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DOCUMENT NO. & TYPE	SUBJECT/TITLE	DATE	RESTRICTION
~~1. memo~~	~~John D. Negroponte to Mr. Wallis, re Circular 175, 7 p~~ R 1/10/03 F00-013 #16	~~11/28/86~~	~~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].

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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].

Fran -
Plz send a cpy 8/19
cy of this to:
Nancy's office
thx R-

CLASSIFIED ATTACHMENT
UNCLASSIFIED UPON REMOVAL OF CLASSIFIED ENCLOSURE(S)
RB 9/11/90

THE WHITE HOUSE

WASHINGTON

August 18, 1987

MEMORANDUM FOR ARTHUR B. CULVAHOUSE, JR.
COUNSEL TO THE PRESIDENT

FROM: RALPH C. BLEDSOE Ralph Bledsoe
EXECUTIVE SECRETARY OF THE DOMESTIC POLICY COUNCIL

SUBJECT: Stratospheric Ozone -- Authority to Enter International Agreement

The United States is participating in the United Nations Environment Program negotiations toward a protocol for the control of ozone-depleting chemicals, mainly chlorofluorocarbons (CFCs). In November 1986, the State Department received authority to negotiate, but not to sign, a proposed ozone agreement. (Tab A). The State Department obtained this authority pursuant to its Foreign Affairs Manual Circular 175 Procedure. (Tab B). This procedure requires the Department to circulate for inter-agency approval a memorandum proposing the negotiation of an international agreement.

On June 25, 1987, and after Domestic Policy Council review, the President decided on clear and specific negotiating instructions, and these were provided to the U.S. delegation. (Tab C). The State Department now seeks authority to sign a final protocol pursuant to the Foreign Affairs Manual requirement for such authority. They would like to circulate to interested agencies a Circular 175 memorandum requesting authority to sign the international ozone agreement. They want to include a copy of the current draft protocol text (Tab D) and a copy of the President's decision statement.

The Council would like your advice on whether the President's decisions regarding the specific provisions of an international ozone agreement obviate the Foreign Affairs Manual requirement for signing authority. The President's decisions followed a rigorous Domestic Policy Council review process that considered many sides of every issue in the ozone negotiations.

Alternatively, we feel an internal State Department authorization would be preferable to reopening the inter-agency process. The current draft protocol contains many, but not all, of the provisions the President directed the delegation to seek. Cabinet members could be in the awkward position of approving the signing of an agreement that is not in accord with the President's instructions, or withholding approval after the President has directed the delegation to negotiate an agreement.

The final negotiating session is scheduled for September 8-11, and the Conference of Plenipotentiaries is scheduled for September 14-16.

United States Department of State

Washington, D. C. 20520

November 28, 1986

ACTION MEMORANDUM
S/S

TO: E - Mr. Wallis

FROM: OES - John D. Negroponte

SUBJECT: Circular 175: Request for Authority to Negotiate a Protocol to the Convention for the Protection of the Ozone Layer

ISSUE FOR DECISION:

Whether to authorize negotiation of a protocol to the Vienna Convention for the Protection of the Ozone Layer which would control emissions of ozone-depleting substances.

ESSENTIAL FACTORS:

The Problem

There is general scientific agreement that human activities are substantially altering the chemistry of the atmosphere in ways which threaten both the quantity and the vertical distribution of ozone. Certain chlorine and bromine substances, when emitted into the atmosphere, act as catalysts in a series of chemical reactions resulting in a depletion of ozone. Ozone depletion, by permitting greater quantities of harmful ultra-violet radiation to reach the earth's surface, will pose significant, even if currently difficult to quantify, risks for health and ecosystems. Given the complex chemistry and dynamics of the atmosphere, scientific uncertainties currently prevent a conclusive determination of safe levels of emissions. Because of the long atmospheric lifetime of these molecules, emissions affect the ozone layer for decades. The nature of the ozone layer requires international action if protective measures are to be effective.

The chemicals at issue for this protocol -- chlorofluorocarbons ("CFCs") and some bromine compounds -- have substantial economic and social value, being widely used in refrigeration, foam-blowing, fire-extinguishers, as solvents, and in most countries as aerosols. (Their use in non-essential aerosols was banned in the United States in 1978.) The U.S., Japan and EC countries currently account for about 90% of world production and consumption.

The International Process

The Vienna Convention for the Protection of the Ozone Layer, adopted under auspices of the U.N. Environment Program (UNEP) on March 22, 1985 and ratified by the United States on August 14, 1986, provides for cooperation in research, monitoring and information exchange. The Convention obliges the Parties to cooperate in taking 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. The Diplomatic Conference which adopted the Convention did not reach agreement, however, on a protocol to control emissions of ozone-depleting substances. The final act of the Diplomatic Conference called for a series of scientific and economic workshops on the atmospheric science, effects of ozone depletion, and alternative control measures, followed by resumption of negotiations, looking toward adoption of a control protocol in 1987 if possible. Negotiations are to resume December 1, 1986, with a diplomatic conference to conclude the protocol tentatively scheduled for April 1987.

The Domestic Setting

The Environmental Protection Agency, under terms of a court order approving a settlement reached in a lawsuit against the EPA Administrator by the Natural Resources Defense Council, must publish in the Federal Register by May 1, 1987 a proposed decision on the need for further domestic regulation of CFCs under Sec. 157 of the Clean Air Act. Compared to other environmental laws, the Act sets a low threshhold for required action by EPA: "the Administrator shall propose regulations for the control of any substance, practice, process, or activity...which in his judgment may reasonably be anticipated to affect the stratosphere, especially ozone in the stratosphere, if such effect in the stratosphere may reasonably be anticipated to endanger public health or welfare." In this connection, EPA is going through an extensive risk assessment process. A final EPA decision is required by the court order by November 1, 1987.

An important goal in seeking an early and effective international agreement (in addition to the goal of more effectively protecting the ozone layer) is to avoid disadvantage to U.S. industry as a result of unilateral U.S. regulatory action required by the Clean Air Act. Unilateral U.S. action in advance of international agreement could undercut the global control effort.

The principal producer- and user-industry group, the "Alliance for Responsible CFC Policy," has reversed its previous total opposition to controls, issuing a statement September 16, 1986 that "responsible policy dictates, given the scientific uncertainties, that the U.S. government work in cooperation with the world community...to consider establishing a reasonable global limit on the future rate of growth of fully halogenated CFC production capacity."

