

EVALUATION AND FITNESS CHECK (FC) ROADMAP			
TITLE OF THE EVALUATION/FC	Evaluation of the Ozone Regulation		
LEAD DG RESPONSIBLE UNIT	DG CLIMA A.2	DATE OF THIS ROADMAP	14/07/2017
TYPE OF EVALUATION	Interim evaluation (on-going policy), mixed	PLANNED START DATE	Q3/2017
		PLANNED COMPLETION DATE	Q2/2019
		PLANNING CALENDAR	http://ec.europa.eu/smart-regulation/evaluation/index_en.htm
This indicative roadmap is provided for information purposes only and is subject to change.			

A. Purpose
(A.1) Purpose
<p>The evaluation will address the question of whether Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer (hereinafter "the ODS Regulation") is fit for purpose. The evaluation work will be supported by an external study (yet to be contracted).</p> <p>In particular the evaluation will:</p> <ul style="list-style-type: none"> • check if the ODS Regulation is still relevant by analysing its provisions, particularly the ones permitting exemptions, • provide an analysis of the objectives of the ODS Regulation indicating whether they have been effectively achieved, • assess whether the ODS Regulation could be made simpler and less costly, whether any regulatory and administrative burdens could be reduced, and hence contribute to a clear, stable and predictable regulatory framework, • identify any gaps in the ODS Regulation and overlaps with other European interventions, • identify measures where the added value of having an EU intervention was evident or was unnecessary (e.g. more costly) as compared to having national interventions. <p>On the basis of the external study, the Commission will analyse the lessons which can be learned from the implementation of the ODS Regulation and consider appropriate follow up action.</p>
(A.2) Justification
<p>This evaluation responds to the political commitment taken in the Regulatory Fitness and Performance programme (REFIT), which aims to keep the entire stock of European Union (EU) legislation under review and ensure that it is fit for purpose.</p> <p>The 2009 ODS Regulation has not been evaluated to date and the latest assessment of ODS policy was in 2008 (see section D.2 [COM(2008) 505 final] [SEC (2008) 2367]).</p> <p>The Commission considers it timely to evaluate the provisions of the ODS Regulation. However, there is no legal requirement for an evaluation in the ODS Regulation.</p>

B. Content and subject of the evaluation

(B.1) Subject area

In the 1970s scientists discovered that certain man-made substances deplete the ozone layer, leading to an increased level of ultraviolet radiation reaching the earth. This has a profound impact on human health, animals, plants, biogeochemistry, air quality and materials. At the same time, most of these substances have high global warming potential and are contributory factors towards increasing the temperature of the planet.

To protect the ozone layer, in 1987 the international community established the Montreal Protocol on substances that deplete the ozone layer which entered into force in 1989. The Protocol was designed to reduce the production and consumption of ozone-depleting substances (ODS), inter alia, by envisaging reduction schedules both for developed and developing countries. It has been ratified by 197 Parties (including the EU and its Member States), making it the first universally ratified treaty in the history of the United Nations.

Ozone depletion has been an issue of concern within Europe for nearly 40 years. A common position was established by the Member States for the first time in 1978. The first Council Decision dates from 1980 and the first Council Regulation was adopted in 1988.

This first Council Regulation was repealed and replaced by updated legislation four times (in 1991, 1994, 2000 and 2009). The 2009 legislation is referred to in this roadmap as the ODS Regulation.

The ODS Regulation ensures compliance with the obligations set out in the Montreal Protocol. Furthermore, the Regulation includes additional requirements and is more ambitious than the Montreal Protocol. For example, the ODS Regulation envisages quicker phase-out schedules and controls more ozone-depleting substances and more uses. It controls substances not just in bulk, but also contained in products and equipment. Ambitious legislation in this area was expected to bring technological leadership in finding alternatives to ozone-depleting substances and increased competitiveness and sustainability of EU businesses on the global market.

