


THIRTEENTH CONGRESS OF THE REPUBLIC }
OF THE PHILIPPINES }
Second Regular Session }

6 FEB -8 P2:21

SENATE

RECEIVED BY: 

P.S. RES. NO. 439

Prepared by the Committee on Foreign Relations

RESOLUTION

CONCURRING IN THE RATIFICATION OF THE MONTREAL AMENDMENTS TO THE MONTREAL PROTOCOL ON SUBSTANCES THAT DEplete THE OZONE LAYER

WHEREAS, the Montreal Amendments to the Montreal Protocol on Substances that Deplete the Ozone Layer was done at the Ninth Meeting of the Parties to the Montreal Protocol held in Montreal on 17 September 1997;

WHEREAS, the Montreal Amendments, consisting of three (3) articles, aims to strengthen the control procedures under the Montreal Protocol on Substances that Deplete the Ozone Layer by extending the coverage of the Protocol to new substances;

WHEREAS, the Philippines ratified the Montreal Protocol on Substances that Deplete the Ozone Layer in 1991. The 1990 London Amendment and the 1992 Copenhagen Amendments were also ratified in 1993 and 2001, respectively;

WHEREAS, the Montreal Amendments provide for additional control measures for the production and consumption of methyl bromide applicable to developing countries and accelerated those for developed countries. Further, each Party shall ban the import and export of methyl bromide to and from any country not a party to the Montreal Protocol or has not ratified the Copenhagen Amendments and the Montreal Amendments;

WHEREAS, the Montreal Amendments is the only amendment that did not introduce new substances to the Protocol but instead introduced the requirement for licensing systems to allow control and monitoring of trade in substances controlled under the Protocol;

WHEREAS, under the Montreal Amendments, no State or regional economic integration organization may deposit an instrument of ratification, acceptance, approval of, 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 on 25 November 1992;

WHEREAS, Article 3, Paragraph 1 of the Montreal Amendments provides that it 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 Amendments shall enter into force on the ninetieth (90th) day following the date on which it has been fulfilled. After its entry into force, the Amendments, in accordance with Article 3(3), shall enter into force for any other Party

to the Protocol on the ninetieth (90th) day following the date of deposit of its instrument of ratification, acceptance or approval;

WHEREAS, to date, 120 out of the 188 signatories to the Protocol have ratified the Amendment. Malaysia, Thailand and Singapore are the countries in the South East Asia who have ratified this Amendment. The United States had ratified this Amendment in October 2003;

WHEREAS, in the hearing conducted by the Senate Committee on Foreign Relations on 1 December 2005, concerned government agencies, such as the Department of Foreign Affairs (DFA) and Department of Environment and Natural Resources (DENR), and concerned non-government organizations (NGOs), such as the Philippine Network on Climate Change, strongly supported for Senate concurrence on the Amendments;

WHEREAS, pursuant to Section 21, Article VII of the 1987 Philippine Constitution, "*No treaty or international agreement shall be valid and effective unless concurred in by at least two-thirds of all the members of the Senate*";

NOW, THEREFORE, be it resolved that the Senate of the Philippines concur as it hereby concurs in the ratification of the Montreal Amendments to the Montreal Protocol on Substances that Deplete the Ozone Layer.

Adopted,


MIRIAM DEFENSOR SANTIAGO
Chairperson



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2/19
E. C.N.468.1997.TREATIES-4/1 (Depositary Notification)

MONTREAL PROTOCOL ON SUBSTANCES THAT DEplete THE OZONE LAYER
CONCLUDED AT MONTREAL ON 16 SEPTEMBER 1987

ADOPTION OF ADJUSTMENTS AND AMENDMENT
BY THE NINTH MEETING OF THE PARTIES HELD AT MONTREAL,
ON 15-17 SEPTEMBER 1997

The Secretary-General of the United Nations, acting in his capacity as depositary, communicates the following:

I

At the Ninth Meeting of the Parties to the above Protocol, held in Montreal from 15 to 17 September 1997, the Parties adopted the Adjustments to the Protocol (Decisions IX/1, IX/2 and IX/3), pursuant to article 2 (9) of the Protocol.

