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Last Updated: 04/10/2024

THE WHITE HOUSE

WASHINGTON

September 3, 1987

MEMORANDUM FOR NANCY J. RISQUE

FROM:

RALPH C. BLEDSOE



SUBJECT:

Ozone Layer Diplomatic Conference

Attached is the list of U.S. participants and a schedule of events for the ozone layer diplomatic conference in Montreal. As our observer and staff assistant to the delegation, Mary Beth will be able to stay abreast of the events as they occur, keep us posted on issues that arise, and assist in communicating agreements back for Washington coordination as they evolve.

The Wednesday delegation meeting went reasonably well, and I believe the delegation is aware of most of the problems they will face. In addition, they all appear ready for the rapid review process that will be needed prior to and during the final signing session of the conference.

The only difference of interpretation of the President's instructions that arose at the delegation meeting was whether the weighted voting system is linked to the two-thirds vote of parties required to prevent the 20% and 30% reductions from going into effect. I do not believe this will be a major obstacle.

As an aside, it looks as if they also have a heavy social schedule.

Attachment



September 4, 1987

Ms. Mary Beth Riordon
Staff Assistant to the Executive Director
Domestic Policy Council
White House

Dear Ms. Riordon:

As you know, this is a holiday weekend for both Americans and Canadians, so you shouldn't expect too many noncommercial offices to be open until Tuesday. Nonetheless, I am including with this letter brochures and maps which should help you in getting around in the city for the time that you'll be here. You may also be interested in getting a copy of «Montreal ce mois-ci» («Montreal this month») for information on cultural events going on in the city. Copies of the brochure should be available in the lobby of your hotel.

The U.S. Consulate General is located on St. Catherine Street in the South tower of the Complexe Desjardins across from the Place des Arts. The consular section is located on the ground floor, and the remaining offices are on the eleventh floor. The main number here is 281-1886, which can be used to reach any of the offices of the Consulate.

I will be away this weekend, but my Information Assistant, Louise Juster, has agreed to be your contact person should you need some assistance before Tuesday. Her home number is 484-7213. Meanwhile, I look forward to meeting with you later on in the week.

Sincerely,

A handwritten signature in cursive script, reading "Veda B. Wilson".

Veda B. Wilson
Director of Public Affairs

VBW/dl

THE WHITE HOUSE

WASHINGTON

September 4, 1987

MEMORANDUM FOR DELEGATION MEMBERS

FROM: MARY BETH RIORDAN

SUBJECT: General Information

Attached, please find a list of delegates, along with their tentative itineraries for the conference. If your accommodations or itinerary should change once you arrive in Montreal, please let me know, in case another member of the delegation should need to contact you.

Richelieu Towers is located at 2045 Peel Street (between Sherbrooke and Maisonneuve). The hotel's phone number is (514) 844-3381. The Richelieu is a three-minute walk to the International Civil Aviation Organization (1000 Sherbrooke West).

I understand that the delegation will be provided a small conference room at the U.S. Mission to the ICAO (Suite 753). The room's direct telephone line is (514) 285-4935. Also, a conference room at the Richelieu will be available, if needed.

Finally, the weekend weather in Montreal is expected to be mild, with highs in the 70's. Showers are expected by Monday, and the temperature will be very cool by mid-week, with daytime temperatures in the high 50's/60's, and at night dropping to 30's/low 40's. According to the Frommer's Guide to Montreal, "Mid-to-late-September is when Montreal's maple trees blaze in color, and a walk in Mount Royal Park is all the entertainment you'll need." In the event that this actually doesn't provide all the entertainment you'll need, the Consulate staff will furnish several maps, list of restaurants and brochures upon your arrival, and I hope to have additional information about the social events scheduled for next week.

If I can answer any questions regarding schedules and arrangements, please let me know.

CONFERENCE ON CFC PROTOCOL TO THE VIENNA CONVENTION FOR THE
PROTECTION OF THE OZONE LAYER, MONTREAL, SEPTEMBER 8-11, 14-16

LIST OF PARTICIPANTS

Richard E. Benedick, Deputy Assistant Secretary
Department of State

Head of Delegation 9/8 - 9/11

Alternate U.S. Delegate 9/14 - 9/16

Arrives: 9/7

Departs: 9/16

Hotel: Richelieu Towers Phone: 514/844-3381

Suzanne Butcher, Deputy Director
Office of Environment and Health
Department of State

Arrives: 9/6 -

Departs: 9/17 - 12:10pm

Hotel: Richelieu Towers Phone: 514/844-3381

Eileen Claussen, Director
Office of Program Development
Environmental Protection Agency

Arrives: 9/7 - 6:00pm

Departs: 9/10 - 3:35pm

Arrives: 9/12 - 6:00pm

Departs: 9/16 - 6:50pm

Hotel: Richelieu Towers Phone: 514/844-3381

Thomas E. Hookano, Deputy Assistant Attorney General
Department of Justice

Arrives: 9/7 - 9:31am

Departs: 9/10

Hotel: Le Centre Sheraton Phone: 514/878-2000

Deborah Kennedy, Attorney Advisor
Department of State

Arrives: 9/6

Departs: 9/17

Hotel: Richelieu Towers Phone: 514/844-3381

Bill L. Long, Acting Associate Administrator
Environmental Protection Agency

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Robert Reinstein, Director for Energy and Natural Resources
United States Trade Representative

Alternate U.S. Delegate 9/8 - 9/11

Arrives: 9/6

Departs: 9/10 *tentative

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J. R. Spradley, Assistant to the Administrator
Department of Commerce/NOAA

Arrives: 9/7

Departs: 9/16

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Lee M. Thomas, Administrator
Environmental Protection Agency
Head of Delegation 9/14 - 9/16

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Departs: 9/16

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Edward R. Williams, Director
Office of Environmental Analysis
Department of Energy

Arrives: 9/8

Departs: 9/11

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Aeronomy Laboratory

Department of Commerce/NOAA

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Mary Beth Riordan, Staff Assistant to the Executive Secretary

Domestic Policy Council

The White House

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Congressional Representatives:

THE WHITE HOUSE

WASHINGTON

September 4, 1987

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FROM: MARY BETH RIORDAN 
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Congressional Representatives: TBD .

