

Ronald Reagan Presidential Library

Digital Library Collections

This is a PDF of a folder from our textual collections.

Collection: Bledsoe, Ralph C.: Files (DPC)
Folder Title: 330 – Stratospheric Ozone
(June 1987 to August 1987) (4 of 6)
Box: 103

To see more digitized collections visit:

<https://www.reaganlibrary.gov/archives/digitized-textual-material>

To see all Ronald Reagan Presidential Library Inventories, visit:

<https://www.reaganlibrary.gov/archives/white-house-inventories>

Contact a reference archivist at: **reagan.library@nara.gov**

Citation Guidelines: <https://reaganlibrary.gov/archives/research-support/citation-guide>

National Archives Catalogue: <https://catalog.archives.gov/>

Last Updated: 04/03/2024

WITHDRAWAL SHEET

Ronald Reagan Library

Collection: BLEDSOE, RALPH: Files
 OA/Box: OA 18803
 File Folder: 330-Stratospheric Ozone
 (June 1987 To August 1987) [4]

Archivist: lov/lov
 FOIA ID: F00-013, Metzger
 Date: 08/08/2000

DOCUMENT NO. & TYPE	SUBJECT/TITLE	DATE	RESTRICTION
1. memo	Michael Darby to John Whitehead, re comments on chairman's draft protocol for the control of ozone-depleting chemicals, 2p 8/5/1/01 F00-013/1 #15	8/4/87	P1/F1

RESTRICTIONS

P-1 National security classified information [(a)(1) of the PRA].
 P-2 Relating to appointment to Federal office [(a)(2) of the PRA].

P-3 Release would violate a Federal statute [(a)(3) of the PRA].

P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA].

P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA].

P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA].

C. Closed in accordance with restrictions contained in donor's deed of gift.

F-1 National security classified information [(b)(1) of the FOIA].

F-2 Release could disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA].

F-3 Release would violate a Federal statute [(b)(3) of the FOIA].

F-4 Release would disclose trade secrets or confidential commercial or financial information [(b)(4) of the FOIA].

F-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA].

F-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA].

F-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA].

F-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA].

OZONE DEPLETION AND CLIMATE CHANGE:
A STATEMENT ON CHLOROFLUOROCARBONS
AND RELATED COMPOUNDS BY THE
INTERNATIONAL ENVIRONMENTAL COMMUNITY

The biosphere of the planet is gravely threatened by emissions into the atmosphere of chlorofluorocarbons (CFCs) and other long-lived industrial compounds containing chlorine or bromine. If unchecked, these gases will deplete the protective stratospheric ozone layer and contribute to global temperature increases with disastrous consequences for human health and environment world-wide. Citizens, governments, and industries world-wide are now recognizing the need to control emissions of CFCs and related gases.

The principal compounds of concern include six chlorofluorocarbons (CFC-11, CFC-12, CFC-22, CFC-113, CFC-114, and CFC-115), three chlorinated solvents (carbon tetrachloride, methyl chloroform, and methylene chloride), and two bromine-containing halons (Halon-1211 and Halon-1301).

Under the 1985 Vienna Convention for the Protection of the Ozone Layer, national representatives began negotiations in Geneva in December 1986 on an international agreement to limit emissions of these compounds. To focus attention on the need for sharp and rapid emission reductions, the undersigned organizations present this statement on ozone depletion and climate change from CFCs and related compounds. Based on review of the most up-to-date scientific research, we conclude as follows:

1. Continued emissions of CFCs and related compounds gravely imperil human health and critical ecosystems of the planet. The risk of damage to human health and the environment outweighs the benefits of using these compounds.
2. Any level of stratospheric ozone depletion or global warming is undesirable. An experiment of global scale is being conducted on the earth's atmosphere without a full understanding of the consequences. This is unacceptable.
3. In order to stabilize and eventually reduce chlorine and bromine levels reaching the stratosphere, and in order to minimize the extent of global warming, emissions of these compounds must be rapidly terminated.

4. The highest priority must be given to instituting programs of recycling, recovery, and destruction for CFCs and related compounds and to developing and deploying safe substitutes for ozone-depleting and climate-changing chemicals.

To protect human health and the environment world-wide, we call for a rapid phase-out of CFCs and the other compounds listed in this statement. Specifically, we call for:

- o A 30 percent reduction in emissions of the listed compounds within 18 months. This is achievable by terminating the use of CFCs as aerosol propellants or by other equivalent actions. Countries which do not have bans on the use of CFCs as aerosol propellants should make proportionally larger reductions.
- o An 85 percent reduction in emissions of the listed compounds within five years. We expect that this will require an 85% cut in production (which may be partially offset by programs of recovery, recycling, and destruction) and the introduction of substitute compounds. According to Dupont, the world's largest producer of CFCs, it can produce substitute compounds in volume within five years.
- o A near-complete phase-out within ten years, which could be modified in light of developing scientific findings. This period allows for full penetration of alternatives, and for replacement of current equipment which requires the present chemicals.

This timetable would allow an orderly transition to products and processes which do not endanger human health or the global environment.

New scientific findings, however, may require even faster emission reductions:

1. Real rates of ozone depletion may in fact be surpassing all model projections. Satellite data from the U.S. National Aeronautics and Space Administration (NASA), now under careful review, indicate that large global ozone reductions may have occurred over the past several years. The measured ozone losses exceed model projections by as much as eight times.

2. Large losses in ozone have been recorded over Antarctica in springtime for nearly a decade. Scientists investigating the Antarctic ozone losses in October 1986 have reported that proposed explanations related to solar cycles or dynamical processes are unlikely. Chemical processes, possibly involving chlorine, are more likely to be responsible. An ozone hole over the arctic also has been reported.

These global and polar ozone losses may be related to CFCs. They are not predicted by current atmospheric science models. If their relationship to CFCs is confirmed, then drastic, immediate emission reductions will be necessary.

BACKGROUND

Chlorofluorocarbons and other long-lived chlorine- and bromine-containing compounds have a wide range of industrial and commercial applications, including refrigeration, insulation, aerosol propellants, solvents, and fire extinguishers. In all such applications, the compounds are released into the air, either immediately or on a delayed basis.

Because these compounds are so stable, they can remain unaltered in the atmosphere for as long as 100 years or more. Over time, they migrate into the upper atmosphere (the stratosphere), which contains the earth's protective ozone shield. There these compounds are decomposed by ultraviolet radiation. The chlorine or bromine they contain then catalyzes a chain reaction in which ozone is destroyed.

Ozone depletion allows more ultraviolet radiation to reach ground level, in particular radiation in the wavelengths known as UV-B. This radiation is highly dangerous because life on earth is delicately tuned to the wavelengths and intensity of solar radiation reaching ground levels.

CFCs and related compounds also absorb infrared radiation from the earth's surface, contributing to a warming of the climate through a phenomenon known as the "greenhouse effect." On a molecule-for-molecule basis, CFCs absorb 10,000 times more infrared radiation than carbon dioxide. Global warming induced by these compounds will produce a host of disastrous climatic changes ranging from sharply higher temperatures to world-wide alterations in storm and precipitation patterns.

The health and environmental impacts of these changes may be summarized as follows.

HUMAN HEALTH EFFECTS

Higher levels of UV-B radiation will sharply increase rates of nonmelanoma skin cancer and probably malignant melanoma as well. Millions of additional cases of skin cancer will result between 1980 and 2025 in the United States alone if CFC emissions continue to grow as projected. Eye damage, including cataracts and retinal damage, will also occur. Immune system responses may also be suppressed, causing increases in rates of herpes, hepatitis, and other diseases.

Increased UV-B radiation will also cause higher levels of ozone "smog" in urban atmospheres. Approximately one person in five is especially sensitive to ozone smog levels already common in urban areas.

Climate change caused by these compounds will also have severe effects upon health. Urban death rates will rise as the number and severity of summertime heat waves increase. Higher sea level and increased storm flooding may cause large losses of life and property.

AGRICULTURAL AND TERRESTRIAL ECOSYSTEM EFFECTS

Increased UV-B radiation will also have grave consequences for vegetation. Important cereal grains and fiber crops have shown sensitivity to UV-B radiation. Recent field studies have shown a 20% reduction in soybean yield from a simulated 25% ozone depletion. Increased production of ground-level ozone smog will damage plants. Forests and other natural systems will also be damaged.

Climate change will cause marked changes in the distribution of precipitation and frequency of severe weather. Changes in rainfall patterns will have dramatic impacts on crop yields. Economic and social disruption could result from regional shifts in agricultural patterns.

AQUATIC EFFECTS

Increased UV-B radiation may cause the collapse of complex food chains in aquatic environments. Reduced productivity occurs among phytoplankton, an important early link in the food chain, when exposed to increased UV-B radiation. Many higher-order life forms in aquatic systems are vulnerable in their larval stage. Reductions in commercially valuable fish catches can be expected due to the reduction in food supplies at the bottom of the food chain.

SEA LEVEL RISE AND PROPERTY DAMAGE

Climate warming will cause sea level to rise dramatically -- approximately one meter by the middle of the next century -- causing enormous economic damage to coastal property. Water would inundate 11.5% of Bangladesh's land area where 8 million people now live. Sea level rise will also cause salt water intrusion into freshwater resources, widespread destruction of wetlands by flooding, accelerated coastal erosion, and increased inland flooding during storms.

UV-B radiation also damages man-made materials. In the U.S. alone, damage to materials made of just one plastic (polyvinyl chloride) has been estimated to range between 10 and 27 million dollars per year if CFC emissions continue to grow as projected.

BROADER ENVIRONMENTAL EFFECTS

As severe as these consequences are, they do not include damage that will occur to wildlands and wildlife. Forests, wetlands, and wildlife dependent on them have very little ability to adapt to increasingly hostile radiation and climate.

THE NEED FOR RAPID EMISSION REDUCTIONS

That CFCs and related compounds endanger human health and the environment has been known since 1974, when their role in stratospheric ozone depletion was discovered. Four important findings, however, now demonstrate the need for rapid action to sharply reduce emissions of these compounds.

1. Until recently, nearly all projections of ozone depletion rates were made with one-dimensional atmospheric models. These models give a global average figure for ozone depletion, irrespective of latitude. Newer two-dimensional models, however, project substantially higher ozone depletion rates in northern and southern latitudes away from the equator. For example, under conditions in which "1-D" models project a one or two percent ozone loss on a global average basis, "2-D" models show several times greater levels of depletion at the latitudes of northern Europe and North America (50-60 degrees north). Ozone depletion of this magnitude is regarded as exceptionally dangerous.

2. Vertical redistribution of ozone may be as important as latitudinal changes. Even as ozone is depleted overall, ozone increases may occur at some altitudes. The atmospheric balance of heat and moisture may be markedly changed by such vertical

ozone shifts, and these changes may lead to large-scale climate modification.

3. The concentration of chlorine in the stratosphere will continue to increase -- and so will ozone depletion -- even if CFC emissions do not increase. To rapidly stabilize chlorine concentrations in the stratosphere, current emission rates for CFC-11 and CFC-12 would have to be cut by approximately 85 percent.

4. New attention has been paid to the role of CFCs and related compounds in climate warming. Recent studies indicate that approximately one-sixth of the total man-made atmospheric warming to which our planet is now committed will be due to CFCs. With a total warming of up to six degrees Fahrenheit (approximately three degrees Centigrade) possible by the year 2030, every possible step to limit the build-up of greenhouse gases is necessary.

We recognize that it may be appropriate to treat CFC-22 on a different basis from other compounds listed in this statement, while substitutes are being developed and deployed. While CFC-22 is still an ozone depleter and infrared absorber, it is substantially less potent than the other listed compounds. Because it does deplete ozone, however, CFC-22 should only be used on an interim basis until better substitutes are available.

The undersigned organizations call on the governments negotiating in Vienna to avert a global environmental tragedy by adopting an agreement which accomplishes these objectives.