Proposed Position

Our approach in the international negotiations is intended to influence those negotiations to achieve the most effective international agreement possible. It does not prejudge the EPA Administrator's decision on domestic regulation.

Although considerable evidence exists linking certain chlorine and bromine substances to depletion of ozone, remaining scientific uncertainties prevent any conclusive statement concerning safe levels of emissions. As a result, the Administrator of EPA recommends an international risk management strategy which would give a strong incentive for rapid development and employment of emission controls, recycling practices and safer substitute chemicals. We should therefore seek a protocol that explicitly or in effect provides for:

I. A near-term freeze on the combined emissions of the most ozone-depleting substances;

II. A long-term scheduled reduction of emissions of these chemicals down to the point of eliminating emissions from all but limited uses for which no substitutes are commercially available (such reduction could be as much as 95%), subject to III; and

III. Periodic review of the protocol provisions based upon regular assessment of the science. The review could remove or add chemicals, or change the schedule or the emission reduction target.

These elements would provide a desirable margin of safety against harm to the ozone layer while scientific research continues. At the same time, this approach would provide as

much certainty as possible for industrial planning in order to minimize the costs of reducing reliance on these chemicals, while allowing adequate time for adjustment.

The timing, stringency and scope of the phased reductions will have to be negotiated. We would promote a scheme which allows flexibility for each nation to determine how it will implement domestically its international obligation. In reponse to UNEP's invitation, we have prepared for discussion purposes the attached draft text for the operative paragraphs of a protocol.

We would favor setting national limits at or near current levels, in order to avoid increases in emissions from any Party. Elimination of most emissions would obviate the difficult question of equity -- the view that developing countries have a right to a fair share of world markets if a global limit on emissions is set: developing countries will have less reason to seek to expand use of products which will be obsolete in the forseeable future and they will benefit from the development of substitutes and of recycling and containment techniques.

We will seek to include in the protocol measures to regulate relevant trade between parties and non-parties in order to create incentives for nations to adhere to the protocol's emissions limits. These measures will have an ancillary effect of protecting U.S. industry from unfair competition. We will assure that any trade provisions included in the protocol are consistent with the General Agreement on Tariffs and Trade (GATT) and other aspects of U.S. trade policy.

We have undertaken extensive consultations with industry and environmental groups and will continue to do so as the negotiations progress.

Legal Authority and Funding

We expect that no additional legislation will be required to implement the provisions of a protocol specifying the regulation of ozone-depleting substances. As discussed in the attached legal memorandum, EPA has authority under the Clean Air Act to regulate ozone-depleting substances which may reasonably be expected to endanger public health or welfare and is currently conducting the risk assessment required to determine the need for additional regulation.

It has not yet been determined whether this protocol would be concluded as an executive agreement or as a treaty subject to the advice and consent of the Senate. This will depend, in part, on the content of the protocol and nature of the undertakings therein. The requirements of the National Environmental Policy Act (NEPA) and E.O. 12114 on Environmental Effects Abroad of Major Federal Actions are currently being considered.

Costs related to implementation of a protocol will depend on the requirements of the protocol. As a party to the Vienna Convention for the Protection of the Ozone Layer, we are already committed to the establishment of a Secretariat (in an existing international organization such as UNEP or WMO) and Conference of the Parties when that agreement enters into force. Any additional costs to administer the protocol will be incremental. We will seek to minimize the services required of the Secretariat and any requirement for funding to support such services, and we will make every effort to ensure that necessary support staff are provided within existing levels. EPA will be responsible for reports to the Secretariat, participation in technical reviews, and other commitments of a technical nature assumed under the protocol.

Financial support for a cooperative science program to form the basis for periodic review of the protocol provisions will need to be considered. EPA, NASA, NOAA and other technical agencies would participate in any cooperative science program resulting from the protocol with their own funds. The U.S. already has a dynamic and extensive program on both the atmospheric science and effects science, and as such is already by far the largest contributor to international scientific cooperation in these areas. The protocol may be a means to draw additional commitments from other nations to contribute to scientific efforts. It will be possible to assess the need for any additional U.S. support in this area only as the negotiations progress. We will consult with and obtain the approval of OMB regarding any commitment that could not be satisfied out of currently appropriated funds.

RECOMMENDATION:

That you authorize negotiation of a protocol to the Vienna Convention for the Protection of the Ozone Layer which would control emissions of those substances which are the most

significant contributors to ozone depletion in accordance with the principles outlined above. Subsequent authority will be sought to conclude any international agreement resulting from these negotiations.

Approve _____ Disapprove _____

Attachments:

A. Legal Memorandum
B. Draft protocol text

Circular 175: Protocol for Protection of Ozone Layer

Drafter: OES/ENH:SButcher
11/16/86 647-9312 0936T
Revised 11/26/86 16:00

Clearance: OES:REBenedick
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L/EBC:GRosen
E:MBailey
EB:ASundquist
IO:LGalini
M/MO:ALaPorta
M/COMP:CCasper
EPA:BLLong
NASA:JFletcher
NOAA:JFletcher
Commerce:MTKelly
USTR:APorges/RReinstein
DPC:THarris
CEQ:CNee
DOE:EWilliams
OMB:JIrwin/DGibbons

United States Department of State

Washington, D.C. 20520

MEMORANDUM OF LAW

SUBJECT: Authority to Negotiate a Protocol to the Convention for the Protection of the Ozone Layer to Control Emissions of Ozone-depleting Substances

The accompanying action memorandum from OES requests authorization to negotiate a protocol to the Vienna Convention for the Protection of the Ozone Layer which would control emissions of substances, such as certain chlorine and bromine substances, that deplete stratospheric ozone. As indicated in the action memorandum, the United States is supportive of a protocol that would impose a freeze on emissions of most ozone-depleting substances, followed by a long-term scheduled reduction of emissions of these substances to a point of eliminating all but limited uses for which there are no commercially available substitutes -- subject to periodic review of the protocol, and if scientifically warranted, modification of its provisions.

Legal authority to negotiate such a protocol derives from the constitutional authority of the President to conduct foreign relations and the statutory authority of the Secretary of State, 22 U.S.C. §2656, to manage the foreign affairs of the United States on a day-to-day basis. There is also ample statutory authority for the negotiation of international environmental agreements specifically.