12 CANADA

CALGARY, ALBERTA (CG), Suite 1000, 615 Macleod Trail, S.E., Calgary, Alberta, Canada T2G 4T8; Tel (403) 266-8962; Telex 038-21332

CG: Bruce T. Howe COM: John S. Wood
CON: John R. Nay

HALIFAX, NOVA SCOTIA (CG), Suite 910, Cogswell Tower, Scotia Sq., Halifax, NS, Canada B3J 3K1; Tel (902) 429-2480-1; Telex 019-23566

CG: James D. Walsh CON: Lorretta H. Debusk

MONTREAL, QUEBEC (CG), P.O. Box 65, Postal Station Desjardins, H5B 1G1; P.O. Box 847, Champlain, NY 12919-0847; Tel (514) 281-1886; Telex 05-268751

CG: Robert W. Maule CON: Michael M. Mahoney
ECO: Frederick C. McEldowney ADM: Thomas W. Mears, Jr.
COM: Gregory D. Stoloff BPAO: Sarah R. Anderson

US MISSION TO THE INTERNATIONAL CIVIL AVIATION ORGANIZATION (ICAO), 1000 Sherbrooke, W. Rm. 753, Montreal; Mailing address: Box 847, Champlain, NY 12919; Tel (514) 285-8304

US REP: Edmund P.C. Stohr ALT FIC/JSC REP: David L. Schiele
ALT US REP: John S. Jamison

QUEBEC, QUEBEC (CG), 2 Place Terrasse, C.P. 939, G1R 4T9; Tel (418) 692-2095; Telex 051-2275

CG: Robert M. Maxim ECO: Mary B. Marshall
CON: Robert B. Murphy

TORONTO, ONTARIO (CG), 360 University Ave., M5G 1S4; P.O. Box 135, Lewiston, NY 14092; Tel (416) 595-1700; Telex 065-24132

CG: J. Donald Blevins ADM: Ronald W. Mortensen
ECO: Hallock R. Lucius RSO: Thomas Jenkins
COM: Kevin C. Brennan BPAO: Barbara C. Moore
CON: Ralph L. Nider

CANADA—CHAD 13

VANCOUVER, BRITISH COLUMBIA (CG), 1075 West Georgia St., V6E 4E9; P.O. Box 5002, Point Roberts, WA 98281; Tel (604) 685-4311; Telex 04-55673

CG: Samuel C. Fromowitz CON: David P. Bocskor
ECO: Jeffrey R. Cunningham BPAO: John F. Cannon
COM: Raymond E. Eveland

REPUBLIC OF CAPE VERDE

PRAIA (E), Rua Hoji Ya Yenna 81; C.P. 201; Tel [238] 614-363 or 614-253; Telex 6068 AMEMB CV

AMB: Vernon D. Penner, Jr. AID: Thomas H. Ball
CON: Kevin L. Richardson LAB: Raymond Pardon
ADM: Samuel V. Brock (resident in Washington)
RSO: Michael Lafranchi ODA: Cdr Donald E. Smith USN
(resident in Lisbon) (resident in Monrovia)

CENTRAL AFRICAN REPUBLIC

BANGUI (E), Avenue President Dacko; B.P. 924; Tel 61-01-00, 61-25-78, 61-43-33; Telex 5287 RC

AMB: David C. Fields CON: Richard E. Blee
DCM: Frederick E.V. La Sor ADM: Larry Corbett
POL: John H. Walbridge RSO: Michael A. Williams
ECO/COM: Hugh I. Smith (resident in N'Djamena)
PAO: Laurence D. Wohlers

CHAD

N'DJAMENA (E), Ave. Felix Eboué, B.P. 413; Tel [235] 32-69, 35-13, 28-62, 30-84, 32-29, 23-39; Telex 5203 KD

AMB: John Blane RSO: Michael A. Williams
DCM: Ralph H. Graner AID: John B. Woods
POL/CON: Christopher R. Davis PAO: James H. Williams
ECO/COM: Eric Allison ODA: Ltc Eugene M. Mensch II
ADM: Kathleen Chisholm USA

THE WHITE HOUSE

WASHINGTON

September 4, 1987

MEMORANDUM FOR DELEGATION MEMBERS

FROM: MARY BETH RIORDAN



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United Nations Environment Programme



Distr.
LIMITED



UNEP/IG.79/3/Rev.1 PS./CRP/3
7 September 1987

ORIGINAL: English

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

Montreal, 8 - 11 September 1987

Text prepared by the Legal Drafting Group to be
presented to the Plenary

Article
Withdrawal

1. For purposes of this protocol, the provisions of Article 19 of the Convention relating to withdrawal shall apply except with respect to parties referred to in paragraph 1 of Article 5. Such parties may withdraw from this protocol, by giving written notification to the Depositary, four years after assuming the obligations specified in paragraphs 1 to 4 of Article 2.
2. Any such withdrawal shall take effect upon expiry of one year after the date of its receipt by the Depositary, or on such later date as may be specified in the notification of the withdrawal.

Séance préliminaire de la
Conférence de plénipotentiaires sur le
Protocole à la Convention de Vienne
pour la protection de la couche
d'ozone relatif aux chlorofluorocarbones

Montréal, 8 - 11 septembre 1987

TEXTE APPROUVE PAR LE GROUPE DE
TRAVAIL JURIDIQUE

LE 7 SEPTEMBRE 1987

ARTICLE 10: REUNIONS DES PARTIES

Paragraphes 1 et 2: non modifiés.

Alinéa 3 a): non modifié.

Alinéas 3 b): Commencent à établir des plans de travail conformément
au paragraphe 3 de l'article 9;

3 c): Adoptent par consensus les règles financières énoncées
au paragraphe 2 de l'article 12.

Alinéas 4 a), b), e), f), g) et h): non modifiés.