Montreal, Canada
September 8, 1987

INTERNATIONAL

Environment Liaison Centre (ELC)
Friends of the Earth International
International Organization of Consumers Unions (IOCU)
International Union for Conservation of Nature and Natural Resources (IUCN)

EUROPEAN ECONOMIC COMMUNITY

European Environmental Bureau (EEB)

ARGENTINA

Promundo Internacional

AUSTRALIA

Australian Conservation Foundation
Queensland Conservation Council
Rainforest Information Centre
Conservation Council of Western Australia
The Wilderness Society

BRAZIL

ADFG Amigos da Terra (Friends of the Earth)
AGEN (Agencia Ecumenica de Noticias)
Amigos da Terra (Friends of the Earth)
APREMA-SC
Ceacon - Centro de Estudos e Atividades de Conservacao
da Natureza
Centro Ecumenico de Documentacao e Informacao (CEDI)
Comite de Defesa da Ilha de Sao Luiz
Escola Livre de Agricultura Ecologica
Instituto de Estudos Amazonicos
Sociedade Ecologica de Fernandopolis
Uniao das Nacoes Indigenas (UNIAO)

CANADA

Canadian Environmental Law Association
Pollution Probe

ECUADOR

Accion Ecologica
Fundacion Natura

GREECE

Kentro Prostasias Katanaloton

INDIA

Asia Environmental Society
Consumer Education and Research Centre
Girijana Seema Welfare Association
Girijana Sanghatitha
Kalpavriksh - Environmental Action Group
Society for Clean Environment
U.P. Environment Congress

INDONESIA

Indonesian Environmental Forum (WALHI)

JAPAN

Chikyu no Tomo (Friends of the Earth Japan)

MALAYSIA

Asia-Pacific Peoples Environment Network (APPEN)
Sahabat Alam Malaysia (SAM)
Third World Network

MAURITIUS

Association des Consommateurs de l'Ile Maurice

KOREA

Citizens' Alliance for Consumer Protection in Korea (CACPK)

MEXICO

Federacion Conservacionista Mexicana

NEW ZEALAND

Environment and Conservation Organisations of New Zealand (ECO)
Environmental Defense Society Inc.

NIGERIA

National Consumers Nigeria

SWEDEN

Swedish Society for the Conservation of Nature

SWITZERLAND

Federacion Romande des Consommatrices
Stiftung fur Konsumentenschutz (SKS)

THAILAND

Siam Environment Club

UNITED STATES

American Council for Consumer Interests/IOCU UN
Environmental Defense Fund (EDF)
Environmental Policy Institute
Friends of the Earth - U.S.
National Wildlife Federation
Natural Resources Defense Council (NRDC)
Sierra Club
U.S. Public Interest Research Group (PIRG)

URUGUAY

Liga Uruguaya de Defensa del Consumidor

WEST GERMANY

Die Verbraucher Initiative (Consumer Initiative)

~~LIMITED OFFICIAL USE~~
Department of State

OUTGOING
TELEGRAM

PAGE 01 OF 05 STATE 261173
ORIGIN OES-09

2842

INFO LOG-00 COPY-01 ADS-00 AID-00 INR-10 EUR-00 SS-00
OIC-02 AF-00 CIAE-00 EB-00 DINT-05 DODE-00 H-01
10-19 NEA-06 NSCE-00 NSF-01 ARA-00 NSAE-00 COME-00
SSO-00 L-03 PH-10 EAP-00 EPA-01 STR-17 INRE-00
ACDA-12 USIE-00 DOE-00 CEO-01 PRS-01 T-01 /100 R

TAGS: SENV, ETRD, UNEP
SUBJECT: NEGOTIATIONS TO CONTROL OZONE-DEPLETING
CHEMICALS

REFS: A. STATE 219514 (TO EC COLLECTIVE)
B. STATE 222894 (TO MOSCOW, TOKYO, OTTAWA, NORDICS,
CAIRO, CANBERRA, WELLINGTON)
C. STATE 38845 (ALL ADDRESSEES, 2/10/87)

DRAFTED BY OES/ENV:SBUTCHER
APPROVED BY: OES/E:REBENEDICK
OES/ENV:ADSENS/JROUSE
L/OES:DKENNEDY
ED/IFD/IFO:LBENEDICY
S/S-O:MMINTON
ED/OIA:SVILLAROSA
S/S:JLAKE
EPA/OIA:BLONG
ED/OT/DCT:ASUNDQUIST
USTR:RREINSTEIN
EUR/RPE:WDAHERON
P:DKEANEY

-----166656 230209Z /78 38

P 230014Z AUG 87
FM SECSTATE WASHDC
TO ALL OECD CAPITALS PRIORITY PRIORITY
AMEMBASSY ACCRA PRIORITY
AMEMBASSY ALGIERS PRIORITY
AMEMBASSY BANGKOK PRIORITY
AMEMBASSY BOGOTA PRIORITY
AMEMBASSY BRASILIA PRIORITY
AMEMBASSY BUCHAREST PRIORITY
AMEMBASSY BUDAPEST PRIORITY
AMEMBASSY BUENOS AIRES PRIORITY
AMEMBASSY CAIRO PRIORITY
AMEMBASSY CARACAS PRIORITY
AMEMBASSY DAKAR PRIORITY
USMISSION GENEVA PRIORITY
AMCONSUL HONG KONG PRIORITY
AMEMBASSY JAKARTA PRIORITY
AMEMBASSY KUALA LUMPUR PRIORITY
AMEMBASSY KUWAIT PRIORITY
AMEMBASSY LAGOS PRIORITY
AMEMBASSY LILONGWE PRIORITY
AMEMBASSY LIMA PRIORITY
AMEMBASSY MANILA PRIORITY
AMEMBASSY MEXICO PRIORITY
AMEMBASSY MONTEVIDEO PRIORITY
AMEMBASSY MOSCOW PRIORITY
AMEMBASSY NAIROBI PRIORITY
AMEMBASSY NEW DELHI PRIORITY
AMEMBASSY OUAGADOUGOU PRIORITY
AMEMBASSY RABAT PRIORITY
AMEMBASSY SANTIAGO PRIORITY
AMEMBASSY SEOUL PRIORITY
AMEMBASSY SINGAPORE PRIORITY
AMEMBASSY SOFIA PRIORITY
AMEMBASSY TEL AVIV PRIORITY
AMEMBASSY TUNIS PRIORITY
AMEMBASSY WARSAW PRIORITY
USMISSION USVIENNA PRIORITY
INFO AMCONSUL MONTREAL PRIORITY

LIMITED OFFICIAL USE STATE 261173

ALSO FOR UNEP PERMREP, USEC, MNVT

E.O. 12356: N/A

1. BACKGROUND: UN ENVIRONMENT PROGRAM (UNEP) NEGOTIATIONS ON A PROTOCOL TO CONTROL OZONE-DEPLETING CHEMICALS ARE TO CULMINATE WITH FINAL NEGOTIATIONS SEPTEMBER 8-11 AND CONFERENCE OF PLENIPOTENTIARIES SEPTEMBER 14-16 IN MONTREAL. PROTECTION OF THE OZONE LAYER IS CONSIDERED TO BE ONE OF THE MOST IMPORTANT INTERNATIONAL ENVIRONMENTAL ISSUES OF OUR TIME, AND SUCCESSFUL CONCLUSION OF THIS TREATY WOULD REPRESENT A LANDMARK IN INTERNATIONAL COOPERATION ON THE ENVIRONMENT. THE MONTREAL MEETING WILL BE A MAJOR INTERNATIONAL CONFERENCE, WITH MANY DELEGATIONS AT MINISTERIAL-LEVEL U.S. DELEGATION TO PLENIPOTENTIARY CONFERENCE WILL BE HEADED BY ENVIRONMENTAL PROTECTION AGENCY ADMINISTRATOR LEE THOMAS, WHILE STATE DAS RICHARD BENEDICK WILL LEAD U.S. DELEGATION TO NEGOTIATING MEETING.)

2. UNEP HAS DISTRIBUTED THE SEVENTH REVISED DRAFT PROTOCOL, FOR CONSIDERATION OF GOVERNMENTS IN PREPARATION FOR MONTREAL. TEXT IS BEING CABLED TO ADDRESSEES BY SEPT. FOLLOWING ARE U.S. VIEWS ON SOME OF THE KEY ISSUES WHICH WE BELIEVE WILL BE DISCUSSED IN MONTREAL, IN ORDER IN WHICH THEY APPEAR IN THE TEXT. SOME OF THE ISSUES RELATE TO SPECIFIC CONCERNS RAISED BY CERTAIN OTHER GOVERNMENTS IN RESPONSE TO REFS. OTHERS ARE ISSUES UNRESOLVED FROM PREVIOUS NEGOTIATIONS OR ISSUES THAT HAVE EMERGED FROM OUR LATEST REVIEW OF THE UNEP TEXT. WE WOULD WELCOME COMMENTS FROM OTHER PARTICIPANTS. END BACKGROUND.

3. ACTION REQUESTED: PLEASE PROVIDE THESE VIEWS IN WRITING TO OFFICIALS WHO WILL PARTICIPATE IN MONTREAL, ADJUSTED AS NOTED BELOW TO RESPOND TO PARTICULAR HOST GOVERNMENT CONCERNS. WE WOULD APPRECIATE A RESPONSE BY THURSDAY, AUGUST 27, AND CONTINUING REPORTING BETWEEN NOW AND MONTREAL ON HOST GOVERNMENT POSITIONS.

U.S. VIEWS ON PROPOSED PROTOCOL ON OZONE-DEPLETING SUBSTANCES

4. INTRODUCTION

UNITED NATIONS ENVIRONMENT PROGRAM (UNEP) NEGOTIATIONS ON A PROTOCOL TO CONTROL OZONE-DEPLETING CHEMICALS ARE TO CULMINATE WITH FINAL NEGOTIATIONS SEPTEMBER 8-11 AND A CONFERENCE OF PLENIPOTENTIARIES SEPTEMBER 14-16 IN MONTREAL. IF SUCCESSFUL, THIS WILL BE A LANDMARK IN PROTECTION OF THE GLOBAL ENVIRONMENT. THE UNITED STATES GOVERNMENT SUPPORTS ADOPTION OF A STRONG AND EFFECTIVE PROTOCOL. GLOBAL COOPERATION IS REQUIRED TO PROTECT THE STRATOSPHERIC OZONE LAYER, A VITAL COMMON RESOURCE.

UNEP EXECUTIVE DIRECTOR MOSTAFA TOLBA HAS CIRCULATED THE SEVENTH REVISED DRAFT PROTOCOL FOR CONSIDERATION OF GOVERNMENTS IN PREPARATION FOR THE MONTREAL MEETINGS. WE HOPE THE FOLLOWING COMMENTS WILL BE HELPFUL TO OTHER GOVERNMENTS IN PREPARING FOR MONTREAL AND WILL FACILITATE AGREEMENT THERE. SOME OF THESE POINTS CONCERN MAJOR ISSUES WHICH HAVE BEEN DISCUSSED PREVIOUSLY IN THE NEGOTIATIONS, SOME ARE POINTS WE HAVE NOTED IN OUR REVIEW OF THE UNEP TEXT. WE ARE CONTINUING OUR OWN REVIEW AND

~~LIMITED OFFICIAL USE~~

~~LIMITED OFFICIAL USE~~
Department of State

OUTGOING
TELEGRAM

PAGE 02 OF 05

ARE LIKELY TO HAVE ADDITIONAL COMMENTS BEFORE OR AT MONTREAL. WE WELCOME COMMENTS FROM OTHER PARTICIPANTS.

5. COVERAGE/TITLE OF CONFERENCE AND PROTOCOL

THE UNEP GOVERNING COUNCIL IN JUNE 1987 DECIDED THAT THE WORKING GROUP "SHOULD CONSIDER THE FULL RANGE OF POTENTIAL OZONE-DEPLETING SUBSTANCES IN DETERMINING WHAT CHEMICALS MIGHT BE CONTROLLED UNDER THE PROTOCOL." ACCORDINGLY, THE TITLE OF THE CONFERENCE SHOULD BE CHANGED FROM "CONFERENCE OF PLENIPOTENTIARIES ON THE PROTOCOL ON CHLOROFUOROCARBONS ..." TO "CONFERENCE OF PLENIPOTENTIARIES ON OZONE-DEPLETING SUBSTANCES..." AND THE TITLE OF THE PROTOCOL TO "PROTOCOL ON OZONE-DEPLETING SUBSTANCES." THE PROTOCOL SHOULD INITIALLY COVER ONLY CERTAIN CHLOROFUOROCARBONS AND HALONS, BUT SHOULD BE FLEXIBLE ENOUGH TO INCLUDE ADDITIONAL SUBSTANCES IN THE FUTURE IF THE PARTIES SO DECIDE (AS PROVIDED IN ART. 2, PARA 5A OF THE UNEP TEXT). THE TITLE OF THE CONFERENCE AND OF THE PROTOCOL SHOULD THEREFORE REFER SIMPLY TO "OZONE-DEPLETING SUBSTANCES."