For example, section 102(F) of the National Environmental Policy Act of 1969 directs all agencies of the federal government to "recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment." 42 U.S.C. §4332(F). Likewise, section 2 of the United Nations Environment Program Participation Act of 1973 provides that "[i]t is the policy of the United States to participate in coordinated international efforts to solve environmental problems of global and international concern." 22 U.S.C. §287 note. The participation of the United States in the negotiation of the proposed protocol would be consistent with that policy.

With respect to the development of international agreements for the protection of the stratosphere, section 156 of the Clean Air Act grants the President the authority "to enter into international agreements to foster cooperative research ... and to develop standards and regulations which protect the stratosphere consistent with regulations applicable within the United States." 42 U.S.C. §7456. This section further authorizes the President, through the Secretary of State and the Assistant Secretary for Oceans and International Environmental and Scientific Affairs, to "negotiate multilateral treaties, conventions, resolutions, or other agreements, and formulate, present, or support proposals at the United Nations and other appropriate international forums." Id.

The key aspect of the protocol will be the parties' commitment to control their emissions of certain ozone-depleting substances. Under section 157 of the Clean Air Act, 42 U.S.C. §7457, EPA currently has the statutory authority to regulate such substances where they may reasonably be expected to endanger public health or welfare. Thus, it is anticipated that this obligation would be within the purview of existing U.S. legislation, although it may be necessary for EPA to promulgate additional regulations to implement specific control measures. Other statutory authorities under which regulations related to the protection of stratospheric ozone have been issued--e.g., the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §301 et seq.; the Consumer Product Safety Act, 15 U.S.C. §2051 et seq.; and the Toxic Substances Control Act, 15 U.S.C. §2601 et seq.--also may provide, if necessary, a supplemental basis for meeting U.S. obligations under the protocol.

Final determination of whether the protocol should be concluded as a treaty or an executive agreement and whether it is consistent with existing U.S. laws obviously is dependent upon a final text. In the event the final text of the protocol imposes obligations on the United States that exceed existing laws, the protocol most likely will need to be concluded as a treaty, subject to the advice and consent of the Senate to ratification. It may also be necessary to seek new legislation permitting the implementation of the protocol before its entry into force.

While the provisions to be included in the protocol are still in an evolutionary stage, the action memorandum and attached drafted protocol text indicates that the U.S. delegation will propose for incorporation in the protocol measures regulating the trade of ozone-depleting chemicals and technologies for producing those chemicals between parties to

the protocol and non-parties. (There is currently no definitive U.S. position with respect to additional trade controls.) Under section 157 of the Clean Air Act, the Administrator of the Environmental Protection Agency has authority to promulgate regulations for the control of any substance, practice, process or activity (or any combination thereof) which in his judgment may reasonably be anticipated to affect the stratosphere, especially ozone in the stratosphere, if such effect may reasonably be anticipated to endanger public health or welfare. 42 U.S.C. §7457. The language of section 157 appears to be broad enough to permit the issuance of regulations by EPA to implement a protocol provision requiring trade restrictions to protect against ozone depletion and its attendant deleterious effects.

However, if the authority granted pursuant to section 157 is insufficient for this purpose, section 6 of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. §2605, generally authorizes the EPA Administrator to prohibit or limit by rule the manufacture (defined to include importation) and distribution in commerce of a chemical substance or mixture presenting an unreasonable risk of injury to health or the environment, such as the ozone-depleting substances at issue here.1/ Correlatively, section 13 of TSCA requires the Secretary of Treasury to refuse entry into the Customs territory of the United States any chemical substance or mixture, or article containing a chemical substance or mixture, offered for entry in violation of a rule issued under section 6 of TSCA. See 15 U.S.C. §2612.

EPA's authority to regulate the export of such substances, mixtures, or articles under TSCA is somewhat circumscribed. With the exception of certain labelling, notification, reporting and information-retention requirements, TSCA is inapplicable to a chemical substance or mixture, or article containing a chemical substance or mixture, that is manufactured, processed, or distributed in commerce solely for export from the United States unless the Administrator finds that it presents an unreasonable risk of injury to health within the United States or to the environment of the United States. TSCA section 12, 15 U.S.C. §2611. In this case, because the environmental problem is global in nature and consequently requires corrective measures universally, it is likely that such a finding could be made--i.e., that such

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1/ EPA may exercise its regulatory authority under TSCA if the Administrator finds that a risk of injury to health or the environment could not be effectively eliminated under another statute administered by EPA or by another federal agency. TSCA sections 6(c) and 9(a), 15 U.S.C. §§2605(c) and 2608(a).

exports in the long-run will have adverse health or environmental effects within the United States. Indeed, EPA made such a finding in 1978 when it prohibited (subject to an exception for certain essential uses and uses in articles exempted under section 3 of TSCA, 15 U.S.C. §2602) the processing of chlorofluorocarbons (CFCs) into aerosol propellant articles intended for export.2/ 43 Fed. Reg. at 11,319 and 11,321 (1978).3/

The validity of a restriction on relevant trade with non-parties in relation to the obligations of the United States under the General Agreement on Tariffs and Trade (GATT) has also been examined. The GATT normally bans quantitative restrictions on imports or exports and prohibits import charges in excess of tariff concessions. However, in consultation with the United States Trade Representative, we have concluded that a trade restriction could be drafted appropriately to fall within the general exception to the GATT contained in Article XX(b) which permits the adoption or enforcement of measures by contracting parties necessary to protect human, animal or plant life or health. Article XX(g) of the GATT also contains a general exception for the adoption or enforcement of measures "relating to the conservation of exhaustible natural resources if such resources are made effective in conjunction with restrictions on domestic production or consumption which could also be applicable." Ozone-related trade measures could be justified under Article XX(g) as relating to the conservation of the ozone layer, an exhaustible natural resource, since the parties to the agreement would presumably be applying restrictions on domestic production or consumption. It should be noted, however, that these exceptions to the GATT are

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2/ EPA's 1978 ban prohibited all non-essential aerosol propellant uses of CFCs--a suspected ozone-depleting chemical. EPA's action was proposed and initiated under TSCA before the addition of section 157 (the stratospheric ozone protection provisions) to the Clean Air Act. In the Federal Register notice of its action, EPA observed that "[b]ecause chlorofluorocarbon emissions anywhere in the world deplete the ozone layer and adversely affect health and the environment of the United States, the Administrator finds that chlorofluorocarbon discharges from aerosol propellant articles made in the United States and shipped abroad also cause an unreasonable risk of injury." 43 Fed. Reg. 11,319 (1978).