Substances controlled by the ODS Regulation are:

- ozone-depleting substances covered under the Montreal Protocol (over 90 chemicals plus their isomers),
- ozone-depleting substances not covered under the Montreal Protocol (5 additional chemicals).

The ODS Regulation controls these substances in the EU by prohibiting their uses except where alternatives are not feasible. There are six exempted uses specified in the ODS Regulation.

- Feedstock uses,
- Process agent uses,
- Essential laboratory and analytical uses,
- HCFC* other uses,
- Quarantine and pre-shipment uses,
- Critical uses.

The exempted uses are controlled and monitored by means of measures framed by the ODS Regulation. It comprises the following types of measures:

- Quota limitations,
- Trade restrictions (e.g. licensing requirements),
- Registry requirements for laboratories,
- Reporting requirements (including illegal trade),
- Phase-out schedules (target dates for phase-out will be spelled out in the evaluation),
- National inspection obligations (including illegal trade),
- Technical requirements for destruction, leakage and emission control.

The recovery of the ozone layer to a concentration level existing before 1980 is not projected to take place before the middle of the 21st century. In this respect, the ODS Regulation aims to ensure that continuous and effective measures are taken in order to contribute to the recovery of the ozone layer and to avoid risking further delay in this respect.

* Hydrochlorofluorocarbons

(B.2) Original objectives of the intervention

Refer to section B.3 for the overall objective of the ODS Regulation and see below for the more explicit objectives.

Specific objectives:

1. Fulfil the obligations of the Montreal Protocol on substances that deplete the ozone layer to which the EU and its Member States are parties.
2. Where technically and economically feasible, ensure higher level of ambition in the EU.

Operational objectives:

1. Prohibit all uses of ozone-depleting substances for which alternatives are feasible.
2. Control and monitor exempted uses* of ozone-depleting substances where alternatives are not feasible.
3. Control and monitor other ozone-depleting substances which are not regulated under the Montreal Protocol but have the most significant impact on the ozone layer.

*Exempted use: end use as outlined in the ODS Regulation, Chapter III, Exemptions and derogations.

(B.3) How the objectives were to be achieved

The intervention logic illustrates in a simplified manner how the objectives of the ODS Regulation were to be achieved:

Objectives

Contribute to the recovery of the ozone layer and reduce emissions of ozone-depleting substances



Actions

1. Undertakings are not allowed to produce ozone-depleting substances (apart from exemptions),
2. Undertakings are not allowed to place on the market or use ozone-depleting substances (apart from exemptions),
3. Undertakings are not allowed to place on the market products and equipment containing or relying on ozone-depleting substances (apart from exemptions),
4. The Commission and Member States control and monitor the exemptions,
5. European traders are not allowed to import or export ozone-depleting substances (apart from exemptions),
6. Undertakings and Member States take measures to prevent emissions of ozone-depleting substances,
7. The Commission and Member States monitor 5 additional ozone-depleting substances not covered under the Montreal Protocol.

The numbering of the actions reflects the order of the provisions in the ODS Regulation.



Expected Results

1. Decreasing consumption* and thus emissions of ozone-depleting substances in the EU,
2. Increasing the availability of alternatives to ozone-depleting substances,
3. Increasing competitiveness and sustainability of EU businesses by fostering progress in finding and switching to alternatives to ozone-depleting substances, as well as maintaining technological leadership,
4. Efficient control of uses for which no alternatives are available and ensuring proper management of ODS stocks to prolong availability of ODS for such uses,
5. Efficient control of imports and exports of ozone-depleting substances to prevent illegal trade.

*Consumption: aggregated metric calculated for data reported under the Montreal Protocol.

In brief, consumption = production + import – export – destruction.



Expected Impacts

1. Decrease of ozone-depleting substances in the atmosphere,
2. Timely recovery of the ozone layer,
3. Climate benefits (since most of these substances have high Global Warming Potential).