Alinéas 4 c): Examiner les demandes d'assistance technique présentées
conformément au paragraphe 2 de l'article 9;

4 d): Examiner les rapports établis par le secrétariat en
application de l'alinéa 1 c) de l'article 11;

ARTICLE 14: SIGNATURE

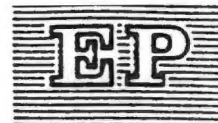
Le présent Protocole est ouvert à la signature, par les Etats et
par les organisations d'intégration économique régionale, à Montréal
le 16 septembre 1987, à Ottawa du 17 septembre 1987 au 16 janvier 1988
et au Siège de l'Organisation des Nations Unies à New York du
17 janvier 1988 au 15 septembre 1988.



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TEXT AGREED BY THE LEGAL DRAFTING GROUP

ON 7 SEPTEMBER 1987

ARTICLE 10: MEETINGS OF THE PARTIES

Paragraphs 1 and 2 unchanged.

Paragraph 3(a) unchanged.

Paragraph 3

- (b) begin preparation of workplans pursuant to paragraph 3 of Article 9;
- (c) adopt by consensus the financial rules required by paragraph 2 of Article 12.

Paragraph 4 (a) (b) (e) (f) (g) (h) unchanged.

Paragraph 4

- (c) review requests for technical assistance submitted pursuant to Article 9, paragraph 2;
- (d) review reports prepared by the secretariat pursuant to Article 11(c);

ARTICLE 14: SIGNATURE

This Protocol shall be open for signature by States and by regional economic integration organisations 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 15 September 1988.



United Nations Environment Programme



Distr.
LIMITED



UNEP/IG.79/3/Rev.1 PS./CRP/5
8 September 1987

ORIGINAL: English

Preliminary Session to the
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Protocol on Chlorofluorocarbons to the
Vienna Convention for the Protection of
the Ozone Layer

Montreal, 8 - 11 September 1987

Suggested new wording on Article IV, para. 2, proposed by Finland,
Norway and Sweden.

In accordance with the basic objectives of this Protocol (put
forward in Article II), the Parties shall in all trade and support
with other countries and in particular with any State not party to
this Protocol, encourage the reduction of emissions of the controlled
substances and discourage such actions under its jurisdiction as
contradict the intentions agreed upon in this Protocol.



United Nations Environment Programme



Distr.
LIMITED



UNEP/IG.79/3/Rev.1 PS./CRP/4
8 September 1987

ORIGINAL: English

Preliminary Session to the
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Protocol on Chlorofluorocarbons to the
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the Ozone Layer

Montreal, 8 - 11 September 1987

HIGH CONSUMING COUNTRIES

FORMULA $C = \bar{P} + I - E$

	C	P
STEP 1 (1 year)	100%	105%
STEP 2 (4 years)	80%	85%
STEP 3 (8-10 years)	50%	55%

NOTE: THE DIFFERENCE BETWEEN C AND P IS TO ENSURE THAT ADEQUATE
SUPPLY OF WORLD PRODUCTION IS AVAILABLE FOR LCC NEEDS

ADDITIONALLY

- (1) ANY GROUP OF PARTIES MAY FORM A UNIT FOR THE PURPOSE OF COMPLIANCE
WITH THE PROVISIONS OF ARTICLES 2 AND 7
- (2) ANY SUCH GROUP MUST DECLARE THEMSELVES A UNIT AT LEAST 1 YEAR PRIOR
TO EACH OF THE ABOVE STEPS AND REMAIN A UNIT FOR THE DURATION OF
THAT STEP

LOW CONSUMING COUNTRIES

FORMULA

$$C = \bar{P} + I - E$$

	C	P
STEP 1	UNLIMITED	105%
STEP 2	UNLIMITED	105%
STEP 3	LIMITED AT CURRENT LEVEL	105%

FAX URGENT - TO STATE/OES ENV -- ANDREW SENS

FROM: RICHARD BENEDICK (Please use this text for noon briefing.)

Q: Isn't it true that requiring ratification of a treaty to curb ozone depleting chemicals by nations representing 90% of world production will delay -- or prevent -- its entry into force?

A: On the contrary: this requirement would assure major producing/consuming countries that the other such countries would also be bound by the treaty. Therefore, they would have no temptation to delay their ratification in order to see whether other major countries join. The unique global nature of the ozone layer depletion issue makes it essential that a substantial majority of producing/consuming countries join the protocol; otherwise, the efforts of parties to the protocol would be undermined and the ozone layer would continue to be depleted.

Therefore, the requirement should be in the interest of every participating country. The U.S. is certainly not trying to derail the agreement. The U.S. objective is a strong and truly effective international agreement.



United Nations Environment Programme



Distr.
LIMITED



UNEP/IG.79/3/Rev.1 PS./CRP/8

9 September 1987

ORIGINAL: English

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Montreal, 8 - 11 September 1987

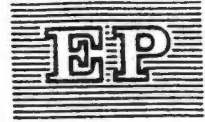
Alternative Article 5
Developing Countries proposal

Article 5: Low Consuming Developing Countries

1. Any low consuming developing country Party whose consumption in 1986 of the controlled substances was less than 0.3 kg. per capita shall be entitled to delay its compliance with the provisions of paragraphs 1 to 4 of Article 2 by ten years after that specified in that Article and to substitute the 10th year after the entry into force of the Protocol as the base year.
2. The Parties shall undertake measures to transfer environmentally safe alternative chemicals and technology to Parties referred to in paragraph 1, and assist the later to make expeditious use of such alternatives.
3. The Parties shall undertake measures to provide, through bilateral and multilateral channels, subsidies, aid, guarantees or insurance programmes to the developing countries for the use of alternative technology and substitute products.
4. Pending the adoption of environmentally safe alternatives, and within the limits established in paragraph 1, low consuming developing countries shall be allowed to meet their needs for consumption of the controlled substances by, inter alia, increasing their domestic production and/or having their import supplies guaranteed at stable and reasonable prices.



United Nations Environment Programme



Distr.
LIMITED

UNEP/IG.79/3/Rev.1 PS./CRP/7
9 September 1987

ORIGINAL: English

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

Montreal, 8 - 11 September 1987

Suggested new wording on Article 4 paragraph 5,
proposed by the United Kingdom.