3/ The Export Administration Act, 50 U.S.C. App. 2401 et. seq., could also provide a vehicle for regulating the export of protocol-covered chemicals and technologies related to their production.

subject to the requirement that measures not be applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail or a disguised restriction on international trade. GATT, Article XX.

In light of the above, there is no legal objection to the negotiation of a protocol to the Vienna Convention for the Protection of the Ozone Layer as outlined in the accompanying action memorandum, subject to the concurrence of L and other interested bureaus in the final text of the protocol and provided additional Circular 175 authority is obtained for conclusion of the protocol.

David A. Colson
Assistant Legal Adviser for
Oceans, International
Environmental and Scientific Affairs

Drafted: L/OES:DKennedy DK
11/20/86 x71370

Clearance: L/T:HCollums
L/EBC:GRosen (draft)
EPA/OGC:NKetcham-Colwill
USTR/OGC:APorges
} DK

#16960

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

November 24, 1986

OFFICE OF GENERAL COUNSEL

Amy Porges
Associate General Counsel
United States Trade Representative
600 17th Street NW
Washington, D.C. 20506

Dear Ms. Porges,

I am writing in response to your question regarding the Environmental Protection Agency's (EPA's) authority to impose trade restrictions to protect stratospheric ozone. I have enclosed a paper that reviews EPA's authority under statutes the Agency implements, but does not consider whether other statutes, treaties or U.S. trade policy effectively limit that authority.

I hope this answers your question. If I can be of further help, please call me at 382-7635.

Sincerely,

Nancy Ketcham-Colwill

Nancy Ketcham-Colwill
Attorney
Air and Radiation Division (LE-132A)

cc: Bill Long
Jim Losey
Dwain Winters
John Hoffman
Steve Seidel
Steve Anderson
Suzanne Butcher
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EPA'S AUTHORITY TO IMPOSE TRADE RESTRICTIONS TO PROTECT STRATOSPHERIC OZONE

The Clean Air Act, 42 U.S.C. §7401 et sec., grants EPA broad authority to control whatever threatens the stratospheric ozone layer by whatever means the Agency finds efficacious. The statute does not expressly provide for the imposition of trade restrictions, but its grant of regulatory authority seems broad enough to encompass trade restrictions designed to protect the ozone layer. To the extent the Clean Air Act does not provide EPA with the authority needed to protect the ozone layer, the Toxic Substances Control Act (TSCA), 15 U.S.C. §2601, et sec., provides EPA with stop-gap authority to enact measures to control substances that threaten stratospheric ozone. TSCA explicitly authorizes restrictions on the importation of substances which present an unreasonable risk to health or the environment, and also permits export controls if the Agency finds that a substance destined for export will threaten health or the environment within the United States.

The Clean Air Act

Under the Clean Air Act, the Administrator of EPA is authorized to issue "regulations for the control of any substance, practice, process, or activity (or any combination thereof) which in his judgment may reasonably be anticipated to affect the stratosphere, especially ozone in the stratosphere, if such effect in the stratosphere may reasonably be anticipated to endanger public health or welfare. Such regulations shall take into account the feasibility and the costs of achieving such control." Section 157(b), 42 U.S.C. §7457(b).

Two aspects of this grant of regulatory authority are notable. First, the Administrator is not required to prove that a "substance, practice, process, or activity" does in fact deplete stratospheric ozone before he may regulate it. In 1977 when the ozone protection provisions were added to the Clean Air Act, Congress recognized that scientists were not certain whether stratospheric ozone was being depleted and what was causing any depletion that did occur. See, e.g., H.R. Rep. No. 294, 95th Cong., 1st Sess. 98-99 (1977). However, Congress also recognized the potentially serious health and environmental consequences of ozone depletion if it were occurring, and authorized EPA to act in the face of scientific uncertainty to protect against those adverse consequences. Id. Thus, the Administrator may regulate on the basis of "his judgment" that the subject of regulation "may be reasonably anticipated" to affect the stratosphere and that the effect "may be reasonably anticipated to endanger public health and welfare."

Second, the Administrator is given broad latitude to choose what and how to regulate. He is not limited to controlling ozone-depleting substances themselves; he may also regulate any "practice, process, or activity" that threatens the ozone layer. Nor is he limited to a particular control strategy. Besides an implicit requirement that regulations be efficacious, the statute requires only that they take into account the cost and technological feasibility of achieving the required level of control. In short, EPA is largely free to employ the regulatory options it finds appropriate to control threats to the stratospheric ozone that in turn threaten public health and welfare.

Several types of trade restrictions might be appropriate under section 157. Assuming EPA finds that statospheric ozone depletion will likely occur and that its occurance would likely endanger public health and the environment, imposition of restrictions on exports or imports of ozone-depleting substances could provide a means of reducing their use and production. Further reductions could be obtained by restricting exports or imports of products made with ozone-depleting substances, since their consumption contributes to demand for ozone-depleting substances and their decay in some cases releases the harmful substances. Also appropriate might be restrictions on imports of ozone-depleting substances or products made with those substances from countries that fail to sign or abide by an international protocol for the control of ozone-depleting substances. To the extent a country did not observe the limits established by such a protocol, a ban on the importation of its ozone-threatening products would reduce its market incentive to exceed those limits. Other trade restrictions might also reduce any threat to the ozone layer; which trade restrictions would prove most effective is a policy matter.

EPA's Clean Air Act authority appears sufficiently broad to encompass trade restrictions applicable to a "substance, practice, process, or activity" that threatens stratospheric ozone. While neither the statute nor its legislative history specifies the availability of trade restrictions, neither suggests any reason why such restrictions would not be permissible. Indeed, both clearly indicate that Congress meant to confer on EPA broad powers to develop an effective regulatory plan.

Toxic Substances Control Act

To the extent EPA lacks authority under the Clean Air Act to restrict trade of substances threatening stratospheric ozone, the Agency is granted that authority under TSCA. EPA may exercise its TSCA authority if the Administrator finds that a risk of injury to health or the environment could not

be more efficaciously eliminated under another federal law administered by EPA. Section 6(c), 15 U.S.C. §§2605(c).