The text of the Adjustments is transmitted herewith in the six languages of their conclusion, as Annexes I, II and III to this notification.

The Adjustments will enter into force on the expiry of six months from the date of the present notification issued pursuant to article 2 (9) of the Protocol.

II

Also, at their Ninth Meeting, the Parties further adopted, in accordance with the procedure laid down in article 9 (4) of the 1985 Vienna Convention for the Protection of the Ozone Layer, the Amendment to the Montreal Protocol as set out in Annex IV to the report of the Ninth Meeting of the Parties (Decision IX/4)

The text of the above Amendment, in the six official languages of its conclusion, is attached as Annex IV to this notification.

In accordance with its article 3 (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.

After its entry into force, the Amendment, in accordance with its article 3 (3), shall enter into force for any other Party to the Protocol on the ninetieth day following the date of deposit of the instrument of ratification, acceptance or approval.

~~CONFIDENTIAL~~

FELIX R. YBARDOLAZA
 Acting Director
 Central Records Division
 Department of Foreign Affairs

5 December 1997

OCT 02 2003

Attention: Treaty Services of Ministries of Foreign Affairs and of international organizations concerned

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C.N.468.1997.TREATIES-4/7 (Annex)

Decision IX/1. Further adjustments with regard to Annex A substances

To adopt, in accordance with the procedure laid down in paragraph 9 of Article 2 of the Montreal Protocol and on the basis of the assessments made pursuant to Article 6 of the Protocol, the adjustments with regard to production of the controlled substances listed in Annex A to the Protocol, as set out in annex I to the report of the Ninth Meeting of the Parties;

Decision IX/2. Further adjustments with regard to Annex B substances

To adopt, in accordance with the procedure laid down in paragraph 9 of Article 2 of the Montreal Protocol and on the basis of the assessments made pursuant to Article 6 of the Protocol, the adjustments with regard to production of the controlled substances listed in Annex B to the Protocol, as set out in annex II to the report of the Ninth Meeting of the Parties;

Decision IX/3. Further adjustments and reductions with regard to the Annex E substance

To adopt, in accordance with the procedure laid down in paragraph 9 of Article 2 of the Montreal Protocol and on the basis of the assessments made pursuant to Article 6 of the Protocol, the adjustments and reductions of production and consumption of the controlled substance listed in Annex E to the Protocol, as set out in annex III to the report of the Ninth Meeting of the Parties;

Decision IX/4. Further Amendment of the Protocol

To adopt, in accordance with the procedure laid down in paragraph 4 of Article 9 of the Vienna Convention for the Protection of the Ozone Layer, the Amendment to the Montreal Protocol as set out in annex IV to the report of the Ninth Meeting of the Parties;

CERTIFIED TRUE
[Signature]
FELIX R. YBARDOLAZA
Acting Director
Central Records Division
Department of Foreign Affairs
OCT 02 2003

Annex I

ADJUSTMENTS AGREED AT THE NINTH MEETING OF THE PARTIES RELATING
TO CONTROLLED SUBSTANCES IN ANNEX A

Article 5, paragraph 3

The following words shall be added at the end of paragraph 3 (a) of Article 5 of the Protocol:

relating to consumption

The following subparagraph shall be added to paragraph 3 of Article 5 of the Protocol:

(c) For controlled substances under Annex A, either the average of its annual calculated level of production for the period 1995 to 1997 inclusive or a calculated level of production of 0.3 kilograms per capita, whichever is the lower, as the basis for determining its compliance with the control measures relating to production.

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DEPARTMENT OF FOREIGN AFFAIRS
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Annex II

ADJUSTMENTS AGREED AT THE NINTH MEETING OF THE PARTIES RELATING
TO CONTROLLED SUBSTANCES IN ANNEX B.

Article 5, paragraph 3

The following words shall be added at the end of paragraph 3 (b) of
Article 5 of the Protocol:

relating to consumption

The following subparagraph shall be added to paragraph 3 of Article 5
of the Protocol:

(d) For controlled substances under Annex B, either the average of
its annual calculated level of production for the period 1998 to 2000
inclusive or a calculated level of production of 0.2 kilograms per
capita, whichever is the lower, as the basis for determining its
compliance with the control measures relating to production.