6. WHAT IS TO BE CONTROLLED? (ART. 2)

THE UNITED STATES AND SEVERAL OTHER PARTICIPANTS IN THE NEGOTIATIONS HAVE ADVOCATED THAT CONTROLS APPLY TO APPARENT CONSUMPTION, DEFINED AS EACH PARTY'S PRODUCTION PLUS IMPORTS MINUS EXPORTS TO PARTIES MINUS AMOUNTS DESTROYED BY APPROVED TECHNIQUES. THE EC, ON THE OTHER HAND, HAS FAVORED CONTROLLING PRODUCTION, SINCE IMPLEMENTATION WOULD BE LESS COMPLICATED. THE COMPROMISE PROPOSED IN THE UNEP TEXT PROVIDES FOR BOTH PRODUCTION AND CONSUMPTION CONTROLS, IN PARALLEL.

THE PROPOSAL IN THE TEXT TO CONTROL PRODUCTION AND IMPORTS RATHER THAN PRODUCTION AND CONSUMPTION IN THE FIRST FEW YEARS RESULTED FROM CONCERNS THAT 1986 DATA ON EXPORTS WOULD NOT BE AVAILABLE. WE ARE CONFIDENT THAT, WITH THE COOPERATION OF INDUSTRY, WORKABLE 1986 DATA CAN BE DEVELOPED. CONSUMPTION CAN AND SHOULD BE USED FROM THE BEGINNING.

7. UPON SERIOUS REFLECTION, THE UNITED STATES BELIEVES THAT BY CONTROLLING ONLY CONSUMPTION, SEVERAL OTHER POTENTIAL PROBLEMS COULD BE SIMULTANEOUSLY RESOLVED. THIS WOULD PROVIDE THE FREEST POSSIBLE MOVEMENT OF TRADE AND CAPITAL AMONG PARTICIPATING PARTIES IN RESPONSE TO MARKET FORCES, WITHIN OVERALL LIMITS TO PROTECT THE OZONE LAYER. PRODUCTION CONTROLS ALONE WOULD, IN CONTRAST, LOCK IN EXISTING MARKET SHARES. IF CURRENT PRODUCERS

ARE REQUIRED TO CUT BACK WHILE LOW CONSUMING COUNTRIES (LCCS) ARE PERMITTED DURING A GRACE PERIOD TO CONTINUE OR INCREASE PRODUCTION AND CONSUMPTION, AN ENVIRONMENTALLY UNDESIRABLE AND ECONOMICALLY INEFFICIENT INCENTIVE WOULD BE CREATED TO REPLACE EXISTING PRODUCTION CAPACITY IN NON-LCC PARTIES WITH EXPANDED PRODUCTION CAPACITY IN THE LCCS (SEE COMMENTS ON LCCS BELOW).

8. WE ALSO NOTE THAT THE EC COMMISSION PROPOSAL THAT THE EC BE TREATED AS A SINGLE PRODUCING UNIT WOULD PROVIDE TO THE EC THE FREEDOM OF MOVEMENT OF TRADE AND CAPITAL WHICH CONTROLS ON CONSUMPTION ALONE WOULD PROVIDE TO ALL PARTIES, YET THE EC IS INSISTING THAT ALL OTHER PARTIES BE REQUIRED TO COMPLY WITH INDIVIDUAL NATIONAL PRODUCTION LIMITS (SEE COMMENTS BELOW ON EC REGIONAL ECONOMIC INTEGRATION ORGANIZATION PROPOSAL).

9. HALONS (ART. 2, PARA 2)

THE UNEP TEXT PROPOSES THAT HALONS 1211 AND 13B1 BE FROZEN AT 1986 LEVELS THREE YEARS AFTER ENTRY INTO FORCE (EIF) (I.E., 4-5 YEARS FROM NOW, OR LATER). MOLECULE FOR MOLECULE, THE HALONS ARE FAR MORE OZONE-DEPLETING THAN CFCs. THE UNITED STATES BELIEVES THAT HALONS SHOULD BE FROZEN ONE YEAR AFTER ENTRY INTO FORCE, OR AT THE LATEST TWO YEARS AFTER ENTRY INTO FORCE. WE STRONGLY URGE GOVERNMENTS WHICH HAVE NOT YET DONE SO TO AGREE TO INCLUDE IN THE PROTOCOL THIS FUTURE FREEZE ON HALONS. IF THE PROTOCOL DOES NOT FREEZE THE HALONS, A FURTHER REDUCTION OF THE CFCs WOULD BE NECESSARY TO ACHIEVE AN EQUIVALENT LEVEL OF ENVIRONMENTAL PROTECTION. WE RECOGNIZE THAT SOME USES OF HALONS ARE PARTICULARLY VALUABLE, BUT CONSIDERABLE SAVINGS OF EMISSIONS CAN BE OBTAINED BY LIMITING DISCHARGE TESTING AND ACCIDENTAL RELEASES. ALSO, FOR THIS REASON, THE U.S. IS PREPARED TO DEFER ANY DECISION ON REDUCING HALONS, PROVIDED THAT THE PROTOCOL AT LEAST IMPOSE A FREEZE.

10. CONCERNS HAVE BEEN EXPRESSED THAT DATA ARE NOT AVAILABLE ON HALONS TO ESTABLISH A 1986 BASELINE. HOWEVER, GIVEN THE VERY LIMITED NUMBER OF PRODUCERS OF HALONS 1211 AND 13B1, WE ARE CONFIDENT THAT GOVERNMENTS CAN DEVELOP THE NECESSARY 1986 DATA, WITH THE COOPERATION OF INDUSTRY. THE HALON INDUSTRY HAS BEEN VERY COOPERATIVE WITH THE U.S. ENVIRONMENTAL PROTECTION AGENCY IN ASSESSING THE NEED FOR CONTROLS. TO SET A LATER BASE YEAR OR SIMPLY MENTION HALONS IN A DIPLOMATIC CONFERENCE RESOLUTION WOULD PROVIDE AN UNACCEPTABLE INCENTIVE FOR EXPANDED PRODUCTION, AND WOULD DISCOURAGE ACTION BY THOSE WHO MIGHT OTHERWISE BEGIN LIMITING EMISSIONS NOW.

11. FOR PARIS: WOLTNER SAID (PARIS 34187) THAT THERE IS A "LACK OF CONSENSUS ON HALON PRODUCTION LEVELS." IF HE IS CLAIMING THAT DATA ARE NOT AVAILABLE, WE DO NOT BELIEVE THIS IS TRUE. THERE ARE FAR FEWER PRODUCERS OF HALONS THAN OF CFCs. INDUSTRY CAN PROVIDE THE NECESSARY DATA TO GOVERNMENTS. IF WOLTNER IS SAYING THAT THERE IS A LACK OF CONSENSUS ON THE LEVEL AT WHICH HALON PRODUCTION SHOULD BE CAPPED, WE WOULD NOTE THAT WE HAVE AGREED TO POSTPONE DECISIONS ON HALON REDUCTIONS UNTIL ALTERNATIVE FIRE EXTINGUISHANTS CAN BE DEVELOPED) BUT STRONGLY BELIEVE IT IS IMPORTANT TO INCLUDE AT LEAST THIS DELAYED FREEZE ON HALONS AT 1986 LEVELS, FOR THE REASONS OUTLINED ABOVE.

12. FUTURE ADJUSTMENT OF COVERAGE OR OF OZONE-DEPLETING POTENTIALS (ART. 2, PARA 5)

IF CHEMICALS ARE ADDED OR REMOVED FROM COVERAGE IN THE FUTURE, THE PARTIES WILL NEED TO DECIDE AT THAT TIME HOW THE CHANGE WILL AFFECT THE CALCULATIONS (ADDED TO THE BASKET, SCHEDULE, OZONE-DEPLETING POTENTIAL, BASE YEAR, ETC.) THE PHRASE "AND UNDER WHAT TERMS" SHOULD THEREFORE BE ADDED TO ART. 2 PARA 5 (A).

THE OZONE-DEPLETING POTENTIALS IN ANNEX A ARE BASED ON THE BEST SCIENTIFIC INFORMATION CURRENTLY AVAILABLE, BUT SHOULD BE ADJUSTABLE IF THAT INFORMATION CHANGES, WITHOUT RESORTING TO COMPLEX AMENDMENT PROCEDURES. WE SUGGEST THAT ART. 2, PARA (5) PROVIDE THAT THE PARTIES MAY NOT ONLY ADD OR REMOVE SUBSTANCES FROM ANNEX (A) BUT ALSO ADJUST THE OZONE-DEPLETING POTENTIALS. SUCH CHANGES WOULD BE BASED, AS WOULD ALL OF THE PARTIES' ACTIONS, ON DEVELOPING SCIENTIFIC INFORMATION.

13. ADDITIONAL REDUCTION STEPS

THE UNEP TEXT (ART. 2, PARA. 5) ALSO PROVIDES THAT PARTIES WILL DECIDE IN THE FUTURE WHETHER FURTHER

~~LIMITED OFFICIAL USE~~

~~LIMITED OFFICIAL USE~~
Department of State

OUTGOING
TELEGRAM

PAGE 03 OF 05

REDUCTIONS SHOULD BE UNDERTAKEN WITH THE OBJECTIVE OF EVENTUAL ELIMINATION OF PRODUCTION AND CONSUMPTION OF THE CONTROLLED SUBSTANCES EXCEPT FOR USES FOR WHICH NO SUBSTITUTES ARE COMMERCIALY AVAILABLE. THE UNITED STATES SUPPORTS THIS PROVISION. CLEARLY, IF WE ARE TRYING TO SET UP A REGIME TO PROTECT THE ENVIRONMENT, IT SHOULD LOGICALLY INCLUDE A MECHANISM TO TAKE ADDITIONAL STEPS IF REQUIRED TO RESPOND TO DEVELOPING SCIENTIFIC

INFORMATION. THE "OBJECTIVE OF EVENTUAL ELIMINATION" DOES NOT BIND PARTIES TO SPECIFIC ADDITIONAL REDUCTIONS NOW, BUT WOULD AT LEAST SEND A SIGNAL TO CURRENT AND POTENTIAL PRODUCERS AND CONSUMERS FOR THEIR LONGER-RANGE PLANNING THAT THEY SHOULD DEVELOP AND USE SUBSTITUTES RATHER THAN PLAN ON SIGNIFICANT CONTINUED USE OF THE CONTROLLED CHEMICALS.

14. FOR PARIS: WE DO NOT UNDERSTAND WOLTNER'S STATEMENT (PARIS 34107) THAT THE USG IS "PUSHING FOR FURTHER REDUCTIONS." AS NOTED IN STATE 219514, SINCE WE HAVE CONCEDED ON FIRM SCHEDULING OF REDUCTIONS BEYOND 50 PERCENT, WE DO NOT UNDERSTAND SOME PARTICIPANTS' RELUCTANCE TO AGREE TO AN "ULTIMATE OBJECTIVE" PROVISION. WOLTNER SAID HE WAS DOUBTFUL THAT OTHER THAN "AGREEMENTS ON PRINCIPLE" COULD BE CONCLUDED ON THIS POINT. THE LANGUAGE IN THE UNEP TEXT IS, IN FACT, AN "AGREEMENT ON PRINCIPLE" -- IT DOES NOT BIND PARTIES NOW TO SPECIFIC REDUCTIONS BUT SETS OUT THE GUIDING PRINCIPLE FOR THE PARTIES' FUTURE DECISION-MAKING.