"From the date of the entry into force of this Protocol,
Parties shall refrain from granting new subsidies, aid,
credits, guarantees or insurance programmes for the
export to states not party to the Protocol of products,
plant, equipment and/or technology that would facilitate
the production of the controlled substances."

M87-033



United Nations Environment Programme



Distr.
LIMITED



UNEP/IG.79/3/Rev.1 PS./CRP/6
9 September 1987

ORIGINAL: English

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

Montreal, 8 - 11 September 1987

Delete paragraph 5 of Article 2 and insert the following new paragraphs 5 and
5 bis:

- 5(a) Based on the assessments made pursuant to Article 6, the Parties may decide whether further reductions (adjustments) of production and consumption of the controlled substances from 1986 levels should be undertaken and, if so, the scope, amount and timing of any such reductions (adjustments);
 - (b) Proposals for such reductions (adjustments) shall be communicated to the Parties by the secretariat at least six months before the meeting of the Parties at which it is proposed for adoption;
 - (c) In taking the decision the Parties shall make every effort to reach agreement by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the decision shall as a last resort be adopted by a (two-thirds majority)(majority) vote of the Parties present and voting representing at least fifty per cent of the total consumption of the Parties to the protocol.
 - (d) The decision, which shall be binding on all Parties, shall forthwith be communicated to the Parties by the Depository. Unless otherwise provided in the decision, the decision shall enter into force on the expiry of six months from the date of the circulation of the communication by the Depository.
- 5bis(a) Based on the assessments made pursuant to Article 6 and in accordance with the procedure set out in Article 10 of the Convention, the Parties may decide
- (i) whether any substances and, if so, which should be added to, inserted in, or removed from any annexes to this protocol; and
 - (ii) the nature, scope and timing of the control measures that should apply to those substances;

- (b) Any such decision shall become effective, provided that it has been accepted by Parties representing at least fifty per cent of the total consumption of the Parties.

Add to Article 10 the following subparagraphs:

Paragraph 4(a)bis:decide on further reductions (adjustments) in production and consumption in accordance with paragraph 5 of Article 2;

Paragraph 4(a)ter:decide on the addition to, insertion in or removal from annexes substances in accordance with paragraph 5 bis of Article 2;

**Explanatory Note by the Executive Director of UNEP
for the Preparatory Meeting in Montreal, 8 - 11 September 1987,
to deal with outstanding problems on the
Draft Protocol on Chlorofluorocarbons to the
Vienna Convention for the Protection of the Ozone Layer
to be presented at the Conference of Plenipotentiaries,
Montreal, 14 - 16 September 1987**

Attached to this Note is document UNEP/IG.79/3/ Rev. 1 which incorporates corrections to the 7th Revised Draft Protocol (UNEP/IG.79/3) prepared by the Legal Drafting Group in the Hague (6 - 9 July 1987).

After careful consideration of the latter document and following additional consultations with some members of the Legal Drafting Group in Salzburg (3 - 5 August 1987), I offer the following explanations and recommendations for consideration by Governments.

A. General Remarks

Halons

1. In accordance with decision 14/28, "Protection of the Ozone Layer" adopted by the Governing Council of UNEP on 17 June 1987, I was requested to inform the Ad Hoc Working Group that it "should consider the full range of potential ozone-depleting substances in determining what chemicals might be controlled under the Protocol". This decision allows in particular the consideration of Halons 1211 and 1301 within the framework of the Protocol. If it is decided in Montreal that the Halons should be included in the Protocol it will be necessary to adapt the text of the Protocol and its title accordingly.

Listing of Controlled Substances

2. The preparatory meeting in Montreal should consider if it wishes to list the controlled substances in an Annex or Annexes attached to the Protocol, or to spell out the controlled substances in the body of the Protocol, with the data concerning chemical formulae and ozone-depleting potential (ODP value) to be included separately in an Annex. In this context, attention is drawn to Articles 9 and 10 of the Vienna Convention for the Protection of the Ozone Layer which provide different procedures for the amendment of Protocols and the amendment of Annexes. Reference to this point was made by the Legal Drafting Group. If it is decided that the controlled substances are to be listed in an Annex rather than included in

the body of the Protocol, further consideration should be given in the light of Article 10, paragraph 1 of the Vienna Convention for the Protection of the Ozone Layer to whether:

(a) the amendment procedure relating to Annexes (Article 10, paragraphs 2 and 3 of the Vienna Convention) should govern additions to and deletions from the Annex; or

(b) the amendment procedure for the Annex should be the procedure applying to the Protocol itself (Article 9 of the Vienna Convention).

A third possibility for adjusting the list of controlled substances is contained in Article 2, paragraph 5 of the 7th Revised Draft Protocol.

Controls on Production and Consumption

3. It may be helpful to give some explanation for the approach contained in Article 2, paragraphs 3 and 4, which bases the control measures on both production and consumption. At the April meeting of the Ad Hoc Working Group in Geneva and at the Brussels consultations there was an emerging consensus that the control measures in Article 2 from the fourth year should operate on both the production and the consumption levels of controlled substances. This was a solution which, it was felt, equitably took account of the concern of those advocating controls on production levels and those advocating control of consumption levels. Controls on production levels would protect the interests of producer countries who are concerned that uncontrolled production at a time of shrinking world consumption would unsettle the world market for the substances; control on consumption levels would protect the interest of importing countries by ensuring that the proportion of total world production devoted to the export market is maintained even as total production is phased down. Hence the need to use both the production and the consumption levels.

4. Controls on both production and consumption levels may at first sight appear to involve double counting since production is an element in the consumption formula. In fact there is no double counting because each Party will have to comply with two requirements and will therefore be providing two separate figures: one, its annual level of production alone and the other, its annual level of consumption (which if the state is a producer, will be calculated by deducting from its annual production figure its annual exports of the controlled substances and adding its annual imports of these substances). The need to provide two separate figures instead of just one is unlikely to impose an increased administrative burden on the Parties; nor should maintaining a register of both these figures significantly burden the Secretariat.