External factors

1. Economic crisis,
2. New scientific findings in the area of monitoring chemicals in the atmosphere,
3. Changes in the level of EU and global demand for specific uses, e.g. refrigeration or feedstock,
4. Standards set by international organisations e.g. International Civil Aviation Organization, International Maritime Organization,
5. Inability to find suitable alternatives for some uses.

C. Scope of the evaluation/FC

(C.1) Topics covered

The scope of the evaluation is as follows:

- It covers the ODS Regulation and three implementing instruments, in particular regarding laboratory and analytical uses of ozone-depleting substances (Commission Regulation (EU) No 291/2011), process agent users (Commission Decision 2010/372/EU) and quota allocation procedures (Commission Regulation (EU) 537/2011).
- The reference period is from its entry into force in 2010 until 2017.
- The geographical scope covers implementation in the Member States. It will also take into account the relevant international context of the Montreal Protocol.

(C.2) Issues to be examined

Relevance

It will assess whether the ODS Regulation is still relevant and valid, particularly in view of the current developments in this field e.g. new alternatives to the use of ozone-depleting substances.

Effectiveness

The evaluation will analyse the effectiveness of the ODS Regulation. It will identify factors which influenced achieving the objectives of the ODS Regulation. It will also assess how the ODS Regulation has contributed to the decrease of the consumption and emissions of ozone-depleting substances.

Efficiency

Regarding the assessment of efficiency, it will attempt to define, and if possible quantify, the regulatory costs and benefits. The evaluation will identify any burdensome and unnecessarily complex aspects of the implementation of the ODS Regulation in the Member States and at European level.

Coherence

It will examine the extent to which the measures set out in the ODS Regulation contribute to the overall legal landscape in the EU. It will check whether there are any specific inconsistencies, overlaps, obsolete provisions or gaps by comparing the ODS Regulation with EU interventions in the following policy areas:

- Chemicals legislation,
- Industrial emissions legislation,
- Waste legislation,
- Customs legislation.

It will also check if there are any gaps in the ODS Regulation as compared to the decisions set out under the Montreal Protocol.

EU added value

The evaluation will analyse the measures of the ODS Regulation in view of the additional value resulting from this EU intervention compared to what could reasonably have been expected from Member States acting at national/regional level.

Finally, the evaluation will provide conclusions on how the ODS Regulation has performed, what experience has been gained and what lessons can be learned.

(C.3) Other tasks

None

D. Evidence base

(D.1) Evidence from monitoring

Under the provisions of the ODS Regulation, Member States and undertakings submit reports annually and provide relevant data. The national reports provide data on quantities of certain ozone-depleting substances and cases of illegal trade. The reporting by undertakings covers any activities related to ozone-depleting substances such as production, import and export. The European Environmental Agency (EEA) compiles this data each year.

- "Ozone-depleting substances 2015. Aggregated data reported by companies on the import, export, production, destruction, and feedstock and process agent use of ozone-depleting substances in the European Union", September 2016, available on <http://www.eea.europa.eu/publications/ozone-depleting-substances-2015>

The European Commission, on behalf of its Member States, submits data reported by undertaking to the UN Ozone Secretariat in line with Article 7 of the Montreal Protocol.

- Reports of Parties to the Montreal Protocol on annual production and consumption of ozone-depleting substances, available on <http://ozone.unep.org/en/data-reporting/data-centre>

(D.2) Previous evaluations and other reports

In conducting this evaluation the Commission can draw on a range of existing work. Key documents are listed below, but this list will be reviewed and extended as appropriate for the purpose of the study.