15. FUTURE DECISION-MAKING

FOR FUTURE DECISIONS ON CONTROLS (INCLUDING STRINGENCY, TIMING, COVERAGE, OZONE-DEPLETING POTENTIALS) (ART. 2, PARAS 4 AND 5) TO BE EFFECTIVE, THEY MUST BE APPLIED BY ALL PARTIES. FOR SUCH DECISIONS, PARTIES SHOULD SEEK BROAD AGREEMENT AND THE PROTOCOL SHOULD REQUIRE AT A MINIMUM AGREEMENT BY A MAJORITY OF PROTOCOL PARTIES REPRESENTING A SUBSTANTIAL PORTION (MORE THAN THE FIFTY PERCENT IN THE CURRENT UNEP TEXT) OF THE PARTIES' (RATHER THAN GLOBAL) CONSUMPTION. THESE DECISIONS WILL BE BASED ON THE PARTIES' ASSESSMENT OF SCIENTIFIC, ENVIRONMENTAL, TECHNICAL AND ECONOMIC INFORMATION, IN ACCORDANCE WITH ARTICLE 6.

AS NOTED IN FOOTNOTE 16 OF THE SEVENTH REVISED DRAFT PROTOCOL, PROCEDURES FOR AMENDMENTS, ADDITIONAL ANNEXES, AND AMENDMENTS TO ANNEXES SHOULD ALSO REQUIRE AGREEMENT BY PARTIES REPRESENTING A SUBSTANTIAL PORTION OF THE PARTIES' CONSUMPTION.

16. CALCULATION OF CONTROL LEVELS (ART. 3)

PARAS 6 AND 7 SHOULD BE DROPPED FROM THE ARTICLE 1 DEFINITIONS, AND THE SUBSTANCE DEALT WITH IN ART. 3 ON CALCULATION OF CONTROL LEVELS. IN ORDER TO ENCOURAGE DEVELOPMENT AND BROAD USE OF DESTRUCTION TECHNIQUES, ART. 3 SHOULD PERMIT SUBTRACTION OF "AMOUNTS DESTROYED BY

TECHNIQUES APPROVED BY THE PARTIES" FROM EITHER PRODUCTION OR IMPORTS, NOT JUST FROM PRODUCTION AS ART. 1, PARA 6 NOW PROVIDES.

17. IN ORDER TO ENCOURAGE BROAD PARTICIPATION IN THE PROTOCOL, IT IS IMPORTANT THAT THERE BE A DISINCENTIVE TO EXPORTS OF CONTROLLED CHEMICALS TO NON-PARTIES. OUR RESEARCH SUGGESTS THE CONCEPT OF NO EXEMPTION FOR NON-PARTIES IS FULLY CONSISTENT WITH THE GATT. ARTICLE 4 PROPOSES THAT EXPORTS OF BULK CHEMICALS TO NON-PARTIES BE BANNED. WE WOULD PREFER THAT INSTEAD, IN THE CALCULATION

OF CONSUMPTION IN ARTICLE 3, ONLY EXPORTS TO PARTIES BE SUBTRACTED. THIS WOULD ENABLE SOME EXPORTS TO NON-PARTIES, AVOIDING A TOTAL BAN WHICH WOULD IN EFFECT REQUIRE NON-PARTIES TO BUILD THEIR OWN PRODUCTION CAPACITY, BUT WOULD PROVIDE AN INCENTIVE FOR PARTIES TO EXPORT TO PARTIES RATHER THAN TO NON-PARTIES, AND FOR PARTIES TO ENCOURAGE THEIR TRADING PARTNERS TO JOIN. AS WITH OTHER PROTOCOL PROVISIONS AFFECTING NON-PARTIES, IF VIRTUALLY UNIVERSAL PARTICIPATION IN THE PROTOCOL IS ACHIEVED, THE PROVISION WILL BE MOOT. DEFINING CONSUMPTION SO THAT ONLY EXPORTS TO NON-PARTIES ARE SUBTRACTED WOULD HELP ACHIEVE BROAD PARTICIPATION AS SOON AS POSSIBLE WHILE ENSURING ADEQUATE SUPPLIES TO THE LCC'S.

18. TRADE IN PRODUCTS (ART. 4, PARA 2)

IT IS IMPORTANT THAT THE PROTOCOL PROTECT BOTH PARTIES' INDUSTRY AND THE OZONE LAYER FROM THE POSSIBILITY OF PRODUCTION SIMPLY MOVING OFFSHORE TO NON-PARTY "POLLUTION HAVENS." TO DO THIS, PARTIES MUST CONSIDER A BAN ON IMPORTS FROM NON-PARTIES NOT ONLY OF THE BULK CHEMICALS BUT ALSO OF PRODUCTS CONTAINING THEM. THE NEGOTIATIONS HAVE DEVELOPED A WORKABLE APPROACH, BASED ON A SPECIFIC LIST OF PRODUCTS, RATHER THAN ATTEMPTING TO CONTROL SMALL AMOUNTS IN EVERY CONCEIVABLE PRODUCT. (FOR PARIS: WITH THIS APPROACH, CONTROLLING PRODUCTS IS NOT AN "ENORMOUS TASK," AS WOLTNER CALLS IT.) THE PROPOSED TEXT PROVIDES THAT THESE RESTRICTIONS WOULD NOT BE EFFECTIVE UNTIL FOUR YEARS AFTER THE PROTOCOL ENTERS INTO FORCE, ALLOWING PLENTY OF TIME FOR NATIONS TO BECOME PARTIES AND FOR THE PARTIES TO DEVELOP IMPLEMENTING MECHANISMS.

19. AID, CREDITS, ETC. TO NON-PARTIES (ART. 4, PARA 5)

THE PREVIOUS DRAFT PROHIBITED SUBSIDIES, AID, CREDITS,

GUARANTEES OR INSURANCE PROGRAMS FOR EXPORTS TO NON-PARTIES OF PRODUCTS, EQUIPMENT, PLANTS OR TECHNOLOGY FOR PRODUCTION OR USE OF THE CONTROLLED SUBSTANCES. THE REFERENCE TO USE WAS DROPPED BECAUSE OF CONCERN THAT THE PROVISION NOT APPLY, FOR INSTANCE, TO AN AIR PACKAGE FOR A HOSPITAL WHICH HAPPENED TO INCLUDE AN AIR CONDITIONER. ASSISTANCE SHOULD ENCOURAGE THE TRANSITION TO ALTERNATIVE TECHNOLOGY AND SUBSTITUTE PRODUCTS (ART. 5, PARA 3) RATHER THAN RESULT IN SUBSTANTIALLY EXPANDED USE OF THE CONTROLLED SUBSTANCES; FOR EXAMPLE WE SHOULD ASSIST PROJECTS TO MANUFACTURE AIR CONDITIONERS USING CFC-22 (OR CFC-134A WHEN IT BECOMES COMMERCIALY AVAILABLE) RATHER THAN CFC-12. WE THEREFORE WOULD WELCOME OTHER GOVERNMENTS' COMMENTS ON REVISING LINE FOUR OF PARA. 5, IN ART. 4, BY CHANGING "PRODUCING" TO "PRODUCING OR USING" THE CONTROLLED SUBSTANCES, AND REVISING PARAGRAPH 6 TO READ:

6. THE PARTIES SHALL DEVELOP GUIDELINES FOR COORDINATED IMPLEMENTATION OF THE PROVISIONS OF PARAGRAPHS 4 AND 5. THE PROVISIONS OF PARAGRAPHS 4 AND 5 SHALL NOT APPLY TO PRODUCTS, EQUIPMENT, PLANTS OR TECHNOLOGY WHICH IMPROVE THE CONTAINMENT, RECOVERY, RECYCLING OR DESTRUCTION OF THE CONTROLLED SUBSTANCES, OR OTHERWISE CONTRIBUTE TO THE REDUCTION OF EMISSIONS OF THESE SUBSTANCES, OR ARE PRIMARILY INTENDED FOR HUMANITARIAN PURPOSES.

20. LOW CONSUMING COUNTRIES (ART. 5)

WE AGREE THAT IN ORDER TO FACILITATE BROAD PARTICIPATION, A LIMITED GRACE PERIOD SHOULD BE PROVIDED FOR LOW-CONSUMING COUNTRIES, (LCCS), AS PROPOSED IN THE UNEP TEXT.

~~LIMITED OFFICIAL USE~~

~~LIMITED OFFICIAL USE~~
Department of State

OUTGOING
TELEGRAM

PAGE 04 OF 05

AS NOTED EARLIER, IF LCCS ARE PERMITTED TO CONTINUE OR INCREASE PRODUCTION AND CONSUMPTION WHILE CURRENT PRODUCERS ARE REQUIRED TO CUT BACK, AN ENVIRONMENTALLY UNDESIRABLE AND ECONOMICALLY INEFFICIENT INCENTIVE WOULD BE CREATED TO REPLACE EXISTING PRODUCTION CAPACITY IN NON-LCC PARTIES WITH EXPANDED PRODUCTION CAPACITY IN THE LCCS. IF CONSUMPTION ALONE WERE CONTROLLED UNDER ARTICLE 2 (AS THE U.S., CANADA AND THE NORDICS URGED FROM THE BEGINNING), THIS INCENTIVE WOULD NOT EXIST, SINCE THERE WOULD BE A FREE FLOW OF TRADE AND CAPITAL AMONG PARTIES.

21. IT IS CURRENTLY PROPOSED TO REDUCE PRODUCTION FROM 1986 LEVELS WHILE ALLOWING LCC CONSUMPTION -- AND THUS WORLD CONSUMPTION -- TO EXPAND DURING THE GRACE PERIOD. THIS MEANS THAT LCC'S WOULD EITHER HAVE TO IMPORT CONTROLLED CHEMICALS FROM NON-PARTIES (BANNED BY ARTICLE 4) OR BUILD NEW DOMESTIC CAPACITY, NEITHER OF WHICH BODES WELL FOR THE OZONE LAYER. IT WOULD APPEAR PREFERABLE FOR THE LCC'S TO BE SUPPLIED FROM EXISTING MEMBER CAPACITY DURING THE GRACE PERIOD BY ALLOWING PROTOCOL MEMBERS TO PRODUCE ABOVE 1986 LEVELS. IF THE EC CONTINUES TO REJECT CONTROLLING CONSUMPTION ALONE, WE WILL NEED TO DEVELOP A MECHANISM FOR MEETING LCC NEEDS BY ALLOWING EXEMPTION FROM PRODUCTION CONTROLS FOR EXPORTS TO LCC'S. WE WOULD WELCOME OTHER GOVERNMENTS' COMMENTS ON THIS SUBJECT.

22. FOR LONDON: DOES MCCONNELL'S COMMENT THAT TREATMENT OF THIRD WORLD COUNTRIES "REMAINS A MAJOR ISSUE" INDICATE THAT THE UK HAS PROBLEMS WITH THIS? IF SO, IS THE CONCERN ABOUT THE OVERALL IDEA OF PROVIDING A GRACE PERIOD, ABOUT THE ABOVE SUPPLY PROBLEM, OR ABOUT OTHER SPECIFICS?

23. REPORTING OF DATA ON PRODUCTION AND CONSUMPTION OF CONTROLLED SUBSTANCES

IN ADDITION TO NATIONAL REPORTING OF PRODUCTION AND CONSUMPTION DATA, AS PROVIDED IN ARTICLE 7, CONSIDERATION MUST BE GIVEN TO THE PROCESS BY WHICH DATA WILL BE COMPILED, ASSESSED, CORRECTED OR COMPLETED, RECONCILED WITH CONTROL MEASURES, ETC. IT MAY BE USEFUL TO INCLUDE APPROPRIATE PROVISIONS ON THIS POINT IN THE PROTOCOL.

24. ENTRY INTO FORCE

IT IS IMPORTANT THAT SUBSTANTIALLY ALL MAJOR PRODUCING NATIONS PARTICIPATE AT THE TIME OF ENTRY INTO FORCE. IN ARTICLE 15, THE PERCENTAGE OF GLOBAL PRODUCTION REQUIRED TO BE REPRESENTED AMONG RATIFYING PARTIES TO TRIGGER ENTRY INTO FORCE SHOULD THEREFORE BE HIGHER THAN THE SIXTY PERCENT FIGURE IN THE CURRENT TEXT.