Under section 6 of TSCA, if "the Administrator finds that there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture, or any combination of such activities, presents or will present an unreasonable risk of injury to health or the environment, the Administrator shall by rule apply" one or more of seven specific requirements to the substance "to the extent necessary to protect adequately against such risks using the least burdensome requirements."

Among the requirements EPA may impose are trade restrictions. Sections 6(a)(1) and (2) of TSCA authorize prohibitions or limits on the "manufacturing, processing, or distribution in commerce" of the harmful substance. Section 3(7) includes in its definition of "manufacture" "to import into the customs territory of the United States." 15 U.S.C. §2602(7). Section 13(a) provides for enforcement of import restrictions by the Secretary of the Treasury." 15 U.S.C. §2612(a). Thus, TSCA provides explicit authority to impose import restrictions on substances which may deplete stratospheric ozone, if depletion presents an unreasonable risk to health or the environment.

In addition, TSCA appears to provide authority to restrict exports. Section 12(a) provides that Section 6 restrictions shall not apply to any substance, mixture, or article intended for export, unless "the Administrator finds that the substance, mixture, or article will present an unreasonable risk of injury to health within the United States or to the environment of the United States." 15 U.S.C. §2611(a). That is, section 6 restrictions may apply to such exports if the Administrator does so find.

EPA has in fact exercised its authority under TSCA to place trade restrictions on an ozone-depleting gas. EPA's 1978 ban (43 Fed. Reg. 11,318) on the non-essential aerosol applications of freon was promulgated under section 6 of TSCA. (Before Congress added the stratospheric ozone protection provisions to the Clean Air Act, EPA had proposed the ban under TSCA. In amending the Clean Air Act, Congress provided that EPA could promulgate the ban under TSCA, notwithstanding the Agency's new Clean Air Act authority. Section 15e, 42 U.S.C. §7458.) As part of the ban, EPA promulgated a regulation providing that "[a]fter December 15, 1978, no person may import into the customs territory of the United States any fully halogenated chlorofluoroalkane, whether as a chemical substance or as a component of a mixture or article, for any aerosol propellant" with certain exceptions applicable to domestic producers as well. 40 C.F.R. Part 762.11(b) (1978). EPA likewise restricted the processing of

chlorofluorocarbons into aerosol propellant articles intended for export. 40 C.F.R. Part 762.12(b) (1978).

Nancy Ketcham-Colwill, 11/21/86

710
PURPOSE AND DISCLAIMER

711 PURPOSE

(TL: POL-36 2-25-85)
(State Only)

a. The purpose of this chapter is to facilitate the application of orderly and uniform measures and procedures for the negotiation, signature, publication, and registration of treaties and other international agreements of the United States. It is also designed to facilitate the maintenance of complete and accurate records on treaties and agreements and the publication of authoritative information regarding them.

b. The chapter is not a catalog of all the essential guidelines or information pertaining to the making and application of international agreements. It is limited to guidelines or information necessary for general guidance.

712 DISCLAIMER

This chapter is intended solely as a general outline of measures and procedures ordinarily followed which, it is recognized, cannot anticipate all circumstances or situations that may arise. Deviation or derogation from the provisions of this chapter will not invalidate actions taken by officers nor affect the validity of negotiations engaged in or of treaties or other agreements concluded.

713 through 719 (Unassigned)

720
NEGOTIATION AND SIGNATURE

720.1 Circular 175 Procedure

(TL: POL-36 3-1-85)

This subchapter is a codification of the substance of Department Circular No. 175, December 13, 1955, as amended, on the negotiation and signature of treaties and other international agreements. It may be referred to for convenience and continuity as the "Circular 175 Procedure."

720.2 General Objectives

The objectives are:

a. That the making of treaties and other international agreements for the United States is carried out within constitutional and other appropriate limits;

b. That the objectives to be sought in the negotiation of particular treaties and other international agreements are approved by the Secretary or an officer specifically authorized by him for that purpose;

c. That timely and appropriate consultation is had with congressional leaders and committees on treaties and other international agreements;

d. That where, in the opinion of the Secretary of State or a designee, the circumstances permit, the public be given an opportunity to comment on treaties and other international agreements;

e. That firm positions departing from authorized positions are not undertaken without the approval of the Legal Adviser and interested assistant secretaries or their deputies;

f. That the final texts developed are approved by the Legal Adviser and the interested assistant secretaries or their deputies and, when required, brought a reasonable time before signature to the attention of the Secretary or an officer specifically designated by the Secretary for that purpose;

g. That authorization to sign the final text is obtained and appropriate arrangements for signature are made; and

h. That there is compliance with the requirements of *1 U.S.C. 112b, as amended*, on the transmission of the texts of international agreements other than treaties to the Congress (section 724); the law on the publication of treaties and other international agreements (see section 725); and treaty provisions on registration (see section 750.3-3).

721 EXERCISE OF THE INTERNATIONAL AGREEMENT POWER

721.1 Determination of Type of Agreement

The following considerations will be taken into account along with other relevant factors in determining whether an international agreement shall be dealt with by the United States as a treaty to be brought into force with the advice and consent of the Senate or as an agreement to be brought into force on some other constitutional basis.

721.2 Constitutional Requirements

There are two procedures under the Constitution through which the United States becomes a party to international agreement. Those procedures and the constitutional parameters of each are:

a. Treaties

International agreements (regardless of their title, designation, or form) whose entry into force with respect to the United States takes place only after the Senate has given its advice and consent are "treaties." The President, with the advice and consent of two-thirds of the Senators present, may enter into an international agreement on any subject genuinely of concern in foreign relations, so long as the agreement does not contravene the United States Constitution; and

b. International Agreements Other Than Treaties

International agreements brought into force with respect to the United States on a constitutional basis other than with the advice and consent of the Senate are "international agreements other than treaties." (The term "executive agreement" is appropriately reserved for agreements made solely on the basis of the constitutional authority of the President.) There are three constitutional bases for international agreements other than treaties as set forth below. An international agreement may be concluded pursuant to one or more of these constitutional bases:

(1) Agreements Pursuant to Treaty

The President may conclude an international agreement pursuant to a treaty brought into force with the advice and consent of the Senate, the provisions of which constitute authorization for the agreement by the Executive without subsequent action by the Congress;

(2) Agreements Pursuant to Legislation

The President may conclude an international agreement on the basis of existing legislation or subject to legislation to be enacted by the Congress; and

(3) Agreements Pursuant to the Constitutional Authority of The President

The President may conclude an international agreement on any subject within his constitutional authority so long as the agreement is not inconsistent with legislation enacted by the Congress in the exercise of its constitutional authority. The constitutional sources of authority for the President to conclude international agreements include:

(a) The President's authority as Chief Executive to represent the nation in foreign affairs;

(b) The President's authority to receive ambassadors and other public ministers;

(c) The President's authority as "Commander-in-Chief"; and

(d) The President's authority to "take care that the laws be faithfully executed."