Developing and low-consuming countries

5. The special situation of the developing countries and the Article on low-consuming countries are priority matters which need to be addressed at an early stage in Montreal.

6. Some sort of temporary mechanism also needs to be incorporated into the Protocol to take account of the legitimately expanding demand for the controlled substances in the low-consuming countries, which under Article 5 will be entitled to expand their consumption of the controlled substances for a specified number of years after the Protocol comes into force.

B. Specific Points

1. The following are specific points relating to revisions that I consider necessary to provide clarity and consistency to the text.

(a) The heading of Article 1 has been extended by adding the words "and scope" to reflect better the substance of the Article.

(b) Article 4, paragraph 7 requires further consideration; one solution would be to incorporate the substance of this paragraph in paragraph 1 of the same article by adding a sentence along the following lines:

"This provision shall not apply for a period not to exceed (two) (three) years from entry into force of the Protocol, to imports from/to any State not Party to this Protocol, provided such State is in full compliance with Article 2 and this Article and has submitted data to that effect as required by Article 7."

(c) Article 5, paragraph 3 has been slightly re-drafted in response to the point raised in footnote 13 of the Hague draft; accordingly the footnote has been deleted.

2. While no substantive changes have been made to the text of the Protocol itself, some necessary modifications have been made in response to the footnotes in the text prepared by the Legal Drafting Group in the Hague and to the footnotes themselves.

THE WHITE HOUSE
WASHINGTON

11-9-87

Nancy -

Received this from
Lee Thomas.

Ralph

CC: Ralph
FBI

ALLIANCE FOR RESPONSIBLE CFC POLICY
1901 N. FT. MYER DRIVE, SUITE 1204
ROSSLYN, VIRGINIA 22209
(703) 841-9363

September 28, 1987

The Honorable Lee Thomas
Administrator
Environmental Protection
Agency
401 M. Street
Suite 1200, West Tower
Washington, D.C.

Dear Mr. Thomas

On behalf of the members of the Alliance for Responsible CFC Policy, I would like to commend you, Deputy Assistant Secretary of State Benedick, and your staffs for the efforts leading to the successful conclusion of the UNEP Diplomatic Conference. We would also like to offer the following observations on the "Montreal Protocol on Substances that Deplete the Ozone Layer."

The Alliance has consistently advocated international protective measures rather than unilateral ones; unilateral control of CFCs will not protect the environment, but will impose needless economic penalties on the U.S. economy. The Montreal Protocol achieves many of the Alliance's goals established when we issued our Policy Statement exactly one year prior to the signing of the Protocol. However, the protocol provides a degree of environmental protection far greater than what we think is necessary at this time from a scientific viewpoint. It also establishes a framework that should avoid undue economic penalty to any one nation. The Alliance, therefore, remains committed to the continued efforts to resolve the ozone depletion issue through the international process.

We are pleased that broad international participation will be required before the Protocol goes into effect, that the Protocol covers all of the fully halogenated CFCs and the Halons in commercial use, that no attempt is made to single out specific CFC uses, and that reasonable provisions are made for developing nations and for appropriate trade restrictions.

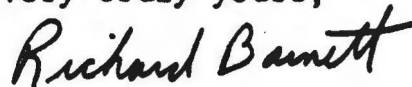
We remain convinced that a freeze alone would avoid any potentially serious environmental problem which might have occurred many decades down the road with greatly increased emissions of CFCs and Halons. The 20% and 50% reductions are not required to avoid that scenario. They each thus provide an extra margin of safety. We should all keep that in mind over the coming years, when we expect to hear conflicting assessments of additional environmental data.

Our economic analysis continues to indicate that a freeze would have provided the economic incentive to spur research and development on substitute chemical compounds and technologies. We are confident that the restrictions in the Protocol will provide more than ample economic incentive to bring appropriate substitutes into the market, given favorable results of pending toxicological tests. We remain concerned, however, that the reduction schedule contained in the Protocol attempts to go too far too fast.

Alliance members will now have the opportunity to review and comment on the Protocol as we move toward U.S. ratification. We fully expect that the United States will ratify the Protocol next Spring, and that enough other nations will also adopt it so that it will go into effect in 1989.

We look forward to working with you and your staff as you implement the Protocol through the rulemaking process. We will be commenting on issues related to the rulemaking process in the near future. For now, however, you have our congratulations for this significant achievement.

Very truly yours,



Richard Barnett
Chairman

RB:act

cc: The Honorable John D. Negroponte
Assistant Secretary of State

ALLIANCE FOR RESPONSIBLE CFC POLICY
1901 N. FT. MYER DRIVE, SUITE 1204
ROSSLYN, VIRGINIA 22209
(703) 841-9363

October 19, 1987

The Honorable Lee Thomas
Administrator
Environmental Protection Agency
401 M Street, SW
Suite 1200, West Tower
Washington, D.C. 20460

Dear Mr. Thomas:

The Alliance for Responsible CFC Policy, a coalition of more than 500 U.S. companies that use or produce chlorofluorocarbons (CFCs), has been a participant since 1980 in efforts by government policymakers to ascertain whether further regulation of CFC compounds should be promulgated. It has been the Alliance's goals to ensure that any regulatory decisions be based upon the most up-to-date scientific information available; that any efforts to pursue further CFC controls be done at the international level and not unilaterally; and, importantly, that no specific use of CFCs be unfairly singled out for regulatory restriction. The Alliance remains committed to these goals. We are pleased, therefore, to provide you with the following comments concerning EPA's implementation of the recently concluded international agreement on CFCs.

On September 16, 1986, the Alliance issued a Policy Statement calling for the negotiation of an international agreement to limit the rate of growth of chlorofluorocarbon production capacity, the establishment of industry efforts to reduce CFC emissions through conservation, recycling, recapture or containment, the pursuit of research and development of alternative CFC compounds and emissions reducing technologies and processes, and the continued research on the effect of CFCs on the atmospheric science.

