



TEXTS ADOPTED

P9_TA(2023)0093

Ozone depleting substances

Amendments adopted by the European Parliament on 30 March 2023 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))¹

(Ordinary legislative procedure: first reading)

¹ The matter was referred back for interinstitutional negotiations to the committee responsible, pursuant to Rule 59(4), fourth subparagraph (A9-0050/2023).

Amendment 1

Proposal for a regulation Recital 4

Text proposed by the Commission

(4) Regulation (EC) No 1005/2009 of the European Parliament and of the Council¹⁸ ensures, inter alia, that the Union complies with the Protocol. The Commission in its evaluation of Regulation (EC) No 1005/2009¹⁹ concluded that the control measures established under that Regulation remain, in general, fit-for-purpose.

¹⁸ Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer (OJ L 286, 16.09.2009, p. 1).

¹⁹ Evaluation of Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer, SWD(2019)0407 final of 26 November 2019.

Amendment

(4) Regulation (EC) No 1005/2009 of the European Parliament and of the Council¹⁸ ensures, inter alia, that the Union complies with the Protocol. The Commission in its evaluation of Regulation (EC) No 1005/2009¹⁹ concluded that the control measures established under that Regulation remain, in general, fit-for-purpose, ***are efficient and have significantly contributed to stratospheric ozone recovery and to reduce climate warming.***

¹⁸ Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer (OJ L 286, 16.09.2009, p. 1).

¹⁹ Evaluation of Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer, SWD(2019)0407 final of 26 November 2019.

Amendment 2

Proposal for a regulation Recital 5

Text proposed by the Commission

(5) There is clear evidence of a decrease in the atmospheric burden of ozone depleting

Amendment

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substances and of stratospheric ozone recovery. However, the recovery of the ozone layer to the concentrations level 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, **as well as** that the necessary measures are in place to address any upcoming challenges swiftly and effectively.

substances and of stratospheric ozone recovery. However, **according to the European Environment Agency, the 2021 ozone hole was one of the larger and deeper ones of recent years and was larger than the average over the last 5 and 10 years.** The recovery of the ozone layer **is still very fragile, and recovery** to the concentrations level 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, and** that the necessary measures are in place to address any upcoming challenges swiftly and effectively.

Amendment 3

Proposal for a regulation Recital 7

Text proposed by the Commission

(7) In order to increase awareness on the global warming potential of ozone depleting substances, in addition to the ozone depleting potential of the substances, their respective global warming potential should also be listed in this Regulation.

Amendment

(7) In order to increase awareness on the global warming potential of ozone depleting substances, in addition to the ozone depleting potential of the substances, their respective global warming potential should also be listed **and addressed** in this Regulation **as well as on the labels of containers of ozone depleting substances. Where available, that information should include the global**

warming potential expressed both on a 100-year and 20-year timescale, to increase awareness about the short-term high global warming potential of some ozone depleting substances.

Amendment 4

Proposal for a regulation Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) Member States should establish binding action plans based on guidelines established by the Commission to reduce the risk of pyro-cumulonimbus formation from forest fires and their negative impact on the stratosphere and the ozone layer.

Amendment 5

Proposal for a regulation Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) The Union's production of controlled ozone depleting substances in 2021 was higher than it had been during the previous 10 years, having increased by 27 % in 2021 compared to 2020. 90 % of that increase is due to feedstock use. Feedstock use increased by 11 % compared to 2020^{1a}. While the derogation for ozone depleting substances used as feedstock in the chemical production of certain goods, including

pharmaceuticals, has been justified in light of their low combined ozone-depleting potential (>1tODP) and the lack of feasible alternative options, it is possible that the emissions from feedstock uses are being underestimated^{1b}. The Commission should therefore establish a list of ozone depleting substances for which the use as feedstock is permitted and regularly assess the availability of their alternatives. In order to progressively phase out such uses where alternatives exist, the power to adopt delegated acts should be delegated to the Commission to propose lower caps over time.

^{1a} Ozone Depleting Substances 2022, European Environment Agency.

^{1b} "Narrowing feedstock exemptions under the Montreal Protocol has multiple environmental benefits", Stephen O. Andersen, et al. 2021: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8665836/> and "Unfinished business after five decades of ozone-layer science and policy", Susan Salomon et al. 2020.

Amendment 6

Proposal for a regulation Recital 12

Text proposed by the Commission

(12) Halons Technical Options Committee (HTOC) established

Amendment

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under the Protocol indicated that non-virgin halon stocks for critical uses might not be sufficient to meet the needs from 2030 onwards at global level. To avoid that new production of halons become necessary to meet future needs, it is important to take measures to increase the availability of stocks of halon recovered from equipment.

under the Protocol indicated that non-virgin halon stocks for critical uses might not be sufficient to meet the needs from 2030 onwards at global level. To avoid that new production of halons become necessary to meet future needs, it is important to take measures to increase the availability **and to provide adequate monitoring** of stocks of halon recovered from equipment.