WE ARE CONCERNED THAT IF THE REQUIREMENT IS SET AT ONLY SIXTY PERCENT, KEY NATIONS WILL WAIT BEFORE MOVING AHEAD WITH THEIR RATIFICATION PROCESS UNTIL THEY ARE ASSURED THAT OTHER KEY NATIONS WILL RATIFY. IF EACH WAITS FOR THE OTHERS, THE ENTIRE PROCESS COULD BE DELAYED. IF ENTRY-INTO-FORCE WILL NOT OCCUR UNTIL NATIONS REPRESENTING A RELATIVELY HIGH PERCENTAGE OF GLOBAL PRODUCTION RATIFY, EACH CAN RATIFY WITHOUT CONCERN ABOUT BEING LEFT OUT ON A LIMB CARRYING MORE THAN ITS FAIR SHARE OF THE BURDEN OR BEING REQUIRED TO INVOKE TRADE RESTRICTIONS AGAINST MAJOR TRADING PARTNERS.

25. FOR LONDON, USEC, STOCKHOLM: SOME HAVE SUGGESTED THAT IT WOULD NOT BE WISE TO GIVE CERTAIN NATIONS A

"VETO" ON ENTRY INTO FORCE BY SETTING THE RATIFICATION REQUIREMENT TOO HIGH. THE RATIONALE IS THAT ONCE THE AGREEMENT ENTERS INTO FORCE, HOLD-OUTS WOULD BE UNDER INCREASED PRESSURE TO JOIN. OUR BELIEF, ON THE OTHER HAND, IS THAT NO NATION WILL WANT TO BE SEEN AS PREVENTING THE ENTIRE AGREEMENT FROM ENTERING INTO FORCE, AND EACH KEY NATION WOULD HAVE AN EVEN GREATER INCENTIVE TO JOIN IF ENTRY INTO FORCE DEPENDS ON THAT NATION'S RATIFICATION.

26. EC PROPOSAL ON REIOS

THE EC COMMISSION HAS PROPOSED A FINAL FOOTNOTE TO THE SEVENTH REVISED DRAFT PROTOCOL THAT REGIONAL ECONOMIC INTEGRATION ORGANIZATIONS (REIOS) BE TREATED AS A SINGLE UNIT FOR PURPOSES OF THEIR OBLIGATIONS UNDER ARTICLES 2 (CONTROL MEASURES) AND 4 (CONTROL OF TRADE WITH NON-PARTIES). THIS COULD PERMIT SOME EC-MEMBER STATES TO MAINTAIN OR EVEN INCREASE THEIR EMISSIONS OF THE CONTROLLED SUBSTANCES, IF OTHER EC MEMBERS ACHIEVE REDUCTIONS DEEPER THAN THOSE REQUIRED BY THE PROTOCOL. THE UNITED STATES DOES NOT BELIEVE THE PROTOCOL SHOULD CREATE A REGIME IN WHICH SOME PARTIES COULD ENJOY THE POLITICAL AND ECONOMIC BENEFITS OF ADHERING TO THE PROTOCOL WITHOUT BEING EQUALLY SUBJECTED TO ITS DISCIPLINES. THE INTENT OF THE PROTOCOL IS THAT NO PARTY WOULD BE ABLE TO INCREASE ITS EMISSIONS OF THE CONTROLLED SUBSTANCES. IF THE EC COMMISSION TABLES THIS PROPOSAL IN MONTREAL, WE EXPECT THAT MANY COUNTRIES IN ADDITION TO THE U.S. WOULD OPPOSE IT.

27. COMPLIANCE

A NEW ARTICLE SHOULD BE ADDED ON COMPLIANCE. PARTIES NOT IN COMPLIANCE SHOULD BE TREATED AS NON-PARTIES (AND THEREFORE SUBJECT TO TRADE RESTRICTIONS, ETC.) THIS IS NECESSARY TO ENSURE THAT NO NATION CAN JOIN IN ORDER TO AVOID BEING SUBJECT TO THE TRADE RESTRICTIONS AND YET NOT COMPLY WITH THE CONTROL PROVISIONS. THE FOLLOWING PROPOSED ARTICLE IS DRAWN FROM VARIOUS INTERNATIONAL PRECEDENTS:

BEGIN TEXT.

ARTICLE : PARTIES IN NON-COMPLIANCE

(1.) THE PARTIES HEREBY ESTABLISH A COMPLIANCE COMMITTEE. THE FUNCTION OF THE COMMITTEE SHALL BE TO CONSIDER COMPLAINTS SUBMITTED TO THE SECRETARIAT CONCERNING NON-COMPLIANCE BY A PARTY WITH THE PROVISIONS OF ARTICLES 2, 4 AND 7 OF THIS PROTOCOL.

(2.) THE COMMITTEE SHALL BE COMPOSED OF REPRESENTATIVES OF (ONE THIRD) OF THE PARTIES, DUE ACCOUNT BEING TAKEN OF GEOGRAPHIC DISTRIBUTION. THE CHAIRMAN OF ANY GIVEN MEETING OF THE COMMITTEE SHALL BE SELECTED BY THE COMMITTEE MEMBERS.

(3.) THE MEMBERS OF THE COMMITTEE SHALL BE ELECTED AT A MEETING OF THE PARTIES FOR A FOUR-YEAR TERM, EXCEPT, AT THE FIRST ELECTION HELD, ONE-HALF OF THE COMMITTEE MEMBERS SHALL BE ELECTED FOR A TWO-YEAR TERM. OUTGOING MEMBERS OF THE COMMITTEE MAY NOT BE ELECTED FOR CONSECUTIVE TERMS UNLESS SUCH IS REQUIRED BECAUSE OF THE LIMITED NUMBER OF STATES FOR WHICH THE PROTOCOL IS IN FORCE.

(4.) THE COMMITTEE SHALL ADOPT ITS OWN RULES OF PROCEDURE SUBJECT TO APPROVAL BY THE PARTIES.

(5.) THE COMMITTEE SHALL BE CONVENED AS SOON AS

~~LIMITED OFFICIAL USE~~

~~LIMITED OFFICIAL USE~~
Department of State

OUTGOING
TELEGRAM

PAGE 05 OF 05

POSSIBLE AFTER A COMPLAINT HAS BEEN SUBMITTED BY A PARTY THAT ANOTHER PARTY IS IN BREACH OF ITS OBLIGATIONS UNDER ARTICLES 2, 4 OR 7 OF THIS PROTOCOL. SUCH A COMPLAINT SHALL BE SUPPORTED BY EVIDENCE KNOWN TO THE COMPLAINANT PARTY WHICH CORROBORATES THE ALLEGATION OF NON-COMPLIANCE.

(6.) THE COMMITTEE SHALL AFFORD THE PARTY COMPLAINED OF A REASONABLE OPPORTUNITY TO REBUT ANY EVIDENCE SUPPLIED BY THE COMPLAINANT PARTY.

(7.) AFTER CONSIDERATION OF ALL THE EVIDENCE PERTAINING TO THE MATTER, THE COMMITTEE SHALL SUBMIT A REPORT TO THE PARTIES CONTAINING ITS FINDINGS, INCLUDING ANY MITIGATING FACTORS, AND ITS CONCLUSIONS REGARDING WHETHER THE PARTY COMPLAINED OF IS IN COMPLIANCE WITH THE PROVISIONS OF ARTICLES 2, 4 OR 7 OF THIS PROTOCOL. THE COMMITTEE'S REPORT MAY ALSO CONTAIN A RECOMMENDATION AS TO APPROPRIATE ACTION.

(8.) IF THE COMMITTEE HAS CONCLUDED THAT THE PARTY COMPLAINED OF IS NOT IN COMPLIANCE WITH THE PROVISIONS

OF ARTICLES 2, 4, OR 7, A MEETING OF THE PARTIES SHALL BE CONVENED TO DETERMINE WHETHER THE CONCLUSIONS AND ANY RECOMMENDATION OF THE COMMITTEE SHOULD BE ACCEPTED.

(9.) ANY PARTY DETERMINED BY THE PARTIES AT SUCH A MEETING TO BE IN BREACH OF ITS OBLIGATIONS UNDER ARTICLES 2, 4 OR 7 OF THIS PROTOCOL SHALL BE TREATED AS A NON-PARTY FOR A PERIOD OF TIME AT LEAST EQUAL IN DURATION TO THE PERIOD OF ITS NON-COMPLIANCE.

(10.) THE PROCEDURES CONTAINED IN THIS ARTICLE SHALL APPLY TO ANY COMPLAINTS REGARDING NON-COMPLIANCE WITH ARTICLES 2, 4 OR 7 OF THIS PROTOCOL. COMPLAINTS REGARDING COMPLIANCE WITH OTHER PROVISIONS OF THIS PROTOCOL SHALL BE RESOLVED IN ACCORDANCE WITH THE PROCEDURES OUTLINED IN ARTICLE 11 OF THE CONVENTION.

END TEXT.

28. INSERT FOLLOWING PARAGRAPH IN ARTICLE 11:
SECRETARIAT

THE SECRETARIAT SHALL ...

-- RECEIVE AND TRANSMIT TO MEMBERS OF THE COMPLIANCE COMMITTEE ANY COMPLAINTS CONCERNING NON-COMPLIANCE BY A PARTY WITH THE PROVISIONS OF ARTICLES 2, 4 OR 7 OF THIS PROTOCOL. WHITEHEAD

~~LIMITED OFFICIAL USE~~

SUBJECT: Concerns with the UNEP Ozone Protocol

The final negotiating session on the UNEP Protocol to the Vienna Convention for Protection of the Ozone Layer will be held September 8-11 in Montreal. Signing of the Protocol will follow at a Ministerial Meeting September 14-16. Four items related to the Seventh Revised Draft of the protocol are major concerns to Commerce.

Trade Provisions

Since the last negotiating session (July 27-28 in Brussels) the Ozone Trade Working Group chaired by USTR, has reached interagency concurrence on all issues but one, the Trade Restriction provision. Commerce has insisted that the United States maintain independence and flexibility for imposing trade restrictions. By insisting on acceptable wording in this provision, Commerce has kept the Trade Group from forwarding its recommendations as a U.S. position.

In a compromise effort, USTR proposed certain deletions to Alternate 2 of Article 4.2 of the draft protocol. It would read:

Within four years of the entry into force of the Protocol, each Party shall ban imports of products containing controlled substances from any State not Party to this Protocol. At least one year prior to the time such measures take effect, the Parties shall elaborate in an annex a list of the products to be banned and standards for applying such measures.

This compromise does more than defer a decision. The proposed list would be an annex to the protocol. Article 9 of the Convention calls for annexes to be developed by consensus, or that failing, by a 3/4 majority vote. Even then, Article 10 of the convention permits parties to declare non-acceptance of the list. Also, the list would be a trade annex to an environmental protocol, and USTR and Commerce would "have the lead."

Commerce is now considering Article 4.2 as worded above. If acceptable, the delegates to Montreal should be instructed that nothing less is acceptable.

Weighted Voting

Negotiators at the July Brussels session agreed that the Protocol would come into effect with the approval of nine countries representing sixty percent of 1986 global production. A two thirds or majority vote (yet to be decided) representing fifty percent of global consumption would decide if substances should be added or deleted from the reduction schedule, or if the reduction schedule should be changed.

The President directed that reductions should occur automatically unless reversed by a two-thirds vote of the parties, and that any voting system give "due weight" to the significant producing and consuming countries.

Under Article 2.4, the voting system being negotiated would allow two-thirds/majority of the parties, including third world participants, to block a decision to change reductions. This could occur even if scientific evidence demonstrated that this reduction is not required to protect the stratospheric ozone layer. We question that "due weight" is not being given the producing and consuming countries under this voting system.

The negotiators should be instructed to establish a voting system for Article 2.4 based on a vote of the parties representing two-thirds of global consumption as directed by the President.

EC vs European States as Signatories

At the Brussels negotiating session, the EC representative tabled the proposal that the EC would sign the protocol on behalf of its member countries. It was observed that not all EC states supported this proposal. The EC Commission does not have competency to sign as a unit right now, but expects to have competency by the time the protocol comes into effect.

The OGC and Economic Bureau of the State Department are considering the ramifications of this EC proposal. Their initial position is unfavorable, but not final. From the trade perspective, some EC state would benefit. West Germany has said it will eliminate CFC aerosol use. This would decrease West German CFC use by 30 percent, but allow redistribution of the decreased consumption to other EC countries - provided the overall EC reduction met protocol limits.