The "Montreal Protocol on Substances that Deplete the Ozone Layer," which was signed on September 16, 1987 by 24 nations and the European Economic Community, establishes an international framework to freeze the consumption and production of the fully-halogenated chlorofluorocarbons at 1986 levels, and ultimately reduce their use by 50% by June 30, 1999. The Protocol goes far beyond what we believe is necessary from a scientific viewpoint to protect the environment. However, unlike the U.S. aerosol ban, it also begins the process that will establish to an extent a more level playing field for U.S. CFC industries with respect to our international competitors in the European Economic Community, Japan and elsewhere.

We expect that the Protocol will be ratified by the U.S. Senate and will take effect in 1989. It is appropriate, therefore, that the Alliance now address the practical question of how the Environmental Protection Agency should plan for implementation of this agreement.

Any proposed rules concerning CFC regulations should be clearly linked to the Montreal Protocol. The rules should in no way go beyond the Protocol, accelerate or be more stringent than the Protocol. The Agency should utilize the scientific, economic and technologic assessment process that is provided under the Protocol and not work outside of its framework. In order for the protocol to be effective, the United States must remain committed to its provisions and work within the Protocol framework and seek to ensure that our global competitors are doing the same.

It is our current understanding that the Agency plans to propose regulations by December 1, 1987 in response to its court ordered mandate. While we agree that the rulemaking process for the implementation of the Protocol should be pursued in an expeditious manner, we do not believe that the proposal must be done under the requirement of the NRDC v. Thomas agreement.

The framework established by the Montreal Protocol is clearly delineated with the freeze on production and consumption of the fully-halogenated CFCs at 1986 levels effective in the twelve month period of July 1, 1989 through June 30, 1990 (assuming the protocol takes effect on January 1, 1989). The Alliance believes the proposal to be issued on December 1, 1987 need only address this first step of the Protocol. It is not necessary or prudent to attempt to propose rules immediately to implement to the scheduled reduction steps of 20% in 1993 and an additional 30% in 1998. This is particularly true given the wideranging technological issues that must be considered for the CFC producers and each user industry segment. We believe that the agency should continue its efforts to assess appropriate means to implement the scheduled reductions, and needs to continue to consult with the regulated community regarding available technologies to reduce consumption and determine when and for what application effective, safe substitutes will be available. This assessment could alter the types of programs to be implemented in the U.S. in order to be in compliance with the protocol. Furthermore, the first scientific, economic and technological assessment is scheduled to begin in 1989 and to be completed in 1990.

In sum, the Alliance believes that a rule proposal on December 1 consistent with the first protocol control step (the freeze at 1986 levels) and the establishment of a process to implement the remaining steps in a timely fashion is the appropriate course of action to be pursued.

Your staff has distributed a paper on possible regulatory options under consideration for implementation of EPA's ozone protection programs. The five options listed were marketable permits, production quotas, command and control, fees, or a hybrid combining two or more of the above choices.

In a talk by one of your staff members last week, we were informed that there are only three options currently under consideration -- marketable permits, production quotas, or a hybrid combining one of these economic incentive measures with selected engineering controls/bans. The Alliance comments at this time are limited, therefore, to these three options.

The Alliance believes that regulations to implement the CFC protocol must meet several criteria:

The rules should be simple, fair, enforceable and should also:

- ensure that the U.S. remains in compliance with the Montreal Protocol;
- encourage the development of CFC substitutes and emission control technologies;
- encourage broadest industry participation in search of the technological solutions;
- be easily administered;
- not single out a specific CFC product or user industry;
- minimize to the extent feasible through market forces the potential for adverse economic impacts on users as a result of the supply reduction schedule contained in the protocol.

After lengthy consideration of these criteria and the regulatory options currently under consideration by EPA, the Alliance concluded that the production quota system (including imports) comes closest to meeting the criteria listed above at least for purposes of implementing the first stage of the Montreal Protocol. A production quota system is simple to understand, administer and enforce. It would not unfairly single out any specific CFC industry segment, but would encourage broad participation in the search for CFC substitutes and emission control technologies. It would be fair to a great extent because it would allow the market to allocate the restricted supply without placing a greater uncertainty on any one industry.

The marketable permits system is troubling in several respects. First, to the extent that such a system would include a fee of sufficient size for the purchase of a CFC permit, which would result in a consumption freeze, we would view this as a taxing mechanism and, therefore, not currently within the authority of the agency. Furthermore, a marketable permit system would encourage industries that are relatively insensitive to short-term price increases to hoard permits, potentially inflating cost and damaging smaller businesses who cannot afford to participate competitively in such a situation. Also, such a system may also encourage speculators or others not involved currently in the CFC using industries to enter the market in an attempt to take advantage of the restricted supply situation. If, instead, the Agency were to attempt to allocate these permits, e.g., to historical CFC users, we believe this process would be too difficult to administer and too inefficient as well as impair the competitive marketplace. The Alliance views all of these market disruptions as unacceptable.

In view of the difficulties in administration, uncertainties as regards the achievement of regulatory goals and the uncertain legalities we submit that the marketable permit system is unsatisfactory on its own or as part of some type of future hybrid program.

As the Alliance has previously indicated, a freeze of CFC production and use is all that is necessary to protect the environment and to provide the economic incentives for industry to pursue research and development of new CFC compounds and other emission reduction technologies. Our scientific and economic analysis continues to support this proposition. The Alliance recognizes, however, that ratification of the Montreal Protocol would obligate the U.S. to comply with its reduction schedule and as a result significantly shortens the time period in which to accomplish the economic development goal. The 20% and 30% reduction steps create a significant uncertainty for all of the user industries and the producers and therefore may require a more concentrated effort in order to ensure the availability of substitute chemical compounds and technologies when these reduction steps occur.

A production quota system ensures that the United States complies with the obligations of the Montreal Protocol. Concern has been expressed, however, that this system does not necessarily ensure a smooth transition for the CFC user industries. It may be desirable to develop a hybrid program that incorporates the production quota in the initial phase and also ensures that all CFC user industries are actively pursuing the programs of research and emission reduction efforts necessary to reduce the demand for the current CFCs. Such a program could also have the added benefit of minimizing CFC price increases in the interim period prior to the commercial availability of acceptable substitutes.