Amendment 7

Proposal for a regulation Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) There is growing concern over the impact on global emissions of some of the new substances listed in Annex II, including, for example, the rapid increase in atmospheric concentration of dichloromethane that could substantially delay, by more than a decade, the recovery of the ozone hole^{1a}. In 2021, the production of new ozone depleting substances not covered by the Protocol, in metric tonnes, was about four times higher than the production of controlled substances^{1b}. Further control and monitoring is therefore essential. The requirements applied to substances listed in Annex I in relation to leakages and registration in the licencing system should be extended to substances listed in Annex II. That approach not only reduces potential adverse

environmental and health impacts but harmonises with the approach taken under Regulation (EU) 2023/...of the European Parliament and of the Council on fluorinated greenhouse gases, amending Directive (EU) 2019/1937 and repealing Regulation (EU) No 517/2014.

***1a "The increasing threat to stratospheric ozone from dichloromethane" Hossaini et al, 2017:
<https://doi.org/10.1038/s41467-019-13899-4>***

1b "Ozone Depleting Substances 2022", European Environment Agency.

Amendment 8

Proposal for a regulation Recital 16

Text proposed by the Commission

(16) Non-refillable containers for ozone depleting substances, should be banned, considering that an amount of substance inevitably remains in these containers when emptied, which is then released into the atmosphere. In this respect, it is necessary to prohibit their import, placing on the market, subsequent supply or making available on the market, use, except for laboratory and analytical uses, and their export.

Amendment

(16) Non-refillable containers for ozone depleting substances, should be banned, considering that an amount of substance inevitably remains in these containers when emptied, which is then released into the atmosphere. In this respect, it is necessary to prohibit their import, placing on the market, subsequent supply or making available on the market, use, except for laboratory and analytical uses, and their export.
To ensure that refillable containers are refilled instead of being discarded, undertakings should be required, when placing such

containers on the market, to produce evidence on the arrangements for return for the purpose of refilling.

Amendment 9

Proposal for a regulation Recital 17

Text proposed by the Commission

(17) Regulation (EC) No 1272/2008 of the European Parliament and of the Council²⁴ provides for the labelling of substances classified as ozone depleting substances and the labelling of mixtures containing such substances. As it is allowed to release for free circulation in the Union market ozone depleting substances produced for feedstock, process agent, laboratory and analytical uses, those substances should be distinguished from substances that are produced for other uses.

²⁴ Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures (OJ L 353, 31.12.2008, p. 1).

Amendment

(17) Regulation (EC) No 1272/2008 of the European Parliament and of the Council²⁴ provides for the labelling of substances classified as ozone depleting substances and the labelling of mixtures containing such substances. As it is allowed to release for free circulation in the Union market ***halon and methyl bromide and products and equipment containing those ozone depleting substances or whose functioning relies upon those substances, as well as other*** ozone depleting substances produced for feedstock, process agent, laboratory and analytical uses ***and for destruction within the Union***, those substances should be distinguished from substances that are produced for other uses.

²⁴ Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures (OJ L 353, 31.12.2008, p. 1).

Amendment 10

Proposal for a regulation Recital 18

Text proposed by the Commission

(18) The export of products and equipment containing hydrochlorofluorocarbons may be exceptionally permitted in cases where it may be more beneficial to allow these products and equipment to end their natural life cycle in a third country than to be decommissioned and disposed of in the Union.

Amendment

(18) The export of products and equipment containing hydrochlorofluorocarbons may be exceptionally permitted in cases where it may be more beneficial to allow these products and equipment to end their natural life cycle in a third country than to be decommissioned and disposed of in the Union, ***provided that the required appropriate facilities, as well as the specialist staff to carry out such operations, are in place, so as to avoid any further environmental pollution.***

Amendment 11

Proposal for a regulation Recital 19

Text proposed by the Commission

(19) Given that the production process for some ozone depleting substances can result in emissions of the fluorinated greenhouse gas produced trifluoromethane as a by-product, such by-product emissions should be destroyed or recovered for subsequent use as a condition for the placing the ozone depleting substance on the market. Producers and importers should also be required to document measures adopted to prevent emissions of trifluoromethane during the production process.

Amendment

(19) Given that the production process for some ozone depleting substances can result in emissions of the fluorinated greenhouse gas produced trifluoromethane as a by-product, such by-product emissions should be ***rigorously monitored,*** destroyed or recovered for subsequent use as a condition for the placing the ozone depleting substance on the market. Producers and importers should also be required to document measures adopted to prevent emissions of trifluoromethane

during the production process
**and to provide proof of the
destruction and recovery in
line with the best available
techniques. They should also
be required to report on
compliance with this
Regulation.**

Amendment 12

Proposal for a regulation Recital 23

Text proposed by the Commission

(23) To ensure that substances as well as products and equipment covered by this Regulation that have been imported illegally in the Union market does not re-enter the market, competent authorities should confiscate or seize these products **for disposal**. Re-export of products not compliant with this Regulation should be prohibited in any event.

Amendment

(23) To ensure that substances as well as products and equipment covered by this Regulation that have been imported illegally in the Union market does not re-enter the market, competent authorities should confiscate or seize these products **and destroy them**. Re-export of products not compliant with this Regulation should be prohibited in any event.

Amendment 13

Proposal for a regulation Recital 28 a (new)

Text proposed by the Commission

Amendment

(28a) The requirement to recover foams containing ozone depleting substances from 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 wastes. That requirement could nevertheless create some additional need for training specialised personnel in the relevant undertakings, which are often small and medium-sized enterprises. Member States should therefore establish minimum qualification requirements for the personnel involved and also increase the availability of training programmes for the upskilling of workers and the use of sustainable techniques.