The United States should oppose this EC proposal, at least until the EC Commission obtains competency. At that time, should we change our position, we should seek a quid pro quo with the EC on some issues.

Minimum Acceptable Protocol and Signatory Authority

The President's instructions to the negotiators at Brussels directed them to seek specific protocol provisions, e.g. a freeze of CFC 11, 12, 113, 114, and 115 production. Various country's positions to date indicate that not all these objectives will be accomplished. Interagency discussions have given little or no consideration to what the minimum acceptable protocol might contain. The draft Article 16 denies any reservations to the protocol.

The Circular 175 negotiating authorization does not provide signing authority. The protocol will be open for signing will immediately follow a final four day negotiating session at which many final provisions must be determined. The final protocol should be reviewed for adherence to the President's instructions. Also, because of its precedential nature and grave trade impact, it should be reviewed by concerned agencies.

Consequently, the U.S. representative not be granted signature authority at the Montreal Ministerial Meeting.



~~CONFIDENTIAL~~

DEPARTMENT OF THE TREASURY
WASHINGTON

August 4, 1987

ASSISTANT SECRETARY

MEMORANDUM FOR JOHN C. WHITEHEAD
DEPUTY SECRETARY OF STATE

FROM: Michael R. Darby
Assistant Secretary
for Economic Policy

SUBJECT: Comments on Chairman's Draft Protocol for
the Control of Ozone-Depleting Chemicals

Ms. Nancy Risque, Assistant to the President and Secretary to the Cabinet, sent an advance copy of the most recent Chairman's draft protocol on stratospheric ozone to the Treasury Department for comments. Both the Office of Economic Policy and the Office of International Trade have reviewed the paper. In general, the draft protocol appears to follow very closely the instructions given to our negotiators by the President and the Domestic Policy Council. Our specific comments on the protocol follow.

1. Article 2 contains different formulas for control measures under the freeze and under the 20% and 50% cut scenarios. For instance, under the freeze (Articles 2:1 and 2:2) each party must ensure that its production and imports do not exceed their respective levels in 1986. However, in Articles 2:3 and 2:4, signatories are required to reduce production and consumption (defined as production plus imports less exports) by 80% (Article 2:3) and by 50% (Article 2:4) of their respective levels in 1986. It is not clear why one set of control measures applies to the freeze and another set applies to the 20% and 50% cut scenarios. It would appear that the latter is preferable of the two formulas since that formula set ensures that some parties will not increase their consumption at the expense of other parties following the freeze by restricting their exports.
2. The requirement that production be frozen at 1986 levels does not allow for increased exports to developing countries that are both parties to the agreement and eligible for production and consumption exemptions under Article 5. Under Article 2

Derivative Class by Michael R. Darby
Assistant Secretary for Economic Policy
Derived from WH memo dated July 23, 1987
Declassify on OADR

DECLASSIFIED

NLS FOO-13/1 #15
BY CPS NARA, DATE 5/1/01

any increase in exports to these signatories must be made at the expense of domestic consumption in the exporting country or at the expense of other importers. If the growth in consumption permitted by the protocol for low-consuming countries becomes prohibitively expensive to obtain through imports from signatories, as compared to importing from nonparties, some developing countries might decide not to join the protocol or delay their entry.

3. In Article 4, which provides for trade restrictions against nonsignatories, it should be made clear under which GATT article the restrictions will be justified -- Article 20(b) or 20(h).
4. Given the relatively large share of global production of CFC's and halons in Japan, the European Community, and the United States, does the requirement under Article 15 that 60% of global production be achieved for entry into force of the protocol ensure that the majority of major producers will have signed the agreement before it goes into effect?
5. The agreement does not contain measures that would apply to the parties in the event that parties are unable to meet the protocol requirements in any given year. Is this an important omission?

cc: N. Risque

Derivative Class by Michael R. Darby
Assistant Secretary for Economic Policy
Derived from WH memo dated July 23, 1987.
Declassify on OADR

THE WHITE HOUSE
WASHINGTON

RCB -
FYI

August 11, 1987

MEMORANDUM FOR NANCY J. RISQUE

FROM:

VICKI MASTERMAN *nm*

SUBJECT:

Letter to the Editor on Stratospheric Ozone

Attached is a revised version of your letter to the New York Times. Also attached is a proposed memorandum from you to Secretary Hodel informing him of your letter.

Attachments

THE WHITE HOUSE

WASHINGTON

August 11, 1987

Dear Mr. Rosenthal:

In "Protecting the Ozone Layer" (Op-Ed, August 6, 1987), Michael Oppenheimer and Daniel Dudek suggest the "President's public leadership ... could be vital to clinching the deal to save the ozone layer." They also note correctly that the final ozone agreement is due to be signed this September "with critical details still undecided, the delicate consensus could easily evaporate."

Everyone acquainted with the ozone issue recognizes that ozone protection can only come from global efforts. Yet in the final stages of these sensitive international negotiations, Dudek and Oppenheimer would have the President proclaim publicly his negotiating strategy and leave his State Department negotiators without any room to maneuver. The point of the negotiations is not to win the hearts and minds of the public in countries that produce and consume ozone depleting chemicals, but rather is to achieve the best international agreement. The U.S. would not be dealing from a position of strength if its negotiating strategy were known to all parties.

The Reagan Administration has publicly called for a strong and effective international agreement to protect the ozone layer. And the President has personally instructed his negotiators on the details of a negotiating strategy toward such an agreement.

Finally, I was most disappointed to see Oppenheimer and Dudek perpetuate a falsehood regarding Interior Secretary Donald Hodel's views on ozone protection. Unlike anyone who has written about "sunglasses and hats" to date, I attended the meeting where Secretary Hodel purportedly embraced such measures. That was not his position.

Sincerely,

Nancy J. Risque
Assistant to the President
and Cabinet Secretary

Mr. Jack Rosenthal
Editorial Page Editor
New York Times
229 West 43d Street
New York, New York 10036

~~1. Call Lee Thomas~~

~~2. Boyden Gray~~

~~3. Neigroff~~

~~4. Moore Moore~~

DOJ DOE

DOI

DOC

EPA Long

USIR Reinken

State Reinken

EPA claman
lesey

NASA

CEQ

8-11 WG

14-16 Plenipotentiary

Conf.

Final Signing

THE WHITE HOUSE

WASHINGTON

August 11, 1987

MEMORANDUM FOR DONALD P. HODEL
SECRETARY OF THE INTERIOR

FROM: NANCY J. RISQUE

SUBJECT: Letter to the Editor on Stratospheric Ozone

Attached for your information is a copy of my letter to the Editorial Page Editor of the New York Times responding to the August 6, 1987 Op-Ed by Daniel Dudek and Michael Oppenheimer on "Protecting the Ozone Layer." My letter responds both to the assertion that the President "should loudly proclaim" the need for ozone protection, and to the false allegation that you recommended sun screens and protective clothing in lieu of other ozone protection measures.

Attachment

Protecting the Ozone Layer

By Michael Oppenheimer
and Daniel J. Dudek

After a third bout with skin cancer, President Reagan's nose, as he noted, is a "billboard" warning against excessive exposure to the sun. Something else he should loudly proclaim is, "Protect the ozone layer." The message could be vital to cementing an international agreement to stop ozone depletion, which threatens to vastly increase already high levels of skin cancers — some of which, unlike Mr. Reagan's, will be fatal.

Michael Oppenheimer is a senior scientist, and Daniel J. Dudek is senior economist, with the Environmental Defense Fund.

The stratosphere's ozone layer, the first line of defense against the sun's ultraviolet rays, is beginning to thin because of industrial gases. Sun screens and protective clothing are important weapons in combating rising rates of skin cancer.

But Donald Hodel, the Interior Secretary, took this notion to an extreme two months ago when he recommended their use in lieu of regulations to protect the ozone layer. The suggestion, akin to issuing gas masks to mitigate air pollution, met with appropriate derision. But the Administration has never renounced Mr. Hodel's logic.

Scientists have known for more than a decade that industrial chemicals called chlorofluorocarbons are responsible for the damage to the ozone layer. Chlorofluorocarbons are widely used in refrigerators, air conditioners, plastics manufacturing, aerosols and as solvents.

Substitute chemicals or processes are readily available — or could be, with a nudge from governments. But international negotiations to solve the problem languished until an ozone hole was discovered over Antarctica.

With recent findings pointing at chlorofluorocarbons as the likely culprit, about two dozen nations have moved rapidly toward an accord that would sharply reduce production of these chemicals over the next decade. In fact, negotiators moved to the brink of agreement at a bargaining session in Geneva last April, before Mr. Hodel entered the fray.

A final protocol is due to be signed at a September meeting in Montreal, and with critical details still undecided, the delicate consensus could easily evaporate.

The President's public leadership, sharpened by his personal medical history, could be vital to clinching the deal to save the ozone layer. []



United Nations
Environment
Programme



Distr.
GENERAL

UNEP/IG.79/3/Rev.1
12 August 1987

Original: ENGLISH

Conference of Plenipotentiaries on the
Protocol on Chlorofluorocarbons to the
Vienna Convention for the Protection of
the Ozone Layer

Montreal, 14-16 September 1987

Seventh Revised Draft Protocol on [Chlorofluorocarbons]
[Certain Ozone Depleting Substances]

SEVENTH REVISED DRAFT PROTOCOL ON [CHLOROFLUOROCARBONS]
[CERTAIN OZONE DEPLETING SUBSTANCES]^{1/}

PREAMBLE

The Parties to this Protocol,

Being Parties to the Vienna Convention for the Protection of the Ozone Layer, adopted at Vienna on 22nd March 1985,

Mindful of their obligation under that Convention to take appropriate measures to protect human health and the environment against adverse effects resulting or likely to result from human activities which modify or are likely to modify the ozone layer,

Recognizing the possibility that world-wide emissions of [chlorofluorocarbons] [certain ozone depleting substances] can significantly deplete and otherwise modify the ozone layer, which is likely to result in adverse effects on human health and the environment,

Recognizing also the potential climatic effects of [chlorofluorocarbons][certain ozone depleting substances] emissions,

Determined to protect the ozone layer by taking precautionary measures to control total global emissions of [chlorofluorocarbons] [certain ozone depleting substances],

Mindful of the precautionary measures for controlling emissions of [chlorofluorocarbons] [certain ozone depleting substances] that have already been taken at the national and regional levels,

Aware that measures taken to protect the ozone layer from modifications due to the use of [chlorofluorocarbons] [certain ozone depleting substances] should be based on relevant scientific and technical considerations,

Mindful that special provision needs to be made in regard to the production and use of [chlorofluorocarbons] [certain ozone depleting substances] for the needs of developing countries and low-consuming countries,

^{1/} Draft Articles 1 - 7 and 15 were prepared by the Legal Drafting Group during its meeting in The Hague 6-9 July 1987 on the basis of the Sixth Revised Draft Protocol on Chlorofluorocarbons, Vienna, 27 February 1987 (UNEP/WG.167/2, Annex 1), together with Articles proposed at the Third Session of the Ad hoc Working Group of Legal and Technical Experts for the Preparation of a Protocol on Chlorofluorocarbons to the Vienna Convention for the Protection of the Ozone Layer (Vienna Group), Geneva 27-30 April 1987 (UNEP/WG.172/2) and taking into account the results of Brussels, 29-30 June 1987, and Geneva, 1-4 July 1987 Informal consultations. The remaining Articles are as included in the Sixth Revised Draft but with the incorporation by the secretariat where relevant of formulations resulting from the above meetings as well as other minor changes of a stylistic nature.

Considering the importance of promoting international co-operation in the research and development of science and technology on the control and reduction of [chlorofluorocarbon] [certain ozone depleting substances] emissions, bearing in mind, in particular, the needs of developing countries and low-consuming countries,

HAVE AGREED AS FOLLOWS:

ARTICLE 1: DEFINITIONS AND SCOPE

For the purposes of this Protocol:

1. "Convention" means the Vienna Convention for the Protection of the Ozone Layer, adopted at Vienna on 22nd March 1985;
2. "Parties" means, unless the text otherwise indicates, Parties to this Protocol;
3. "Secretariat" means the secretariat of the Convention;
4. "Controlled substance" means a substance listed in Annex A to this Protocol, whether existing alone or together with any other substance. This does not apply to a product or a mixture where the substance listed in Annex A constitutes less than [20] per cent by weight or volume of the product or mixture.
5. "Production" means the amount of controlled substances produced minus the amount destroyed by techniques approved by the Parties.
6. "Consumption" means production plus imports minus exports of controlled substances.

