

# Beijing Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer

## Introduction

- 8.1 The *Beijing Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer*, (the Beijing Amendment) done at Beijing in November 1999, amends the *Montreal Protocol on Substances that Deplete the Ozone Layer* (the Montreal Protocol).

## Background

- 8.2 The Montreal Protocol recognises the environmental and human health problems caused as a result of damage to the ozone layer. It aims to diminish this damage by committing Parties to a reduction of their consumption of substances that harm the ozone layer.<sup>1</sup>
- 8.3 The Department of the Environment and Heritage informed the Committee that:

Since it became a party in 1989, Australia has been a leading participant in the advancement of measures to phase out ozone depleting substances under the Montreal Protocol on

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1 National Interest Analysis (NIA), para. 5.

Substances that Deplete the Ozone Layer. Australia has accepted each of the previous amendments to the protocol.<sup>2</sup>

8.4 The Beijing Amendment is the fourth amendment to the Montreal Protocol.

## Features of the agreement

8.5 The Beijing Amendment:

- sets out a series of control measures for a newly identified ozone depleting substance – bromochloromethane (BCM)
- provides an internationally binding cap on the manufacture of hydrochlorofluorocarbons (HCFCs)
- restricts trade in HCFCs with non-Parties
- requires mandatory annual reporting to the Protocol Secretariat on volumes of methyl bromide used for quarantine and pre-shipment purposes.<sup>3</sup>

8.6 Article 1 of the Beijing Amendment amends the Montreal Protocol to restrict trade in HCFCs with countries that have not ratified, accepted or acceded to the Beijing Amendment. Once these provisions come into effect, they will prohibit any country that has already ratified the Beijing Amendment from trading HCFCs with Australia, until such time as Australia accepts the Beijing Amendment.<sup>4</sup> The majority of Australia's HCFC trading partners have either ratified the Beijing Amendment or indicated that they intend to do so in the near future.<sup>5</sup>

8.7 Australia does not manufacture HCFCs and is fully dependent on imports to meet domestic demand.<sup>6</sup> However, Australia currently supplies HCFCs to countries in the region, including New Zealand and Pacific Island Countries, through the re-export of bulk product by Australian companies.<sup>7</sup> HCFCs are most commonly used as refrigerants, foam blowing agents and in fire protection systems.<sup>8</sup>

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2 Mr Peter Burnett, *Transcript of Evidence*, 14 March 2005, p. 20.

3 NIA, para. 6.

4 NIA, para. 12.

5 NIA, para. 14.

6 NIA, para. 13.

7 Regulation Impact Statement (RIS), para. 3.2.2.

8 NIA, para. 14.

8.8 If Australia were to stop supplying these countries with HCFCs, the Department of the Environment and Heritage hypothesised that:

... one concern that we would have is that, as developing countries, they might be forced back into using the now banned CFCs which are much more harmful to the ozone layer.<sup>9</sup>

8.9 The Montreal Protocol sets out a time frame for the phase out of these substances by 2030 and it is hoped that an economically and environmentally acceptable alternative to HCFCs will be developed during this period.<sup>10</sup>

8.10 The Department of the Environment and Heritage advised the Committee of the difficulties involved in finding these alternatives when the alternatives themselves have other detrimental consequences:

Now a lot of equipment is moving across to HFCs, which no longer harm the ozone layer, but these substances are harmful greenhouse gases. Nevertheless, they are less harmful to the environment overall than the ones that are being phased out. Beyond that there are ongoing research efforts to replace these gases with ones that would have no detriment to the environment at all, but it is hard to say exactly when those gases will become available. Unfortunately, some of them have other impacts. Refrigerants such as ammonia or hydrocarbons may not harm the environment but they are either flammable or toxic, or both, so they give rise to occupational health and safety and other issues.<sup>11</sup>

8.11 The Committee heard evidence that acceptance of the Beijing Amendment is in Australia's national interest. In addition to providing Australian manufacturers with access to HCFCs during the phase out period, acceptance of the Beijing Amendment will result in a reduction of the depletion of the ozone layer. It will enable Australia to more effectively influence international efforts to address ozone depletion and demonstrates Australia's commitment to supporting

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9 Mr Peter Burnett, *Transcript of Evidence*, 14 March 2005, p. 23.

10 RIS, para. 3.2.1.

11 Mr Peter Burnett, *Transcript of Evidence*, 14 March 2005, p. 23.

effective and balanced approaches to global cooperation on the environment.<sup>12</sup>

## Consultation

8.12 During the course of negotiations for the Beijing Amendment, the Commonwealth consulted with government, industry and interest groups.<sup>13</sup> There were no significant objections to Australia's acceptance of the Beijing Amendment. Specifically, the main distributors of BCM and the Australian Pharmaceutical Manufacturers Association indicated that they would not be significantly disadvantaged by the Beijing Amendment.<sup>14</sup> The Australian Fluorocarbon Council supported acceptance of the Beijing Amendment given that non-acceptance would result in a loss of access to HCFCs during the phase out program.<sup>15</sup>

## Implementation and costs

8.13 Implementation of all of Australia's obligations under the Beijing Amendment has already occurred with legislative changes to the *Ozone Protection and Synthetic Gas Management Act 1989* (Cth) in December 2003.<sup>16</sup> The Department of the Environment and Heritage has liaised with the Australian Customs Services to make the necessary amendments to the *Customs (Prohibited Imports) Regulations 1956* (Cth) and the *Customs (Prohibited Exports) Regulations 1958* (Cth).<sup>17</sup>

8.14 As a consequence of accepting the Beijing Amendment, Australia's existing financial commitments supporting the Secretariat to the *Vienna Convention for the Protection of the Ozone Layer* and the *Montreal Protocol* will not increase.<sup>18</sup>

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12 Mr Peter Burnett, *Transcript of Evidence*, 14 March 2005, p. 21 and NIA, para. 9.

13 NIA, Attachment 'Consultations', para. 1.

14 NIA, Attachment 'Consultations', paras. 4 and 6. The major distributors of BCM are identified as Merck Pty Ltd, Sigma Aldrich and Selby Biolab.

15 NIA, Attachment 'Consultations', para. 9.

16 NIA, para. 25.

17 NIA, para. 26.

18 NIA, para. 28.

- 8.15 There might be additional costs as a result of future licences for the import and export of BCM. However it is expected that these will be recovered through licence application fees.<sup>19</sup>

## Entry into force

- 8.16 If Australia accepts the proposed treaty action, the Beijing Amendment will enter into force for Australia ninety days after the deposit of its instrument of acceptance. Australia needs to accept the Beijing Amendment by the 17<sup>th</sup> meeting of the Parties in November 2005 to ensure continued trade in HCFCs.

## Conclusion and recommendation

- 8.17 The Committee recognises that cooperation between States is required to exercise effective and lasting control over ozone damaging products.

### Recommendation 6

**The Committee supports the *Beijing Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer* (Beijing, November 1999) and recommends that binding treaty action be taken.**

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<sup>19</sup> NIA, para. 29.