721.3 Considerations for Selecting Among Constitutionally Authorized Procedures

In determining a question as to the procedure which should be followed for any particular international agreement, due consideration is given to the following factors along with those in section 721.2:

a. The extent to which the agreement involves commitments or risks affecting the nation as a whole;

b. Whether the agreement is intended to affect State laws;

c. Whether the agreement can be given effect without the enactment of subsequent legislation by the Congress;

d. Past U.S. practice as to similar agreements;

e. The preference of the Congress as to a particular type of agreement;

f. The degree of formality desired for an agreement;

g. The proposed duration of the agreement, the need for prompt conclusion of an agreement, and the desirability of concluding a routine or short-term agreement; and

h. The general international practice as to similar agreements.

In determining whether any international agreement should be brought into force as a treaty or as an international agreement other than a treaty, the utmost care is to be exercised to avoid any invasion or compromise of the constitutional powers of the Senate, the Congress as a whole, or the President.

721.4 Questions as to Type of Agreement to be Used; Consultation with Congress

a. All legal memorandums accompanying Circular 175 requests (see section 722.3h) will discuss thoroughly the bases or the type of agreement recommended.

b. When there is any question whether an international agreement should be concluded as a treaty or as an international agreement other than a treaty, the matter is brought to the attention of the Legal Adviser of the Department. If the Legal Adviser considers the question to be a serious one that may warrant congressional consultation, a memorandum will be transmitted to the Assistant Secretary for Legislative and Intergovernmental Affairs and other officers concerned. Upon receiving their views on the subject, the Legal Adviser shall, if no matter has not been resolved, transmit a memorandum thereon to the Secretary for a decision. Every practicable effort will be made to identify such questions at the earliest possible date so that consultations may be completed in sufficient time to avoid last-minute consideration.

c. Consultations on such questions will be held with congressional leaders and committees as may be appropriate. Arrangements for such consultations shall be made by the Assistant Secretary for Legislative and Intergovernmental Affairs and shall be held with the assistance of the Office of the Legal Adviser and such other offices as may be determined. Nothing in this section shall be taken as derogating from the requirement of appropriate consultations with the Congress in accordance with section 723.1e in connection with the initiation of, and developments during negotiations for international agreements, particularly where the agreements are of special interest to the Congress.

722 ACTION REQUIRED IN NEGOTIATION AND/OR SIGNATURE OF TREATIES AND AGREEMENTS

722.1 Authorization Required to Undertake Negotiations

Negotiations of treaties, or other international agreements matters of substance, or for their extension or revision, are t to be undertaken, nor any exploratory discussions under- en with representatives of another government, until norized in writing by the Secretary or an officer specifically authorized by the Secretary for that purpose. Notification of the termination of any treaty or other international agreement on matters of substance requires similar authorization.

722.2 Scope of Authorization

Approval of a request for authorization to negotiate a treaty or other international agreement does not constitute advance approval of the text nor authorization to agree upon a date for signature or to sign the treaty or agreement. Authorization to agree upon a given date for, and to proceed with, signature must be specifically requested in writing, as provided in section 722.3. This applies to treaties and other agreements to be signed abroad as well as those to be signed at Washington. Special instructions may be required, because of the special circumstances involved, for multilateral conventions or agreements to be signed at international conferences.

722.3 Request for Authorization to Negotiate and/or Sign Action Memorandum

a. A request for authorization to negotiate and/or sign a treaty or other international agreement takes the form of an action memorandum addressed to the Secretary *or other Principal to whom such authority has been delegated, as appropriate, and cleared with the Office of the Legal Adviser (including the Assistant Legal Adviser for Treaty Affairs)*, the Office of the Assistant Secretary for Legislative and Intergovernmental Affairs, other appropriate bureaus, and any other agency (such as Defense, Commerce, etc.) which has primary responsibility or a substantial interest in the subject matter. It is submitted through the Executive Secretariat.

b. The action memorandum may request one of the following: (1) authority to negotiate, (2) authority to sign, or (3) authority to negotiate and sign. The request in each instance states that any substantive changes in the draft text will be cleared with the Office of the Legal Adviser and other specified regional and/or functional bureaus before definitive agreement is reached. Drafting offices should consult closely with the Office of the Legal Adviser to insure that all legal requirements are met.

c. The action memorandum indicates what arrangements are planned as to: (1) congressional consultation, and (2) opportunity for public comment on the treaty or agreement being negotiated, signed, or acceded to.

d. The action memorandum shall indicate: (1) whether a proposed treaty or agreement embodies a commitment to furnish funds, goods, or services beyond or in addition to those authorized in an approved budget, and if so, (2) arrangements planned or carried out concerning consultation with the Office of Management and Budget (OMB) for such commitment.

e. The Department will not authorize such commitments without confirmation that the relevant budget approved by the President requests or provides funds adequate to fulfill the proposed commitment or that the President has made a determination to seek the required funds.

f. Where it appears that there may be obstacles to the immediate public disclosure of the text upon its entry into force, the action memorandum shall include an explanation thereof (see sections 723.2 and 723.3).

g. An action memorandum dealing with an agreement that has a potential for adverse environmental impact should contain a statement indicating whether the agreement will significantly affect the quality of the human environment.

h. The action memorandum is accompanied by: (1) *the U.S. draft, if available, of any agreement or other instrument in-*

tended to be negotiated, or (2) the text of any agreement and related exchange of notes, agreed minutes or other document to be signed (with appropriate clearances, including the Assistant Legal Adviser for Treaty affairs), and (3) a memorandum of law prepared in the Office of the Legal Adviser.

f. These provisions shall apply whether a proposed international agreement is to be concluded in the name of the U.S. Government, or in the name of a particular agency of the U.S. Government. However, in the latter case, the action memorandum may be addressed to the interested Assistant Secretary or Secretaries of State, or their designees in writing, unless such official(s) judge that consultation with the Secretary, Deputy Secretary or an Under Secretary is necessary. (See 22 CFR 181.4.)