GENEVA TIME COPY
[Signature]
FELIX R. YBARDOLAZA
Acting Director
Central Records Division
Department of Foreign Affairs

OCT 02 2003

Annex III

ADJUSTMENTS AGREED AT THE NINTH MEETING OF THE PARTIES RELATING
TO THE CONTROLLED SUBSTANCE IN ANNEX E

A. Article 2H: Methyl bromide

1. Paragraphs 2 to 4 of Article 2H of the Protocol shall be replaced by the following paragraphs:

2. Each Party shall ensure that for the twelve-month period commencing on 1 January 1999, and in the twelve-month period thereafter, its calculated level of consumption of the controlled substance in Annex E does not exceed, annually, seventy-five per cent of its calculated level of consumption in 1991. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed, annually, seventy-five per cent of its calculated level of production in 1991. 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 ten per cent of its calculated level of production in 1991.

3. Each Party shall ensure that for the twelve-month period commencing on 1 January 2001, and in the twelve-month period thereafter, its calculated level of consumption of the controlled substance in Annex E does not exceed, annually, fifty per cent of its calculated level of consumption in 1991. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed, annually, fifty per cent of its calculated level of production in 1991. 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 ten per cent of its calculated level of production in 1991.

4. Each Party shall ensure that for the twelve-month period commencing on 1 January 2003, and in the twelve-month period thereafter, its calculated level of consumption of the controlled substance in Annex E does not exceed, annually, thirty per cent of its calculated level of consumption in 1991. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed, annually, thirty per cent of its calculated level of production in 1991. 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 ten per cent of its calculated level of production in 1991.

5. Each Party shall ensure that for the twelve-month period commencing on 1 January 2005, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substance in Annex E does not exceed zero. Each Party producing the substance shall, for the same periods, ensure that its calculated level of production of the substance does not exceed zero. However, in order

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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 in 1991. 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 critical uses.

2. Paragraph 5 of Article 2H of the Protocol shall become paragraph 6

B. Article 5, paragraph 8 ter (d)

1. The following shall be inserted after paragraph 8 ter (d) (i) of Article 5 of the Protocol:

- (ii) Each Party operating under paragraph 1 of this Article shall ensure that for the twelve-month period commencing on 1 January 2005, and in each twelve-month period thereafter, its calculated levels of consumption and production of the controlled substance in Annex E do not exceed, annually, eighty per cent of the average of its annual calculated levels of consumption and production, respectively, for the period of 1995 to 1998 inclusive;
- (iii) Each Party operating under paragraph 1 of this Article shall ensure that for the twelve-month period commencing on 1 January 2015 and in each twelve-month period thereafter, its calculated levels of consumption and production of the controlled substance in Annex E do 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 critical uses;

2. Paragraph 8 ter (d) (ii) of Article 5 of the Protocol shall become paragraph 8 ter (d) (iv).

~~GENUINE TRUE COPY~~
 FELIX R. YBARDOLAZA
 Acting Director
 Central Records Division
 Department of Foreign Affairs

OCT 02 2003

Annex IV

AMENDMENT TO THE MONTREAL PROTOCOL ADOPTED BY THE NINTH MEETING
OF THE PARTIES

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

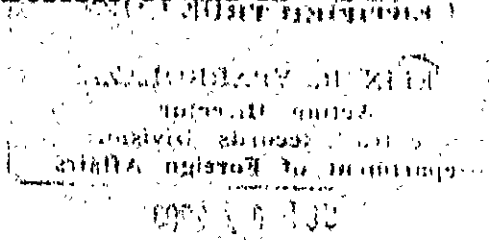
D. Article 4, paragraph 8

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

Article 2G

there shall be substituted:

Articles 2G and 2H



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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.
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.

~~GENUINE COPY~~
[Signature]
FELIX R. YBARDOLAZA
Acting Director
Central Records Division
Department of Foreign Affairs

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.

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DEPARTMENT OF FOREIGN AFFAIRS
OTTAWA, ONTARIO
JAN 14 1999