Amendment 14

Proposal for a regulation Recital 28 b (new)

Text proposed by the Commission

Amendment

(28b) The shift towards the use of alternatives to ozone depleting substances will spur green innovation and employment. Member States should however ensure a fair and just transition, leaving no one behind, for the personnel employed by undertakings which do not succeed in the transition to such alternatives.

Amendment 15

Proposal for a regulation Recital 32

Text proposed by the Commission

Amendment

(32) The Protocol requires reporting on trade in ozone

(32) The Protocol requires reporting on trade in ozone

depleting substances. Producers, importers and exporters of ozone depleting substances should therefore report annually on trade in ozone depleting substances. Trade in ozone depleting substances not yet covered by the Protocol (listed in Annex II), should also be reported in order to ***be able to*** assess ***the need to extend some or all*** of the control measures applicable for the substances listed in Annex I to also cover those substances.

depleting substances. Producers, importers and exporters of ozone depleting substances should therefore report annually on trade in ozone depleting substances. Trade in ozone depleting substances not yet covered by the Protocol (listed in Annex II), should also be reported in order to assess ***a future extension*** of the control measures ***for recovery, destruction, recycling or reclamation***, applicable for the substances listed in Annex I to also cover those substances.

Amendment 16

Proposal for a regulation Recital 33 a (new)

Text proposed by the Commission

Amendment

(33a) Whistle-blowers can bring new information to the attention of the competent authorities which could help the competent authorities detect infringements of this Regulation and enable them to impose penalties. It should be ensured that adequate arrangements are in place to enable whistle-blowers to alert the competent authorities to actual or potential infringements of this Regulation and to protect whistle-blowers from retaliation.

Amendment 17

Proposal for a regulation Recital 36

Text proposed by the Commission

(36) Serious infringements of this Regulation should also be prosecuted under criminal law, in accordance with Directive 2008/99/EC of the European Parliament and of the Council²⁷.

²⁷ 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).

Amendment

(36) Serious infringements of this Regulation should also be prosecuted under criminal law, in accordance with Directive 2008/99/EC of the European Parliament and of the Council²⁷.
Taking into account that while administrative and criminal offences are different in nature, they are not mutually exclusive, and therefore administrative penalties would be imposed by the competent authority in the framework of administrative proceedings and criminal penalties by the criminal court in a Member State in accordance with Directive 2008/99/EC.

²⁷ 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).

Amendment 18

**Proposal for a regulation
Recital 40 a (new)**

Text proposed by the Commission

Amendment

(40a) Nitrous oxide (N₂O), which is mainly released in the air from excess nitrogen-based fertilisers in the soil, is proven to be an ozone depleting substance. Since the reductions of chlorofluorochemicals and other ozone-depleting halocarbons, N₂O has been recognised as one of the most

significant ozone-depleting substances and risks undermining the gains of the Protocol^{1a}. In its Communication of 20 May 2020 entitled 'Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system', the Commission committed to act to reduce nutrient losses by at least 50%, which in turn should result in an at least 20% reduction of fertiliser use by 2030.

^{1a} See for instance: "Drawing Down N2O To Protect Climate and the Ozone Layer", UNEP, 2013.

Amendment 19

Proposal for a regulation Article 1 - paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 20

Proposal for a regulation Article 2 - paragraph 2

Text proposed by the Commission

2. This Regulation also applies to products and equipment, and parts thereof, containing ozone depleting substances or whose functioning relies **upon** those substances.

Amendment

2. This Regulation also applies to products and equipment, and parts thereof, containing ozone depleting substances or whose functioning relies **partly or entirely on** those substances.

Amendment 21

Proposal for a regulation Article 3 - paragraph 1 - point 1

Text proposed by the Commission

(1) 'feedstock' means any ozone depleting substance that undergoes chemical transformation in a process in which it is entirely converted from its original composition **and emissions are insignificant;**

Amendment

(1) 'feedstock' means any ozone depleting substance that undergoes chemical transformation in a process in which it is entirely converted from its original composition;

Amendment 22

Proposal for a regulation Article 3 - paragraph 1 - point 5

Text proposed by the Commission

(5) 'placing on the market' means the supplying or making available to another person within the Union, for the first time, for payment or free of charge, the customs release for free circulation in the Union, and the use of substances produced or the **use** of products or equipment manufactured for own **use**;

Amendment

(5) 'placing on the market' means the supplying or making available to another person within the Union, for the first time, for payment or free of charge, the customs release for free circulation in the Union, and the use of substances produced or the **utilisation** of products or equipment manufactured for own **utilisation**;

Amendment 23

Proposal for a regulation

Article 3 - paragraph 1 - point 6 a (new)

Text proposed by the Commission

Amendment

(6a) ‘producer’ means any natural or legal person producing ozone depleting substances within the Union;

Amendment 24

Proposal for a regulation

Article 3 - paragraph 1 - point 10 a (new)

Text proposed by the Commission

Amendment

(10a) ‘container’ means a container as defined in Article [X] of Regulation xxxx/xxxx [F-Gas Regulation];

Amendment 25

Proposal for a regulation

Article 3 - paragraph 1 - point 11

Text proposed by the Commission

Amendment

(11) ‘products and equipment’ means all products and equipment, including parts thereof, except containers, **used** for the transportation or storage of ozone depleting substances;

(11) ‘products and equipment’ means all products and equipment, including parts thereof, except containers, **utilised** for the transportation or storage of ozone depleting substances;

Amendment 26

Proposal for a regulation

Article 6 - paragraph 1

Text proposed by the Commission

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

Amendment

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 **only where they are permitted** to be used as feedstock.