- "Commission staff working document reviewing Regulation (EC) N° 2037/2000 on substances that deplete the ozone layer- Impact assessment accompanying the proposal for a Regulation of the European Parliament and Council on substances that deplete the ozone layer (Recast) [COM(2008) 505 final] [SEC (2008) 2367], August 2008, available on <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52008SC2366&from=EN>
- "Review of the implementation of Regulation (EC) No 2037/2000 on substances that deplete the ozone layer" December 2007, available on http://ec.europa.eu/dgs/environment/evaluation_reports.htm
- "Ozone-depleting substances 2015. Aggregated data reported by companies on the import, export, production, destruction, and feedstock and process agent use of ozone-depleting substances in the European Union", September 2016, available on <http://www.eea.europa.eu/publications/ozone-depleting-substances-2015>
- "Ozone-depleting substances 2015. Data reported by companies on the production, import, export, destruction, and use of ozone-depleting substances in the European Union, 2015" (annual confidential report), September 2016
- "Indicators for production and consumption of ozone-depleting substances", 2015, available on <http://www.eea.europa.eu/data-and-maps/indicators/production-and-consumption-of-ozone-2/assessment-1>
- Reports of Parties to the Montreal Protocol on annual production and consumption of ozone-depleting substances, available on <http://ozone.unep.org/en/data-reporting/data-centre>
- Progress & Quadrennial Assessment Reports of the Technology and Economic Assessment Panel under the Montreal Protocol, available on <http://ozone.unep.org/en/assessment-panels/technology-and-economic-assessment-panel>
- "Literature review on ODS (Ozone-Depleting Substances) measurement methods and data", 2015, available on https://ec.europa.eu/clima/sites/clima/files/ozone/docs/literature_review_en.pdf
- "Information paper on synergies between the Montreal Protocol and other International Agreements", March 2013, available on https://ec.europa.eu/clima/sites/clima/files/ozone/docs/synergies_en.pdf
- "Information paper on feedstock uses of ozone-depleting substances", December 2012, available on https://ec.europa.eu/clima/sites/clima/files/ozone/docs/feedstock_en.pdf
- "Further assessment of policy options for the management and destruction of banks of ODS and

F-gases in the EU", March 2012, available on

https://ec.europa.eu/clima/sites/clima/files/ozone/docs/ods_f-gas_destruction_report_2012_en.pdf

- "Identifying and assessing policy options for promoting the recovery and destruction of Ozone-Depleting Substances (ODS) and certain Fluorinated Greenhouse Gases (F-gases) banked in products and equipment", May 2010, available on https://ec.europa.eu/clima/sites/clima/files/ozone/docs/ods_f-gas_destruction_report_en.pdf

(D.3) Evidence from assessing the implementation and application of legislation (complaints, infringement procedures)

As part of the evidence gathering, the Commission will review concerns communicated by stakeholders to gather relevant information on the level of implementation of the ODS Regulation. These mainly include comments from undertakings on licensing of ODS trade and registering laboratory users of ODS.

There are no pending infringement cases nor registered complaints on the implementation and application of the ODS Regulation. Cases of illegal trade of ozone-depleting substances have been followed up with a view to ensuring that appropriate penalties are imposed by the law enforcement authorities.

(D.4) Consultation

The main consultation activities expected to be undertaken are:

- (1) 12 week public consultation in order to provide an opportunity to the public to participate in the evaluation
- (2) Targeted consultation by surveys and interviews with key stakeholders (industry, national competent authorities, European Commission)
- (3) Stakeholder workshop to present draft findings and answers in order to validate results

The public consultation will focus on obtaining information about the general support for the Regulation, the awareness on regulating ozone-depleting substances, public awareness of regulating this issue on European level and opinion on whether citizens think that more should be done on European or national level. It will comprise around 10 questions.

The public consultation will be complemented by a targeted information collection exercise with questions on specific provisions of the Regulation. The list of affected stakeholders and preliminary outline of technical questions will be part of the Consultation Strategy developed by the DG CLIMA A.2.

Some of this work will be provided via the support study.

(D.5) Further evidence to be gathered

- Relevant opinions, reports, data series and feedback from industry, associations and NGOs.
- Relevant statistics.

E. Other relevant information/ remarks

A support study will be commissioned under Framework contract No CLIMA.001/FRA/2015/0014.