722.4 Separate Authorizations

When authorization is sought for a particular treaty or other agreement, either multilateral or bilateral, the action memorandum for this purpose outlines briefly and clearly the principal features of the proposed treaty or other agreement, indicates any special problems which may be encountered and, if possible, the contemplated solutions of those problems.

722.5 Blanket Authorizations

In general, blanket authorizations are appropriate only in those instances where, in carrying out or giving effect to provisions of law or policy decisions, a series of agreements of the same general type is contemplated; that is, a number of agreements to be negotiated according to a more or less standard formula (for example, Public Law 480 Agricultural Commodities Agreements; Educational Exchange Agreements; Investment Guaranty Agreements; Weather Station Agreements, etc.) or a number of treaties to be negotiated according to a more or less standard formula (for example, consular conventions, extradition treaties, etc.). Each request for blanket authorization shall specify the office or officers to whom the authority is to be delegated. *The basic precepts under section 722.3 and 722.4 apply equally to requests for blanket authorizations. The specific terms of any blanket authorization, e.g., that the text of any particular agreement shall be cleared by the Office of the Legal Adviser and other interests bureaus before signature, shall be observed in all cases.*

722.6 Certification of Foreign-Language Text

a. Before any treaty or other agreement containing a foreign-language text is laid before the Secretary (or any person authorized by the Secretary) for signature, either in the Department or at a post, a signed memorandum must be obtained from a responsible language officer of the Department certifying that the foreign-language text and the English-language text are in conformity with each other and that both texts have the same meaning in all substantive respects. A similar certification must be obtained for exchanges of notes that set forth the terms of an agreement in two languages.

b. In exceptional circumstances the Department can authorize the certification to be made at a post.

722.7 Transmission of Texts to the Secretary

The texts of treaties and other international agreements must be completed and approved in writing by all responsible officers concerned sufficiently in advance to give the Secretary, or the person to whom authority to approve the text has been delegated, adequate time before the date of signing to examine the text and dispose of any questions that arise. Posts must transmit the texts to the Department as expeditiously as feasible to assure adequate time for such consideration. Except as otherwise specifically authorized by the Secretary, a complete text of a treaty or other international agreement must be delivered to the Secretary, or other person authorized to approve the text, before any such text is agreed upon as final or any date is agreed upon for its signature.

723 RESPONSIBILITY OF OFFICE OR OFFICER CONDUCTING NEGOTIATIONS

723.1 Conduct of Negotiations

The office of officer responsible for any negotiations keeps in mind:

a. That during the negotiations no position is communicated to a foreign government or to an international organization as a U.S. position that goes beyond any existing authorization or instructions;

b. That no proposal is made or position is agreed to beyond the original authorization without appropriate clearance (see section 722.3a);

c. That all significant policy-determining memorandums and instructions to the field on the subject of the negotiations have appropriate clearance (see section 722.3a);

d. That the Secretary *or other Principal, as appropriate,* is kept informed in writing of important policy decisions and developments, including any particularly significantly departures from substantially standard drafts that have been evolved;

e. That with the advice and assistance of the Assistant Secretary for Legislative and Intergovernmental Affairs, the appropriate congressional leaders and committees are advised of the intention to negotiate significant new international agreements, consulted concerning such agreements, and kept informed of developments affecting them, including especially whether any legislation is considered necessary or desirable for the implementation of the new treaty or agreement. Where the proposal for any especially important treaty or other international agreement is contemplated, the Office of the Assistant Secretary for Legislative and Intergovernmental Affairs will be informed as early as possible by the office responsible for the subjects;

f. That the interest of the public be taken into account and, where in the opinion of the Secretary of State or his designee the circumstances permit, the public be given an opportunity to comment;

g. That in no case, after accord has been reached on the substance and wording of the texts to be signed, do the negotiators sign an agreement or exchange notes constituting an agreement until a request under section 722.3 for authorization to sign has been approved and, if at a post abroad, until finally instructed by the Department to do so as stated in section 730.3. If an agreement is to be signed in two languages, each language text must be cleared in full with the Language Services Division or, if at a post abroad, with the Department before signature, as stated in section 722.6;

h. That due consideration is given also to the provisions of sections 723.2 through 723.9, 730.3 and 731 of this chapter; and

i. That, in any case where any other department or agency is to play a primary or significant role or has a major interest in negotiation of an international agreement, the appropriate official or officials in such department or agency are informed of the provisions of this subchapter.

723.2 Avoiding Obstacles to Publications and Registration

The necessity of avoiding any commitment incompatible with the law requiring publication (1 U.S.C. 112a) and with the treaty provisions requiring registration (see section 750.3-3) should be borned in mind by U.S. negotiators. Although negotiations may be conducted on a confidential basis, every practicable effort must be made to assure that any definitive agreement or commitment entered into will be devoid of any aspect which would prevent the publication and registration of the agreement.

723.3 Questions on Immediate Public Disclosure

In any instance where it appears to the officer or office in the Department responsible for the negotiations or to the U.S. representatives that the immedate public disclosure upon its entry into force of an agreement under negotiations would be prejudicial to the national security of the United States, the pertinent circumstances shall be reported to the Secretary of State and his decision awaited before any further action is taken. Where such circumstances are known before authorization to negotiate or to sign is requested, they shall be included in the request for authorization. All such reports and requests are to be cleared with the Office of the Legal Adviser.

723.4 Public Statements

No public statement is to be made indicating that agreement on a text has been reached, or that negotiations have been successfully completed, before authorization is granted to sign the treaty or other agreement. If such authorization has been granted subject to a condition that no substantive change in the proposed text is made without appropriate clearance (see section 722.3a), no such public statement is to be made until definitive agreement on the text has been reached and such clearance has been received. Normally, such a public statement is made only at the time a treaty or other agreement is actually signed, inasmuch as it remains possible that last-minute changes will be made in the text. Any such statement prior to that time must have the appropriate clearance, and the approval of the Secretary or the Department principal who originally approved the action memorandum request under "Circular 175 Procedure."