Amendment 27

**Proposal for a regulation
Article 6 - paragraph 1 a (new)**

Text proposed by the Commission

Amendment

The Commission shall by... [12 months after the date of entry into force of this Regulation], adopt delegated acts in accordance with Article 29 to supplement this Regulation by establishing a list of ozone depleting substances listed in Annex I for which the use as feedstock is permitted, the respective feedstock uses for each of those substances, and their emission level.

Amendment 28

**Proposal for a regulation
Article 6 - paragraph 1 b (new)**

Text proposed by the Commission

Amendment

By 1 January 2025 and every 2,5 years thereafter, the Commission shall assess the

current and future availability of alternatives to ozone depleting substances listed in Annex I for which the use as feedstock is permitted within the Union, taking into account scientific recommendations, the impacts in terms of ozone-depleting potential and the availability of more precise data on the greenhouse gas emissions from feedstock, technological developments resulting in the availability of technically feasible alternatives, and the energy use, efficiency, economic feasibility and cost of those alternatives. The Commission shall submit the conclusions of those assessments to the European Parliament and to the Council.

Amendment 29

Proposal for a regulation Article 6 - paragraph 1 c (new)

Text proposed by the Commission

Amendment

Where the Commission concludes in its assessment that a feasible alternative to an ozone depleting substance is available for a particular use as feedstock, the Commission shall, within 3 months, adopt delegated acts in accordance with Article 29 supplementing this Regulation to set a maximum emission level and a schedule for phasing-out the quantitative limits of the use of the relevant ozone depleting substance on the list referred

to in second paragraph of this Article.

Amendment 30

Proposal for a regulation Article 6 - paragraph 1 d (new)

Text proposed by the Commission

Amendment

Ozone depleting substances that are produced, placed on the market, and subsequently supplied or made available, whether in return for payment or free of charge, to another person within the Union for use as feedstock, may only be used for that purpose. Containers containing ozone depleting substances intended for such uses shall be labelled with a clear indication that the substance may only be used for the applicable purpose. Where such substances are subject to labelling requirements provided for in Regulation (EC) No 1272/2008, such indication shall be included in the labels referred to in that Regulation.

Amendment 31

Proposal for a regulation Article 9 - paragraph 3

Text proposed by the Commission

Amendment

3. The Commission is empowered to adopt delegated acts in accordance with Article 29 to amend Annex V, where technically and economically feasible alternatives or technologies are not available for

3. The Commission is empowered to adopt delegated acts in accordance with Article 29 to amend Annex V, where technically and economically feasible alternatives or technologies are ***available for***

the uses listed in that Annex within the timeframes set out in Annex **V** or are not acceptable due to their impacts on environment or health, or where it is necessary to ensure compliance with the international commitments of the Union concerning critical uses of halons established in particular under the Protocol, the International Civil Aviation Organization (ICAO) or the International Convention for the Prevention of Pollution from Ships (MARPOL).

the uses listed in that Annex prior to one or more of the end dates specified in that Annex, or are not available for the uses listed in that Annex within the timeframes set out in ***that*** Annex, or are not acceptable due to their impacts on environment or health, or where it is necessary to ensure compliance with the international commitments of the Union concerning critical uses of halons established in particular under the Protocol, the International Civil Aviation Organization (ICAO) or the International Convention for the Prevention of Pollution from Ships (MARPOL).

Amendment 32

Proposal for a regulation Article 9 - paragraph 4

Text proposed by the Commission

4. The Commission may, by means of implementing acts, and following a substantiated request of the competent authority of a Member State, grant time-limited derogations from the end dates or cut-off dates specified in Annex V for a specified case where it is demonstrated in the request that no technically and economically feasible alternative is available for that particular application. The Commission **may** include in those implementing acts reporting requirements, and **may** require submission of supporting evidence necessary for monitoring the use of the derogation, including evidence on amounts recovered for recycling or reclamation, results of leakage

Amendment

4. The Commission may, by means of implementing acts, and following a substantiated request of the competent authority of a Member State, grant time-limited derogations from the end dates or cut-off dates specified in Annex V for a specified case where it is demonstrated in the request that no technically and economically feasible alternative is available for that particular application. The Commission **shall** include in those implementing acts reporting requirements, and **shall** require submission of supporting evidence necessary for monitoring the use of the derogation, including evidence on amounts recovered for recycling or reclamation, results of leakage

checks and amounts of unused halons in stocks. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2).

checks and amounts of unused halons in stocks. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2).

Amendment 33

Proposal for a regulation Article 10 - paragraph 1

Text proposed by the Commission

1. In case of an emergency, where unexpected outbreaks of particular pests or diseases so require, the Commission may, at the request of the competent authority of a Member State, by means of implementing acts, authorise the temporary production, placing on the market, and use of methyl bromide, provided that the placing on the market and use of methyl bromide are allowed respectively under Regulation (EC) No 1107/2009 and Regulation (EU) No 528/2012. Any unused quantities of methyl bromide shall be destroyed.