The Alliance does not favor the establishment of "engineering controls/bans" as was recently described by EPA staff. A great deal of concern has been expressed concerning EPA's ongoing technical assessment effort for the many user industries and the manner in which EPA has expressed an interest in participating in and guiding industry research and development.

The Alliance does not believe that "engineering controls/bans" would be appropriate at this time, either alone or as part of a hybrid program, nor do we believe the timetable of the protocol requires that such controls be pursued immediately. The CFC user industries working with their suppliers are the best judge of what can and cannot be done in the next several years to reduce reliance on and emissions of the current fully-halogenated CFC compounds. If EPA believes that a hybrid program is necessary to complement a production quota system then we encourage the Agency to propose a process to be followed in the next several years to develop voluntary and/or mandatory programs specific to each industry. Such a process of negotiated rulemaking specific to each industry segment will ensure that all CFC industries will have ample opportunity to structure a program that best addresses the concerns, abilities, and economic needs of each industry; will encourage that all industries pursue some ozone protection strategy; and will ultimately reduce pressure on CFC demand, thereby discouraging price increases of the current compounds, while encouraging development of the new compounds and technologies.

Such a program, combined with a production quota system, should ensure U.S. compliance with the Montreal Protocol and a smoother transition for U.S. industries, and meet all of the criteria listed at the outset.

The Alliance Board of Directors has adopted the following statement concerning the upcoming EPA Rulemaking:

The Alliance for Responsible CFC Policy supports a production quota control strategy for implementing the United Nations Environment Programme's protocol for limiting CFC growth and the development of industry segment programs with EPA through the regulatory negotiation process for conservation, containment, recycling and substitution. Such programs are encouraged to be developed by each industry segment and be based on realistic technological and economic studies.

The Alliance believes that a program consistent with this policy statement implemented as we have discussed above will provide a manageable program for compliance with the Montreal Protocol. We trust that you will take these views into account as you prepare your proposed rules.

Page Six
Thomas

The Alliance will provide you with the results of our economic analysis in the near future. We look forward to working with you as we progress towards implementation of the Montreal Protocol.

Sincerely,

A handwritten signature in cursive script, reading "Richard Barnett".

Richard Barnett
Chairman

RB:sct

Via FAX to Montreal for U.S. Delegation to Ozone Negotiations

FAX No 8-953-3210 Phone 8-514-285-8304

From Alan Krause OES/ENV FAX 647-5947 Phone 647-9169

~~AS 321~~ WP 9/9

THE WASH

EPA Would Make Ratification Of Ozone Pact More Difficult

By Michael Weiskopf
Washington Post Staff Writer

U.S. negotiators at an international conference to curb ozone-depleting chemicals yesterday proposed to increase substantially the number of countries that would have to ratify a treaty for it to take effect.

The proposal, which would require treaty ratification by nations representing 90 percent of the world's production of chlorofluorocarbons (CFCs), is designed to assure "effective international cooperation" and fair treatment for the manufacturers of participating countries, said Dave Cohen, a spokesman for the Environmental Protection Agency.

But environmentalists immediately criticized the proposal as a tactic to delay or scuttle interna-

tional controls on CFCs, which destroy the Earth's stratospheric ozone, which screens out most of the sun's harmful ultraviolet rays.

"This is the next best idea for derailing the ozone agreement since the hats and sunglasses proposal," said David Doniger, of the Natural Resources Defense Council, referring to a suggestion within the Reagan administration to adopt cosmetic defenses to ozone depletion in place of strong pollution controls.

Yesterday's proposal came at a planning session in Montreal for next week's Diplomatic Conference on Stratospheric Ozone. Diplomats from 31 nations will meet in the hope of crafting a final treaty.

A draft agreement that has been circulating since June would make the agreement effective one year after its ratification by nations representing 60 percent of world output of CFCs, which U.S. negotiators

now want to raise to 90 percent. The draft calls for an immediate CFC production freeze at 1986 levels and a 50 percent cutback of CFCs within a decade.

U.S. companies produce a third of the world's CFCs, which are used as cooling agents in refrigerators and air conditioners and propellants in aerosol cans. Common Market countries represent 42 percent of world production, Japan 11 percent and the Soviet Union 10 percent.

Cohen said the 90 percent proposal would assure that U.S. manufacturers of CFC would be asked to do no more than foreign competitors. This would make an agreement more palatable to the Senate for ratification, he said.

"We want a fair agreement with participation by all major parties," he said.

Doniger said the proposal could greatly delay the effective date of a treaty. Neither the Soviet Union nor Japan has endorsed the draft agreement. Moreover, he said, the proposal places power in the hands of other nations to trigger a vitally necessary environmental measure.

WHY ADJUSTED PRODUCTION (CONSUMPTION)
IS PREFERABLE TO A DUAL SYSTEM OF PRODUCTION
SHIFTING TO ADJUSTED PRODUCTION WITH A PRODUCTION FREEZE

submission to

ad hoc UNEP working group
on ozone layer protocol

prepared by
United States Government

Montreal, Canada
September, 1987

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In Geneva, one possible alternative to using either production or adjusted production (e.g. production of bulk chemicals minus exports of bulk chemicals plus imports of bulk chemicals) as the basis for measuring compliance with the protocol was to have only production (and imports separately) during the freeze stage and then have both production (and imports separately) and adjusted production when the twenty percent reduction is undertaken. This paper presents a short analysis of the deficiencies of that approach and the advantages of only using adjusted production:

1) With production as a basis for compliance, importing nations and low-consuming nations would have to pay higher prices to producers who now have a monopoly. This would constitute a disincentive to join the protocol and an incentive to build new capacity.

2) Adjusted production allows nations to use the production system or traditional regulations to comply with the international protocol. The joint system is less flexible.

3) Data for estimating consumption in 1986 can be collected from companies (such a task is underway in the U.S.), from official government trade statistics, and from tax records.