723.5 English-Language Text

Negotiators will assure that every bilateral treaty or other international agreement to be signed for the United States contains an English-language text. If the language of the other country concerned is one other than English, the text is done in English and, if desired by the other country, in the language of that country. A U.S. note that constitutes part of an international agreement effected by exchange of notes is always in the English language. If it quotes a foreign *government* note, the quotation is to be rendered in English translation. A U.S. note is not in any language in addition to English, unless specifically authorized *(with the clearance of the Assistant Legal Adviser for Treaty Affairs)*. The note of the other government concerned may be in whatever language that government desires.

723.6 Transmission of Signed Texts to Assistant Legal Adviser for Treaty Affairs

a. The officer responsible for the negotiation of a treaty or other agreement at any post is responsible for insuring the most expeditious transmission of the signed original text, together with all accompanying papers such as agreed minutes, exchanges of notes, plans, etc. *(indicating full names of persons who signed)*, to the Department for the attention of the Assistant Legal Adviser for Treaty Affairs; *Provided*, that where originals are *not* available accurate certified copies are obtained and transmitted as in the case of the original. (See sections 723.7, 723.8, and 723.9.) The transmittal is by airgram, *not* by transmittal slip or operations memorandum.

b. Any officer in the Department having possession of or receiving from any source a signed original or certified copy of a treaty or agreement or of a note or other document constituting a part of a treaty or agreement must forward such documents immediately to the Assistant Legal Adviser for Treaty Affairs.

723.7 Transmission of Certified Copies to the Department

When an exchange of diplomatic notes between the mission and a foreign government constitutes an agreement or has the effect of extending, modifying, or terminating an agreement to which the United States is a party, a properly certified copy of the note from the mission to the foreign government, and the signed original of the note from the foreign government are sent, as soon as praticable *(indicating full names of persons who signed)* to the Department for attention of the Assistant Legal Adviser for the Treaty Affairs. The transmittal is by airgram, *not* by transmittal slip or operations memorandum.

Likewise, if, in addition to the treaty or other agreement signed, notes related thereto are exchanged (either at the same time, beforehand, or thereafter), a properly certified copy (copies) of the note(s) from the mission to the foreign government are transmitted with the signed original(s) of the note(s) from the foreign government.

In each instance, the mission retains for its files certified copies of the note exchanged. The U.S. note is prepared in accordance with the rules prescribed in the *Correspondence Handbook*. The note of the foreign government is prepared in accordance with the style of the foreign ministry and usually in the language of that country. Whenever practicable, arrangements are made for the notes to bear the same date.

723.8 Certification of Copies

If a copy of a note is a part of an international agreement, such copy is certified by a duly commissioned and qualified Foreign Service Officer either (a) by a certification on the document itself, or (b) by a separate certification attached to the document. A certification on the document itself is placed at the end of the document. It indicates, either typed or rubber stamped, that the document is a true copy of the original signed (or initialed) by *(INSERT FULL NAME OF OFFICER WHO SIGNED DOCUMENT)*, and it is signed by the certifying officer. If a certification is typed on a separate sheet of paper, it briefly describes the document certified and states that it is a true copy of the original signed (or initialed) by *(FULL NAME)*

and it is signed and dated by the certifying officer. The certification may be stapled to the copy of the note.

723.9 Preparation of Copies for Certification

For purposes of accuracy of the Department's records and publication and registration, a certified copy must be an exact copy of the signed original. It must be made either by typewriter (ribbon or carbon copy) or by facsimile reproduction on white durable paper (not by the duplimat method) and must be *CLEARLY LEGIBLE*. In the case of notes, the copy shows the letterhead, the date and, if signed, an indication of the signature or, if merely initialed, the initials which appear on the original. It is suggested that, in the case of a note from the mission to the foreign government, the copy for certification and transmission to the Department be made at the same time the original is prepared. If the copy is made at the same time, the certificate prescribed in section 723.8 may state that the document is a true and correct copy of the signed original. If it is not possible to make a copy at the same time the original is prepared, the certificate indicates that the document is a true and correct copy of the copy on file in the mission. The word "(Copy)" is not placed on the document which is being certified; the word "(Signed)" is not placed before the indication of signatures. Moreover, a reference to the transmitting airgram, such as "Enclosure 1 to Airgram No. 18 (ect.)", is not placed on the certified document. The identification of such a document as an enclosure to an airgram may be typed on a separate slip of paper and attached to the document, but in such a manner that it may be easily removed without defacing the document.

724 TRANSMISSION OF INTERNATIONAL AGREEMENTS OTHER THAN TREATIES TO CONGRESS: COMPLIANCE WITH THE *CASE-ZABLOCKI ACT*

All officers will be especially diligent in cooperating to assure compliance with Public Law 92-403 "An Act to require that international agreements other than treaties, hereafter entered into by the United States, be transmitted to the Congress within sixty days after the execution thereof. "That Act, *popularly known as the Case-Zablocki Act*, approved August 22, 1972 (86 Stat. 619; 1 U.S.C. 112b), provides as follows:

The Secretary of State shall transmit to the Congress the text of any international agreement other than a treaty, to which the United States is a party as soon as practicable after such agreement has entered into force with respect to the United States but in no event later than sixty days thereafter. However, any such agreement the immediate public disclosure of which would in the opinion of the President, be prejudicial to the national security of the United States shall not be so transmitted to the Congress but shall be transmitted to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives under an appropriate injunction of secrecy to be removed only upon due notice from the President.

725 PUBLICATION OF TREATIES AND OTHER INTERNATIONAL AGREEMENTS OF THE UNITED STATES

The attention of all officers is directed to the requirements of the Act of September 23, 1950 (64 Stat. 979; 1 U.S.C. 112a), which provides as follows:

The Secretary of State shall cause to be compiled, edited, indexed, and published, beginning as of January 1, 1950, a compilation entitled "United States Treaties and Other International Agreements," which shall contain all treaties to which the United States is a party that have been proclaimed during each calendar year, and all international agreements other than treaties to which the United States is a party that have been signed, proclaimed, or with reference to which any other final formality has been executed, during each calendar year. The said United States Treaties and Other International Agreements shall be legal evidence of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and agreements, therein contained, in all the courts of the United States, the several States, and the Territories and insular possessions of the United States.

726 through 729 (Unassigned)