Amendment

1. In case of an emergency, where unexpected outbreaks of particular pests or diseases so require, the Commission may, at the request of the competent authority of a Member State, by means of implementing acts, **and upon notification to the Ozone Secretariat in accordance with Decision IX/7 of the Parties to the Protocol**, authorise the temporary production, placing on the market, and use of methyl bromide, provided that the placing on the market and use of methyl bromide are allowed respectively under Regulation (EC) No 1107/2009 and Regulation (EU) No 528/2012. Any unused quantities of methyl bromide shall be destroyed.

Amendment 34

Proposal for a regulation Article 10 - paragraph 2

Text proposed by the Commission

2. Implementing acts referred to in paragraph 1 shall specify measures to be taken to reduce emissions of methyl bromide

Amendment

2. Implementing acts referred to in paragraph 1 shall specify measures to be taken to reduce emissions of methyl bromide

during use and apply for a period not exceeding 120 days and to a quantity not exceeding 20 metric tonnes of methyl bromide. The Commission **may** include in those implementing acts reporting requirements and **may** require submission of supporting evidence necessary for monitoring the use of methyl bromide, including evidence on the destruction of substances following the end of the derogation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2).

during use and apply for a period not exceeding 120 days and to a quantity not exceeding 20 metric tonnes of methyl bromide. The Commission **shall** include in those implementing acts reporting requirements and **shall** require submission of supporting evidence necessary for monitoring the use of methyl bromide, including evidence on the destruction of substances following the end of the derogation. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2).

Amendment 35

Proposal for a regulation

Article 13 - paragraph 2 - subparagraph 2

Text proposed by the Commission

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

Amendment

By way of derogation from the first subparagraph ***of this paragraph and from Article 16, the Commission*** shall, ***by means of implementing acts, establish simplified rules for licencing in the case of temporary storage as defined in Article 5, point (17), of Regulation (EU) No 952/2013. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2).***

Amendment 36

Proposal for a regulation

Article 14 - paragraph 2 - subparagraph 1

Text proposed by the Commission

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

Amendment

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, such export is in line with domestic legislation in the destination country **and such products and equipment would, after the end of their life cycle and on the basis of domestic legislation, be handled by that destination country in such a way that would not give rise to the release of ozone depleting substances into the external environment.** Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2).

Amendment 37

Proposal for a regulation

Article 14 - paragraph 3 - subparagraph 2

Text proposed by the Commission

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

Amendment

By way of derogation from the first subparagraph **of this paragraph and from Article 16, the Commission shall, by means of implementing acts,**

establish simplified rules for licencing in case of temporary storage as defined in Article 5, point (17) of Regulation (EU) No 952/2013. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2).

Amendment 38

Proposal for a regulation

Article 15 - paragraph 1 - subparagraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 39

Proposal for a regulation

Article 15 - paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Undertakings which place on the market refillable containers for ozone depleting substances shall produce a declaration of conformity that includes evidence confirming the arrangements in place for the return of that container for the purpose of refilling. Those arrangements shall contain binding obligations for compliance by the supplier of

those containers to end-users.

The undertakings referred to in the first subparagraph shall keep the declaration of conformity for a period of at least 5 years after the placing on the market of refillable containers and shall make it available, on request, to the competent authorities of the Member States. Suppliers of those containers to end-users shall keep evidence of compliance with those arrangements for a period of at least 5 years after supply to the end-user and shall make it available, on request, to the competent authorities of the Member States.

The Commission may, by means of implementing acts, supplement this Regulation by determining the details of the declaration of conformity. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2).

Amendment 40

Proposal for a regulation

Article 15 - paragraph 2 - subparagraph 2

Text proposed by the Commission

For the purpose of ***submitting*** evidence, importers and producers shall draw up a declaration of conformity and join supporting documentation on the production facility ***and the*** mitigation measures adopted to prevent emissions of trifluoromethane. Producers and importers shall keep the

Amendment

For the purpose of ***providing the*** evidence ***referred to in the first subparagraph of paragraph 1a,*** importers and producers shall draw up a declaration of conformity, ***verified by an accredited auditor,*** and join supporting documentation ***with:***

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

(a) information on the production facility;

(b) the proof of availability and operation of the best available abatement technology at the production facility;

(c) the proof of mitigation measures adopted to prevent emissions of trifluoromethane, **in line with best available techniques;**

(d) the proof of destruction or recovery of any quantity of emitted trifluoromethane, in line with best available techniques and in accordance with the requirements laid down in Article 20(7).

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

Amendment 41

Proposal for a regulation Article 15 - paragraph 2 - subparagraph 3

Text proposed by the Commission

The Commission **may**, by means of implementing acts, determine

Amendment

The Commission **shall**, 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).

the detailed arrangements relating to **and the detailed elements of** 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).