ARTICLE 2: CONTROL MEASURES^{2/}

1. Each Party shall ensure that within one year of the entry into force of this Protocol, neither production in nor imports into its jurisdiction of the controlled substances in Group I exceed the level of production and the level of imports respectively in 1986. This paragraph shall remain in effect until four years after the entry into force of this Protocol^{3/}.

[2. Each Party shall ensure that within three years of the entry into force this Protocol, neither production in nor imports into its jurisdiction of controlled substances in Group II exceed the level of production and the level of imports respectively in 1986]^{4/}.

^{2/} All of the figures in this Article, whether or not in square brackets, were inserted by the Executive Director after his informal consultations in Brussels, 29-30 June. The structure of the draft text was prepared by the Legal Drafting Group, which was mandated to deal with "outstanding legal and institutional matters".

^{3/} In the opinion of the Legal Drafting Group, the formulation of paragraphs 1, 2 and 3 does not make it sufficiently clear how the control measures are to apply to States which became Parties to the Protocol after its entry into force. This question could be dealt with by adding a new Article after Article 2 along the following lines:

"Subject to Article 5, any State or regional economic integration organization which becomes a Party to this Protocol after its entry into force, shall fulfil forthwith the sum of the obligations under Article 2 that apply at that date to the States and regional economic integration organizations that became Parties on the date the Protocol entered into force".

^{4/} The Legal Drafting Group did not attempt to revise the formulation of Article 2 paragraph 2. An alternative to this paragraph in the form of a resolution of the Montreal Conference has been proposed as follows:

Recognizing that there is serious concern about the likely adverse effects on the ozone layer of Halons 1211 and 1301, and that there is a need for more data and information regarding their use, emission rates and ozone depleting potential,

Alternative 1

[Decides that these compounds shall be frozen at their 1986 production levels within the scope of the Protocol, at the first meeting of the Parties following the first scientific review.]

Alternative 2

[Decides that a decision on the freeze of these compounds at their 1986 production levels, within the scope of the Protocol, shall be made at the first meeting of the Parties to be held after the first scientific review.]

3. Each Party shall ensure that within four years of the entry into force of this Protocol, neither production nor consumption in its jurisdiction of the controlled substances in Group I do not exceed eighty per cent of the level of production and the level of consumption respectively in 1986.^{5/}

4. Each Party shall ensure that within [eight] [ten] years of the entry into force of this Protocol, neither production nor consumption in its jurisdiction of the controlled substances in Group I exceed fifty percent of the level of production and the level of consumption respectively in 1986, unless the Parties decide otherwise by a two-thirds majority representing at least fifty percent of global consumption^{6/} of those substances in the light of the assessments referred to in Article 6. Such decision shall be taken not later than four years after entry into force of the Protocol.

5. Based on assessments made pursuant to Article 6, Parties shall decide by [two-thirds majority] [a majority] vote representing at least fifty per cent of global consumption:

- (a) whether substances should be added to or removed from Annex A;
- (b) whether further reduction from 1986 levels should be undertaken with the objective of eventual elimination of production and consumption of the controlled substances except for uses for which no substitutes are commercially available.^{7/}

[6. Productions are permitted to transfer from one country to another if these transmissions are certain not to cause an increase of production.]^{8/}

7. The provisions contained in this Article do not prevent Parties from taking more stringent measures than those required by this Article.

^{5/} The Legal Drafting Group notes that in paragraphs 3 and 4 of Article 2, the year "1986" is used as the base year for calculating production and consumption controls. However, the possibility of using "1990" as the base year for consumption controls was included as an option by the Formula sub-working group. If it is decided in Montreal to use 1990 as the base year for consumption controls, some re-drafting of these paragraphs will be necessary.

^{6/} The Legal Drafting Group notes that it would be unlikely that global consumption figures would be available since data would not necessarily be available from non-Parties. In Article 2 paragraphs 4 and 5 "total consumption of the Parties" could be substituted for "global consumption". See also Article 15 paragraph 1.

^{7/} The Legal Drafting Group notes that sub-paragraph (a) does not indicate what control measures should apply to substances to be added to Annex A. It further notes that paragraph 5 does not deal with the question of the entry into force of any changes to Annex A decided by the Parties. It is unclear whether changes adopted by majority vote are intended to bind all Parties, or whether the intent is that such changes would bind only Parties that have agreed to them.

^{8/} This paragraph, which originally appeared in the revised reduction formula developed by the Trade sub-working group, was only briefly discussed by the Legal Drafting Group as it was realized that the idea behind this

ARTICLE 3: CALCULATION OF CONTROL LEVELS

For the purposes of Articles 2, 5 and 7 each Party shall calculate its levels of:

- (a) production, imports and exports of the controlled substances, by:
 - (i) multiplying its annual production, imports and exports of each controlled substance by the ozone depletion potential specified in respect of it in Annex A; and
 - (ii) adding together the multiplication products from subparagraph (i);
- (b) consumption of the controlled substances, by adding together its levels of production and imports and subtracting its level of exports.

ARTICLE 4: CONTROL OF TRADE WITH NON-PARTIES^{9/}

1. Within [one] year of the entry into force of this Protocol, each Party shall ban the import [and export] of the controlled substances from [or to] any State not Party to this Protocol.

2. Alternative 1

[Within [four] years of the entry into force of this Protocol, each Party shall ban imports of products identified in Annex B containing controlled substances from any State not Party to this Protocol. The Parties shall periodically review, and if necessary, amend Annex B].

^{9/} Incorporates results of consultations of the Trade subgroup in Brussels, 29-30 June 1987. It was agreed by that group that the years in paragraphs 1 and 2 of this Article should be the same as the years used in paragraphs 1 and 3 of Article 2 respectively.

Alternative 2

[Within [four] years of the entry into force of this Protocol, each Party shall ban or restrict imports of products containing controlled substances from any State not Party to this Protocol. At least one year prior to the time such measures take effect, the Parties shall elaborate in an annex a list of the products to be banned or restricted and standards for applying such measures uniformly by all Parties].

3. Within [four-six] years of the entry into force of this Protocol, the Parties shall determine the feasibility of banning or restricting imports of products produced with controlled substances from any State not Party to this Protocol. If determined feasible, the Parties shall ban or restrict such products and elaborate in an annex a list of the products to be banned or restricted and standards for applying such measures uniformly by the Parties.

4. Each Party shall discourage the export of technology to any State not Party to this Protocol for producing and using the controlled substances.

5. Parties shall not conclude new agreements to provide to States not Party to this Protocol bilateral or multilateral subsidies, aid, credits, guarantees or insurance programmes for the export of products, equipment, plants or technology for producing the controlled substances.

6. The provisions of paragraphs 4 and 5 shall not apply to products, equipment, plants or technology which improve the containment, recovery, recycling or destruction of the controlled substances, or otherwise contribute to the reduction of emissions of these substances.

7. Notwithstanding the provisions of this Article, imports referred to in paragraphs 1, 2 and 3 may be permitted from any [State not Party] [signatory] to this Protocol for a period not to exceed [two] [three] years from entry into force of the Protocol if that State is in full compliance with Article 2 and this Article and has submitted data to that effect, as specified in Article 7. [Extension of the exemption period beyond 2-3 years shall be granted by Parties only upon a determination at a meeting of the Parties that: (a) all conditions specified in this paragraph have been met and (b) such extension for an additional period not to exceed [two-three] years is fully consistent with the objectives of this Protocol to protect the ozone layer].^{10/}

^{10/} The Legal Drafting Group considered that further work to define the objectives of this paragraph needs be carried out before satisfactory legal drafting can be done.

ARTICLE 5: LOW CONSUMING COUNTRIES 11/

1. Any Party whose consumption in 1986 of the controlled substances was less than [0.1] [0.2] kg. per capita shall be entitled to delay its compliance with the provisions of paragraphs 1 to 4 of Article 2 by [five] [ten] years after that specified in that Article and to substitute [] in place of 1986 as the base year. 12/
2. The Parties shall make all possible efforts to assist Parties referred to in paragraph 1 to make expeditious use of environmentally safe alternative chemicals and technology.
3. The Parties shall encourage, through bilateral and multilateral channels, the provision of subsidies, aid, guarantees or insurance programmes to the developing countries for the use of alternative technology and substitute products.

11/ - The Legal Drafting Group was aware of the importance of the Article on the low consuming countries but noted that the substantive work had not been completed on this Article. The Group, therefore, confined itself to the material available at the time of its meeting and merely introduced necessary drafting improvements. The Group draws attention to the need for this Article to be given a special priority by the preparatory meeting in Montreal and to be addressed at an early stage.

- It was decided during the Brussels consultations to retain in brackets the following provisions, taken from the revised reduction formula developed by the Trade sub-group, pending completion of the Article on Low Consuming Countries:

[Any [developing] country, or group of [developing] countries, not producing CFCs at the time of the signing of the Protocol shall be permitted to produce or have produced for it by any Party to the Protocol, substances referred to in Article 2, to a level not exceeding its/their controlled level of imports/aggregated level of imports, as the case may be. The level of production and imports at any time will not be permitted to exceed the controlled level of imports.]

12/ The Legal Drafting Group suggested this paragraph to replace paragraphs 1 and 2 of the draft prepared in Geneva 27-30 April 1987 as a purely drafting improvement.

ARTICLE 6: REVIEW AND ASSESSMENT OF CONTROL MEASURES

Beginning in 1990,^{13/} and every four years thereafter, the Parties shall assess the control measures provided for in Article 2, based on available scientific, environmental, technical, and economic information. At least one year before each of these assessments, the Parties shall convene a panel of scientific experts, with composition and terms of reference determined by the Parties, to review advances in scientific understanding of modification of the ozone layer, and the potential health, environmental and climatic effects of such modification.

ARTICLE 7: REPORTING OF DATA

1. Each Party shall provide to the secretariat, within three months of becoming a Party, data on its production, imports and exports of the controlled substances for the year 1986 or estimates of that data where actual data are not available.
2. Each Party shall provide data on its annual production, exports, imports and destruction of these substances for the year during which it becomes a Party and for each year thereafter.

^{13/} The Legal Drafting Group noted that the requirement to hold the first assessment in 1990 is dependent on the Protocol being in force by that date.

**ARTICLE 8: RESEARCH, DEVELOPMENT, EXCHANGE OF INFORMATION
AND PUBLIC AWARENESS**

1. The Parties shall co-operate, consistent with their national laws, regulations and practices and taking into account in particular the needs of the developing countries, in promoting, directly or through competent international bodies, research, development and exchange of information on:

- (a) best practicable technologies for reducing emissions of the controlled substances;
- (b) possible alternatives to the controlled substances;
- (c) costs and benefits of relevant control strategies.

2. The Parties, individually, jointly or through competent international bodies, shall co-operate in promoting public awareness of the environmental effects of the emissions of the controlled substances and other ozone depleting substances.

3. Each Party shall submit biennially to the secretariat a summary of its activities conducted pursuant to this Article.

ARTICLE 9: TECHNICAL ASSISTANCE

1. The Parties shall co-operate, taking into account in particular the needs of developing countries, in promoting, in the context of the provisions of Article 4 of the Convention, technical assistance to facilitate participation in and implementation of this Protocol.

2. Any Party or Signatory to this Protocol in need of technical assistance for the purposes of implementing or participating in it, may submit a request to the secretariat.

3. At their first meeting, the Parties shall begin deliberations on the means of fulfilling the obligations set out in Article 8 above, and paragraphs 1 and 2 of this Article including the preparation of workplans. Such workplans shall pay special attention to the needs and circumstances of the developing countries. States not party to the Protocol should be encouraged to participate in activities specified in such workplans.

ARTICLE 10: MEETINGS OF THE PARTIES

1. The Parties shall hold meetings at regular intervals. The secretariat shall convene the first meeting of the Parties not later than one year after entry into force of this Protocol and in conjunction with a meeting of the Conference of the Parties to the Convention, if a meeting of the latter is scheduled within that period.

