democratic People's Republic of	Acceptance	13 Dec 2001	13 Mar 2002
Luxembourg	Ratification	22 Jan 2001	25 Feb 2002
Macedonia	Accession	23 May 2002	23 Aug 2002
Madagascar	Accession	16 Jan 2002	16 Apr 2002
Malaysia	Ratification	26 Oct 2001	25 Feb 2002
Maldives	Accession	03 Sep 2002	03 Dec 2002
Micronesia	Accession	27 Nov 2001	25 Feb 2002
Netherlands The	Acceptance	13 Nov 2001	25 Feb 2002
New Zealand ¹	Ratification	08 Jun 2001	25 Feb 2002
	Application	08 Jun 2001	25 Feb 2002
Norway	Ratification	29 Nov 2001	27 Feb 2002
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Slovakia	Ratification	22 May 2002	22 Aug 2002
Somalia	Accession	01 Aug 2001	25 Feb 2002
Spain	Acceptance	19 Feb 2002	20 May 2002
Sweden	Ratification	28 Mar 2002	26 Jun 2002
Switzerland	Ratification	28 Aug 2002	26 Nov 2002
Togo	Acceptance	26 Nov 2001	25 Feb 2002
United Kingdom	Ratification	12 Oct 2001	25 Feb 2002

NOTES:

¹ With a territorial application in respect of Tokelau.



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