Amendment 42

Proposal for a regulation

Article 15 - paragraph 3 - subparagraph 1

Text proposed by the Commission

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

Amendment

Ozone depleting substances produced or placed on the market **and products and equipment containing ozone depleting substances or whose functioning relies on those substances produced or placed on the market and subsequently supplied or made available** as referred to in Articles 6, 7, **8, 9 and 10** may only be used for those purposes. **Ozone depleting substances, and products and equipment containing ozone depleting substances or whose functioning relies on those substances, placed on the market for destruction as referred to in Article 12 may only be used or utilised for that purpose.**

Amendment 43

Proposal for a regulation

Article 15 - paragraph 3 - subparagraph 2

Text proposed by the Commission

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

Amendment

Containers containing the substances intended for the uses referred to in Articles 6, 7, **8, 9, 10, 11 and 12** shall be labelled with a clear indication that the substance may only be used for the applicable purpose. ***The label shall bear the accepted industry designation for the ozone depleting substance concerned or, if no such designation is available, the chemical name, the ozone depleting potential of the substance concerned, and, where available, its global warming potential expressed on a 100-year time-scale, and, where available, on a 20-year timescale. Where such substances have been reclaimed or recycled, the label shall include that information, the information on the batch number and the name and address of the reclamation or recycling facility.*** Where such substances are subject to labelling requirements provided for in Regulation (EC) No 1272/2008, such indication shall be included in the labels referred to in that Regulation. ***Where relevant, refilled containers shall be relabelled with updated information.***

Amendment 44

Proposal for a regulation Article 16 - paragraph 1

Text proposed by the Commission

1. The Commission shall set up and ensure the operation of the electronic licensing system for ozone depleting substances listed in **Annex** I and products and equipment containing those substances or whose functioning relies upon those substances ('the licensing system').

Amendment

1. The Commission shall set up and ensure the operation of the electronic licensing system for ozone depleting substances listed in **Annexes** I and **II and** products and equipment containing those substances or whose functioning relies upon those substances ('the licensing system').

Amendment 45

Proposal for a regulation
Article 16 - paragraph 5

Text proposed by the Commission

5. Each undertaking that holds a licence shall, during the period of validity of the license, notify the Commission 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.

Amendment

5. Each undertaking that holds a licence shall, during the period of validity of the license, notify the Commission **without undue delay** of any changes which might occur during the period of validity of the licence in relation to the information submitted in accordance with Annex VII.

Amendment 46

Proposal for a regulation
Article 17 - paragraph 3 - introductory part

Text proposed by the Commission

3. In cases of imports of ozone depleting substances listed in Annex I and of products and equipment containing those substances or whose functioning relies **upon** those substances the importer, or where not available the declarant, indicated in the customs declaration or in the temporary storage declaration

Amendment

3. In cases of imports of ozone depleting substances listed in Annex I and of products and equipment containing those substances or whose functioning relies **partly or entirely on** those substances the importer, or where not available the declarant, indicated in the customs declaration or in the temporary

and in cases of exports the exporter indicated in the customs declaration, shall provide to customs authorities in the declaration the following, where relevant:

storage declaration and in cases of exports the exporter indicated in the customs declaration, shall provide to customs authorities in the declaration the following, where relevant:

Amendment 47

Proposal for a regulation

Article 17 - paragraph 11 - subparagraph 1

Text proposed by the Commission

Customs authorities shall confiscate or seize **substances**, the substances and products and equipment that are prohibited by this Regulation **is prohibited** for their disposal in accordance with Articles 197 and 198 of Regulation (EU) No 952/2013. Market surveillance authorities shall also withdraw or recall from the market such substances and products and equipment in accordance with Article 16 of Regulation (EU) 2019/1020 of the European Parliament and the Council³³.

³³ 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).

Amendment

Customs authorities shall confiscate or seize the substances and products and equipment that are prohibited by this Regulation for their disposal in accordance with Articles 197 and 198 of Regulation (EU) No 952/2013. Market surveillance authorities shall also withdraw or recall from the market such substances and products and equipment in accordance with Article 16 of Regulation (EU) 2019/1020 of the European Parliament and the Council³³.

³³ 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).

Amendment 48

Proposal for a regulation

Article 17 - paragraph 12 - subparagraph 1

Text proposed by the Commission

Member States customs authorities shall designate or approve customs offices or other places and shall specify the route to those offices and places, in accordance with Articles 135 and 267 of Regulation (EU) No 952/2013, for the presentation to customs of ozone depleting substances listed in Annex I and of products and equipment containing those substances or whose functioning relies upon those substances at their entry into or at their exit from the customs territory of the Union. Those customs offices or places shall be sufficiently equipped to carry out the relevant physical controls based on risk analysis, and shall be knowledgeable on matters related to the prevention of illegal activities under this Regulation.

Amendment

Member States customs authorities shall designate or approve customs offices or other places and shall specify the route to those offices and places, in accordance with Articles 135 and 267 of Regulation (EU) No 952/2013, for the presentation to customs of ozone depleting substances listed in Annex I and of products and equipment containing those substances or whose functioning relies upon those substances at their entry into or at their exit from the customs territory of the Union. Those customs offices or places shall be sufficiently equipped ***with the necessary human and material resources*** to carry out the relevant physical controls based on risk analysis, and shall be knowledgeable on matters related to the prevention of illegal activities under this Regulation.