2. Subsequent ordinary meetings of the Parties shall be held, unless the Parties otherwise decided, in conjunction with meetings of the Conference of the Parties to the Convention. Extraordinary meetings of the Parties shall be held at such other times as may be deemed necessary by a meeting of the Parties, or at the written request of any Party, provided that, within six months of such a request being communicated to them by the secretariat, it is

3. At their first meeting the Parties shall:

- (a) adopt by consensus rules of procedure for their meetings;
- (b) prepare workplans pursuant to paragraph 3 of Article 9;
- (c) adopt by consensus the rules required by paragraph 2 of Article 12.

4. The functions of the meetings of the Parties shall be to:

- (a) review the implementation of this Protocol;
- (b) establish, where necessary, guidelines or procedures for reporting of information as provided for in Article 7 and paragraph 3 of Article 8;
- (c) review requests for technical assistance provided for in paragraph 2 of Article 9;
- (d) review requests notified by the secretariat pursuant to Article 11 (c);
- (e) assess, in accordance with Article 6, the control measures provided for in Article 2;
- (f) consider and adopt as required proposals for amendment of this Protocol [in conformity with Articles 9 and 10 of the Convention];
- (g) consider and adopt the budget for implementation of this Protocol;
- (h) consider and undertake any additional action that may be required for the achievement of the purposes of this Protocol.

5. [The Parties shall decide within [two] years of entry into force of this Protocol how to count exports to countries not party to the Protocol].

6. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not Party to this Protocol, may be represented at meetings of the Parties as observers. Any body or agency, whether national or international, governmental or non-governmental, qualified in fields relating to the protection of the ozone layer which has informed the secretariat of its wish to be represented at a meeting of the Parties as an observer may be admitted unless at least one-third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Parties.

ARTICLE 11: SECRETARIAT

For the purposes of this Protocol the secretariat shall:

- (a) arrange for and service meetings of the Parties as provided for in Article 10;

- (b) receive and make available, upon request by a Party, data

- (c) prepare and distribute to the Parties regularly reports based on information received pursuant to Articles 7 and 8;
- (d) notify the Parties of any request for technical assistance received pursuant to Article 9 so as to facilitate the provision of such assistance;
- (e) encourage non-parties to attend the meetings of the Parties as observers and to act in accordance with the provisions of the Protocol;
- (f) provide, as appropriate, the information referred to in sub-paragraphs (c), (d) and (g) above to such non-party observers;
- (g) perform such other functions for the achievement of the purposes of the Protocol as may be assigned to it by the Parties.

ARTICLE 12: FINANCIAL PROVISIONS

1. The funds required for the operation of this Protocol, including those for the functioning of the secretariat related to this Protocol, shall be charged exclusively against contributions from the Parties.
2. The Parties at their first meeting shall adopt by consensus financial rules for the operation of this Protocol, including rules for assessing contributions from the Parties, taking into account the special situation of the developing countries.

ARTICLE 13: RELATIONSHIP OF THIS PROTOCOL TO THE CONVENTION

Except as otherwise provided in this Protocol, the provisions of the Convention relating to its protocols shall apply to this Protocol.

ARTICLE 14: SIGNATURE

This Protocol shall be open for signature at Montreal on 16 September 1987, in Ottawa from 17 September 1987 to 16 January 1988, and at United Nations Headquarters in New York from 17 January 1988 to 16 September 1988.

ARTICLE 15: ENTRY INTO FORCE

1. This Protocol shall enter into force on the same date as the Convention enters into force, provided that at least [nine] instruments of ratification, acceptance, approval of or accession to the Protocol have been deposited [by States or regional economic integration organizations representing at least sixty per cent of 1986 global production of the controlled substances]. In the event that [nine] such instruments have not been deposited by the date of entry into force of the Convention, this Protocol shall enter into force on the [ninetieth] day following the date of deposit of the [ninth] instrument of ratification, acceptance, approval of or accession to the Protocol [by States or regional economic integration organizations representing at least sixty per cent of 1986 global production of the controlled substances].^{14/}

2. For the purposes of paragraph 1, any instrument deposited by a regional economic integration organization referred to in Article 12 of the Convention shall not be counted as additional to those deposited by member States of such organizations.

3. After the entry into force of this Protocol, any State or regional economic integration organization referred to in Article 12 of the Convention shall become a Party to it on the [ninetieth] ^{15/} day following the date of deposit of its instrument of ratification, acceptance, approval or accession.

^{14/} Resulting from Executive Director's consultations in Brussels on 29-30 June 1987. The Executive Director has requested Governments to submit data regarding their estimated imports. If sufficient data are available for the preliminary session in Montreal, a certain percentage of imports could be added to this provision.

A proposal was made to the Legal Drafting Group that would have the effect of applying similar provisions to the entry into force of amendments, additional annexes, or amendments to annexes to this Protocol. This proposal was not discussed fully because of time constraints and limited country representation. Also, a view was expressed that the proposal raised new substantive issues.

^{15/} The Convention provides that a State or regional economic integration organization may not become a Party to a Protocol unless it is, or becomes at the same time, a Party to the Convention (Article 16). It also provides that the Convention enters into force on the ninetieth day after the deposit of the twentieth instrument of ratification, and (after it has entered into force) for each ratifying State on the ninetieth day after the deposit of that State's instrument of ratification (Article 17). To prevent a situation arising in which a State's (or organization's) ratification of the Protocol might appear to be effective before the State (or organization) had become a Party to the Convention, it was necessary to substitute "ninetieth" for "thirtieth" in the Article on entry into force in the Protocol. This might also be desirable in order to avoid the possibility that the Protocol might appear to enter into force before the Convention.

ARTICLE 16: RESERVATIONS

[No reservations may be made to this Protocol.]

ARTICLE 17: AUTHENTIC TEXTS

The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF THE UNDERSIGNED, BEING DULY AUTHORIZED TO THAT EFFECT HAVE SIGNED THIS PROTOCOL,

DONE AT MONTREAL

THIS..... DAY OF

X X X

Final footnote

A proposal was made to the Legal Drafting Group for an Article under which, for purposes of certain Protocol articles, the geographic area of a regional economic integration organization shall be treated as a single unit. The proposal was not discussed fully because of time constraints and limited country representation. Also a view was expressed that the proposal raised new substantive issues.

- - - - -

ANNEX A

CONTROLLED SUBSTANCES

Group	Chemical	Calculated Ozone Depleting Potential (ODP)*
Group I		
Fully halogenated Chlorofluorocarbons	CFC-11	CCl_3F 1.0
	CFC-12	CCl_2F_2 1.0
	CFC-113	$\text{CCl}_2\text{FCClF}_2$ 0.8
	CFC-114	$\text{CClF}_2\text{CClF}_2$ 1.0*
	CFC-115	CClF_2CF_3 0.6*
Group II		
[Halons	Halon-1301	CF_3Br 10*
	Halon-1211	CBrClF_2 3*]

* ODP values are preliminary estimates subject to further scientific review.



United States Department of State

*Bureau of Oceans and International
Environmental and Scientific Affairs*

Washington, D.C. 20520
August 14, 1987

MEMORANDUM

TO: Department of Commerce - Mr. Anthony Calio
Department of Energy - Mr. William Martin
Department of Interior - Mr. Don Pearlman
Department of Justice - Mr. Roger Marzulla
- Mr. Thomas Hookano
Environmental Protection Agency - Mr. Bill Long
United States Trade Representative - Mr. M. Alan Woods

FROM: Richard Elliot Benedick *REB*

SUBJECT: U.S. Delegation to the Montreal Meetings on Protection
of the Ozone Layer

Final negotiations on the Protocol for Protection of the Ozone Layer are scheduled for September 8-11 in Montreal, to be followed by a Conference of Plenipotentiaries on September 14-16. I have again been designated to head the U.S. delegation to the negotiations, while EPA Administrator Lee Thomas will represent the United States at the Conference of Plenipotentiaries.

As you know, the State Department must limit the size of delegations to international meetings to the minimum number of U.S. representatives necessary to accomplish essential business. Accordingly, if your agencies are interested in nominating a member of the U.S. delegation, please send me a memorandum, by August 21, which would include an explanation as to why the designated officer's participation is essential. Because of the overall limitation, I would appreciate it if any interested agency would nominate only one individual, with the exception of three for EPA, because of its particular role on this issue. On the basis of replies received, I propose to discuss with White House staff and the State Department Office of International Conferences the final composition and formal accreditation of the U.S. delegation.

Thank you very much for your cooperation.

cc: D: Mr. Whitehead
Domestic Policy Council: Mr. Bledsoe
IO/OIC: Mr. Provyn

RCB - —

One comment.
see margin.

Thanks—

Vicki

cc w/o comments
sent to Steve Galbraith
8/17/87



United States Department of State

*Bureau of Oceans and International
Environmental and Scientific Affairs*

Washington, D.C. 20520
August 14, 1987

MEMORANDUM

TO: Department of Commerce - Mr. Anthony Calio
Department of Energy - Mr. William Martin
Department of Interior - Mr. Don Pearlman
Department of Justice - Mr. Roger Marzulla
- Mr. Thomas Hookano
Environmental Protection Agency - Mr. Bill Long
United States Trade Representative - Mr. M. Alan Woods

FROM: Richard Elliot Benedick *RBS*

SUBJECT: U.S. Delegation to the Montreal Meetings on Protection
of the Ozone Layer

Final negotiations on the Protocol for Protection of the Ozone Layer are scheduled for September 8-11 in Montreal, to be followed by a Conference of Plenipotentiaries on September 14-16. I have again been designated to head the U.S. delegation to the negotiations, while EPA Administrator Lee Thomas will represent the United States at the Conference of Plenipotentiaries.

As you know, the State Department must limit the size of delegations to international meetings to the minimum number of U.S. representatives necessary to accomplish essential business. Accordingly, if your agencies are interested in nominating a member of the U.S. delegation, please send me a memorandum, by August 21, which would include an explanation as to why the designated officer's participation is essential. Because of the overall limitation, I would appreciate it if any interested agency would nominate only one individual, with the exception of three for EPA, because of its particular role on this issue. On the basis of replies received, I propose to discuss with White House staff and the State Department Office of International Conferences the final composition and formal accreditation of the U.S. delegation.

Thank you very much for your cooperation.

cc: D: Mr. Whitehead
Domestic Policy Council: Mr. Bledsoe
IO/OIC: Mr. Provyn

f possible, cut the WH. I will not directing composition or accreditation of delegation.



2320
United States Department of State

*Bureau of Oceans and International
Environmental and Scientific Affairs*

Washington, D.C. 20520

August 14, 1987

MEMORANDUM

TO: Department of Commerce - Mr. Anthony Calio
Department of Energy - Mr. William Martin
Department of Interior - Mr. Don Pearlman
Department of Justice - Mr. Roger Marzulla
- Mr. Thomas Hookano
Environmental Protection Agency - Mr. Bill Long
United States Trade Representative - Mr. M. Alan Woods

FROM: Richard Elliot Benedick *REB*

SUBJECT: U.S. Delegation to the Montreal Meetings on Protection
of the Ozone Layer

Final negotiations on the Protocol for Protection of the Ozone Layer are scheduled for September 8-11 in Montreal, to be followed by a Conference of Plenipotentiaries on September 14-16. I have again been designated to head the U.S. delegation to the negotiations, while EPA Administrator Lee Thomas will represent the United States at the Conference of Plenipotentiaries.

As you know, the State Department must limit the size of delegations to international meetings to the minimum number of U.S. representatives necessary to accomplish essential business. Accordingly, if your agencies are interested in nominating a member of the U.S. delegation, please send me a memorandum, by August 21, which would include an explanation as to why the designated officer's participation is essential. Because of the overall limitation, I would appreciate it if any interested agency would nominate only one individual, with the exception of three for EPA, because of its particular role on this issue. On the basis of replies received, I propose to discuss with White House staff and the State Department Office of International Conferences the final composition and formal accreditation of the U.S. delegation.

Thank you very much for your cooperation.

cc: D: Mr. Whitehead
✓ Domestic Policy Council: Mr. Bledsoe
IO/OIC: Mr. Provyn