Amendment 49

Proposal for a regulation Article 20 - paragraph 1

Text proposed by the Commission

1. Ozone depleting substances listed in **Annex** I contained in refrigeration, air-conditioning and heat pump equipment, equipment containing solvents or fire protection systems and fire extinguishers shall, during the maintenance or servicing of equipment or before the dismantling or disposal of equipment, be recovered for destruction, recycling or

Amendment

1. Ozone depleting substances listed in **Annexes I and II** contained in refrigeration, air-conditioning and heat pump equipment, equipment containing solvents or fire protection systems and fire extinguishers shall, during the maintenance or servicing of equipment or before the dismantling or disposal of equipment, be recovered for destruction, recycling or

reclamation.

reclamation.

Amendment 50

Proposal for a regulation Article 20 - paragraph 6

Text proposed by the Commission

6. Ozone depleting substances listed in **Annex** I contained in products and equipment other than those mentioned in paragraphs 1 to 5 shall, if technically and economically feasible, be recovered for destruction, recycling or reclamation, or shall be destroyed without prior recovery.

Amendment

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

Amendment 51

Proposal for a regulation Article 20 - paragraph 9

Text proposed by the Commission

9. Member States shall promote the recovery, recycling, reclamation and destruction of ozone depleting substances listed in Annex I and shall establish the minimum qualification requirements for the personnel involved.

Amendment

9. Member States shall promote the recovery, recycling, reclamation and destruction of ozone depleting substances listed in Annex I and shall establish the minimum qualification requirements for the personnel involved. **Member States shall ensure that appropriate training programmes for natural persons carrying out those tasks are made available.**

Amendment 52

Proposal for a regulation Article 21 - paragraph 2

Text proposed by the Commission

2. Undertakings shall take all necessary precautions to prevent and minimise any unintentional release of ozone depleting substances listed in **Annex I** during production, including inadvertently produced in the course of the manufacture of other chemicals, equipment manufacturing process, use, storage and transfer from one container or system to another or transport.

Amendment

2. Undertakings shall take all necessary precautions to prevent and minimise any unintentional release of ozone depleting substances listed in **Annexes I and II** during production, including inadvertently produced in the course of the manufacture of other chemicals, equipment manufacturing process, use, storage and transfer from one container or system to another or transport.

Amendment 53

**Proposal for a regulation
Article 21 - paragraph 3**

Text proposed by the Commission

3. Undertakings operating equipment containing ozone depleting substances listed in **Annex I**, shall ensure that any detected leakage is repaired without undue delay, without prejudice to the prohibition to use the ozone depleting substances.

Amendment

3. Undertakings operating equipment containing ozone depleting substances listed in **Annexes I and II**, shall ensure that any detected leakage is repaired without undue delay, without prejudice to the prohibition to use the ozone depleting substances.

Amendment 54

**Proposal for a regulation
Article 21 - paragraph 3 a (new)**

Text proposed by the Commission

Amendment

3a. Undertakings operating refrigeration, air conditioning or heat pump equipment, or fire protection systems, including their circuits, which contain ozone depleting

substances shall ensure that the stationary equipment or systems with a fluid charge of:

(a) 3 kg or more of ozone depleting substances are checked for leakage at least once every 12 months; this shall not apply to equipment with hermetically sealed systems, which are labelled as such and contain less than 6 kg of controlled substances;

(b) 30 kg or more of ozone depleting substances are checked for leakage at least once every 6 months;

(c) 300 kg or more of ozone depleting substances are checked for leakage at least once every 3 months; and any detected leakage is repaired as soon as possible and in any event within 14 days; the equipment or system shall be checked for leakage within 1 month after a leak has been repaired to ensure that the repair has been effective.

Amendment 55

Proposal for a regulation Article 21 - paragraph 5

Text proposed by the Commission

5. Member States shall establish the minimum qualification requirements for the personnel carrying out activities referred to in paragraph 3.

Amendment

5. Member States shall establish the minimum qualification requirements for the personnel carrying out activities referred to in paragraph 3.
Member States shall ensure that appropriate training programmes for natural persons carrying out those activities are made available.

Amendment 56

Proposal for a regulation Article 22 - paragraph 3

Text proposed by the Commission

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

Amendment

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

Amendment 57

Proposal for a regulation Article 24 - paragraph 1 - subparagraph 3 a (new)

Text proposed by the Commission

Amendment

Each year by 31 March ...[the year of application of this Regulation], and every year thereafter, each undertaking that has placed on the market ozone depleting substances shall submit to the Commission a report demonstrating compliance with Article 15(2).

Amendment 58

Proposal for a regulation Article 24 - paragraph 2

Text proposed by the Commission

(2) The Commission and the competent authorities of the Member States shall take appropriate measures to protect the confidentiality of the information submitted to it in accordance with this Article.

Amendment

(2) The Commission and the competent authorities of the Member States shall take appropriate measures to protect the confidentiality of the information submitted to it in accordance with this Article **and the conditions under which access to the data is granted.**

Amendment 59

**Proposal for a regulation
Article 26 - paragraph 1**

Text proposed by the Commission

1. The competent authorities of Member States shall carry out checks to establish whether undertakings comply with their obligations under this Regulation.

Amendment

1. The competent authorities of Member States shall carry out **regular** checks to establish whether undertakings comply with their obligations under this Regulation.

Amendment 60

**Proposal for a regulation
Article 27 - paragraph 4 - point c**

Text proposed by the Commission

(c) suspension or revocation of the authorisation to carry out activities as these fall under the scope of this Regulation.

Amendment

(c) **temporary** suspension or revocation of the authorisation to carry out activities as these fall under the scope of this Regulation.

Amendment 61

**Proposal for a regulation
Article 27 - paragraph 5 - subparagraph 1**

Text proposed by the Commission

In cases of unlawful production, import, export, placing on the market, or use of ozone depleting substances listed in Annex I or of products and equipment containing those substances or whose functioning relies upon those substances, Member States shall ***envisage*** maximum administrative fines of at least ***five*** times the market value of the concerned substances or products and equipment concerned. In case of a repeated infringement within a five-year period, the Member States shall ***envisage*** maximum administrative fines of at least ***eight*** times the market value of the concerned substances or products and equipment concerned.

Amendment

In cases of unlawful production, import, export, placing on the market, or use of ozone depleting substances listed in Annex I or of products and equipment containing those substances or whose functioning relies upon those substances Member States shall ***set out minimum administrative fines of at least four times the market value of the ozone depleting substances or products and equipment concerned and*** maximum administrative fines of at least ***six*** times the market value of the concerned substances or products and equipment concerned. In case of a repeated infringement within a five-year period, the Member States shall ***set out minimum administrative fines of at least seven times the value of the ozone depleting substances or products and equipment concerned and*** maximum administrative fines of at least ***ten*** times the market value of the concerned substances or products and equipment concerned.

Amendment 62

Proposal for a regulation Article 27 a (new)

Text proposed by the Commission

Amendment

Article 27a

Member States shall ensure that where administrative fines are to be imposed pursuant to Article 27(5), the administrative fines may be

imposed either by way of administrative procedures or by initiating proceedings for the imposition of fines, or both.

Amendment 63

Proposal for a regulation Article 29 - paragraph 2

Text proposed by the Commission

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

Amendment

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

Amendment 64

Proposal for a regulation Article 30 - paragraph 1

Text proposed by the Commission

By 1 January **2033**, the Commission shall **publish** a report on the implementation of this Regulation.

Amendment

By 1 January **2030**, the Commission shall **present** a report **to the European Parliament and to the Council** on the implementation **and effectiveness** of this Regulation. **The Commission shall assess in particular the availability of alternatives to ozone depleting substances for which a derogation is granted under Articles 6, 7, 8 and 9. The Commission shall also assess the impact of this Regulation on the fight against the illegal trade of ozone depleting**

substances. Following the presentation of that report and the assessments requested, the Commission may, if appropriate, submit a legislative proposal.

The European Scientific Advisory Board on Climate Change established under Article 10a of Regulation (EC) No 401/2009 (the 'Advisory Board') may, on its own initiative, provide scientific advice and issue reports regarding this Regulation. The Commission shall take into account the relevant advice and reports of the Advisory Board, in particular as regards the coherence of this Regulation with the objectives of Regulation (EC) No 401/2009 and the Union's international commitments under the Paris Agreement.

Amendment 65

Proposal for a regulation Annex VI - point 2 - point f

Text proposed by the Commission

(f) any stocks;

Amendment

(f) any stocks ***held at the beginning and the end of the reporting period;***

Amendment 66

Proposal for a regulation Annex VI - point 3 - point d

Text proposed by the Commission

(d) any stocks;

Amendment

(d) any stocks ***held at the beginning and the end of the***

reporting period;

Amendment 67

Proposal for a regulation Annex VI - point 4 - point b

Text proposed by the Commission

(b) any stocks;

Amendment

(b) any stocks ***held at the beginning and the end of the reporting period;***

Amendment 68

Proposal for a regulation Annex VI - point 5 - paragraph 1 - point a

Text proposed by the Commission

(a) any quantities destroyed, including quantities contained in products or equipment;

Amendment

(a) any quantities destroyed, including quantities contained in products or equipment ***and quantities destroyed as by-products;***

Amendment 69

Proposal for a regulation Annex VI - point 5 - paragraph 1 - point b

Text proposed by the Commission

(b) any stocks waiting to be destroyed, including quantities contained in products or equipment;

Amendment

(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;

Amendment 70

Proposal for a regulation Annex VI - point 5 - paragraph 2

Text proposed by the Commission

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.

Amendment

Each undertaking destroying ozone depleting substances 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.

Amendment 71

**Proposal for a regulation
Annex VI - point 6 - paragraph 1 - point b**

Text proposed by the Commission

(b) any stocks;

Amendment

(b) any stocks **held at the beginning and the end of the reporting period**;

Amendment 72

**Proposal for a regulation
Annex VI - point 6 - paragraph 1 - point c**

Text proposed by the Commission

(c) the processes and any emissions, including those linked to transport and storage, including the transfer from one container to another.

Amendment

(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.

Amendment 73

**Proposal for a regulation
Annex VI - point 6 - paragraph 2**

Text proposed by the Commission

Each undertaking using as feedstock or process agents ozone depleting substances **listed in**

Amendment

Each undertaking using as feedstock or process agents ozone depleting substances shall also

Annex I shall also communicate data on any purchases from and sales to other undertakings in the Union.

communicate data on any purchases from and sales to other undertakings in the Union.