4) Use of adjusted production does not penalize recently completed projects and projects underway; it allows nations to displace imports by additional domestic capacity.

Higher Prices

Since demand for chlorofluorocarbons is growing, a production freeze could increase prices as demand exceeds supply. Importers, including developing nations, would then have to pay the higher prices, transferring money to the producing nations and companies, who would have a virtual monopoly on production. For some nations this would provide a disincentive to join or comply with the protocol since the higher prices reflects not higher production costs but shortages caused by the domestic compliance actions of other nations.

Under a system of adjusted production nations could subtract exports to signatories from their total production. Consequently importers, including developing nations, would not have to pay higher prices than the true cost of production, thus removing the disincentive to not join or comply with the protocol. They would not have to pay higher prices to buy CFCs except inasmuch as their own domestic compliance plans raised prices in order to meet the limits imposed by the protocol to control their own adjusted production.

Adjusted Production Allows Choice

Nations can choose the kind of control system they desire under adjusted production. Those nations that regulate production can continue to do so, providing import and production quotas (for domestic use). Nations that wish to regulate specific uses such as aerosols can do so. Nations wishing to go to fees or marketable permits will be able to do so. Adjusted production is neutral as to the method of regulation.

Data Will Be Available

Corporations and governments keep accurate records. Time exists for governments to survey their companies for data. Public and private records can be examined and compared with data from trading partners. In cases where direct measurements of trade are not available, tax records that distinguish production, exports, and imports can be used. While it will take a little time to develop good numbers, the task is quite doable.

Recently Completed Projects and Projects Underway will not be Penalized

A freeze on production raises the question of what to do about recently completed projects or projects in process. Adjusted production does not prevent the completion of such projects, allowing nations to displace imports by domestic production as planned.

THE IMPORTANCE OF INCLUDING HALONS IN THE INTERNATIONAL PROTOCOL

submission to

ad hoc UNEP working group
on ozone layer protocol

prepared by
United States Government

Montreal, Canada
September, 1987

THE IMPORTANCE OF INCLUDING HALONS IN THE INTERNATIONAL PROTOCOL

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prepared by
United States Environmental Protection Agency

Montreal, Canada
September, 1987

Inclusion of Halons in the international protocol to protect the ozone layer is critical both from an environmental and economic perspective. This paper presents evidence on six key points that support this conclusion:

1) Atmospheric concentrations of both Halon 1211 and Halon 1301 are increasing rapidly -- the problem is real.

2) Halon emissions have grown rapidly and could continue to grow -- penetrating new markets unless alternatives are sought.

3) The depletion potential of Halons is much greater than chlorofluorocarbons (CFCs), though the exact potency of Halons is uncertain and somewhat dependent on the level of CFCs emitted.

4) Failure to include Halons in the protocol would be environmentally and economically unsound.

5) Statistics on Halon production in 1986 can be collected retrospectively -- inclusion of Halons in the protocol is not precluded by a current lack of data.

6) A United Nations Environment Programme (UNEP) study group can resolve remaining issues.

Atmospheric Concentrations of Halons are Increasing

Exhibit 1 shows measurements taken at Antarctica of atmospheric concentrations of Halon 1211, which have increased at an average annual rate of 23 percent (Khalil and Rasmussen, 1985). Measurements of Halon 1301 show similar increases (Rasmussen, personal communication).

Halon Production has Grown Rapidly and May Continue to Do So

In the U.S., Halon 1301 production from 1980 to 1986 grew from 3,623 metric tons to approximately 8000 metric tons while Halon 1211 grew from 3623 metric tons to 9691 in the same time period (IEC, 1987). Commercial and residential consumers now have little reason not to use Halons, even for uses where other extinguishants would be equally effective. Some low value uses may be growing rapidly. For example, within the last several years major discount stores have started carrying Halon extinguishers for home use as the 'fire extinguisher of the astronauts'.

Halons have Greater Ozone Depletion Potential Than CFCs

Two recent studies diverge in their assessment of the ozone depleting potential of Halons by considerable amounts, with Sze's model (AER) showing a ozone depletion weight of 2 for Halon 1211 and 8 for Halon 1301 and Wuebbles model (LLNL) showing 3 for Halon 1211 and 11 for Halon 1301 (Gormley, 1987). Thus, while there is uncertainty about the actual ozone depleting potential of these chemicals there is agreement that it is much larger than CFCs. Some of the differences in depletion potential may be due to the fact that the potential of Halons to deplete ozone is dependent, in part, on the amount of chlorine in the atmosphere.

Failure to Include Halons in the Protocol would be Environmentally and Economically Unsound

If Halons are not included in the protocol there would be substantially greater depletion and significant negative impacts. For example, for a 50 percent reduction based on the chairman's text, there would be 128,800 cancer deaths in the U.S. (for people born before 2075) due to ozone depletion without a freeze on halons and 30,900 with a freeze.

Delay in freezing Halons will provide the wrong signal to users and producers of Halons. In the U.S., the EPA and the Halon community are working cooperatively to reduce emissions. Delay in regulation would reduce the incentives for this effort. Later inclusion, if it occurred, would have to be stiffer and would delay the search for new chemicals. Furthermore, different corporations and nations would not know what regulatory scheme they would eventually face, thereby creating uncertainty in their planning, possibly leading to wasteful uses.

Statistics on Halons Can Be Collected Retrospectively

Use of any year for control but 1986 would lead to strategic behavior on the part of firms and nations to increase their production so that they would have a greater basis upon which to comply with the protocol. It would also penalize the firms and nations now taking action to limit Halons voluntarily. For example, some corporations might actually lower their price to increase sales and capture a larger share of the market on the chance that they would be awarded a larger share of the ultimate national quota. Lower prices would discourage reductions in emissions.

The argument has been made that 1986 statistics are not available. In the U.S., a cooperative effort with industry has developed good estimates of production and emissions. Industry has indicated that this data collection is possible in Europe and elsewhere. Furthermore the existence of value-added taxes in many countries should provide an additional source of accurate data. While there may be some data imperfections, these are minor

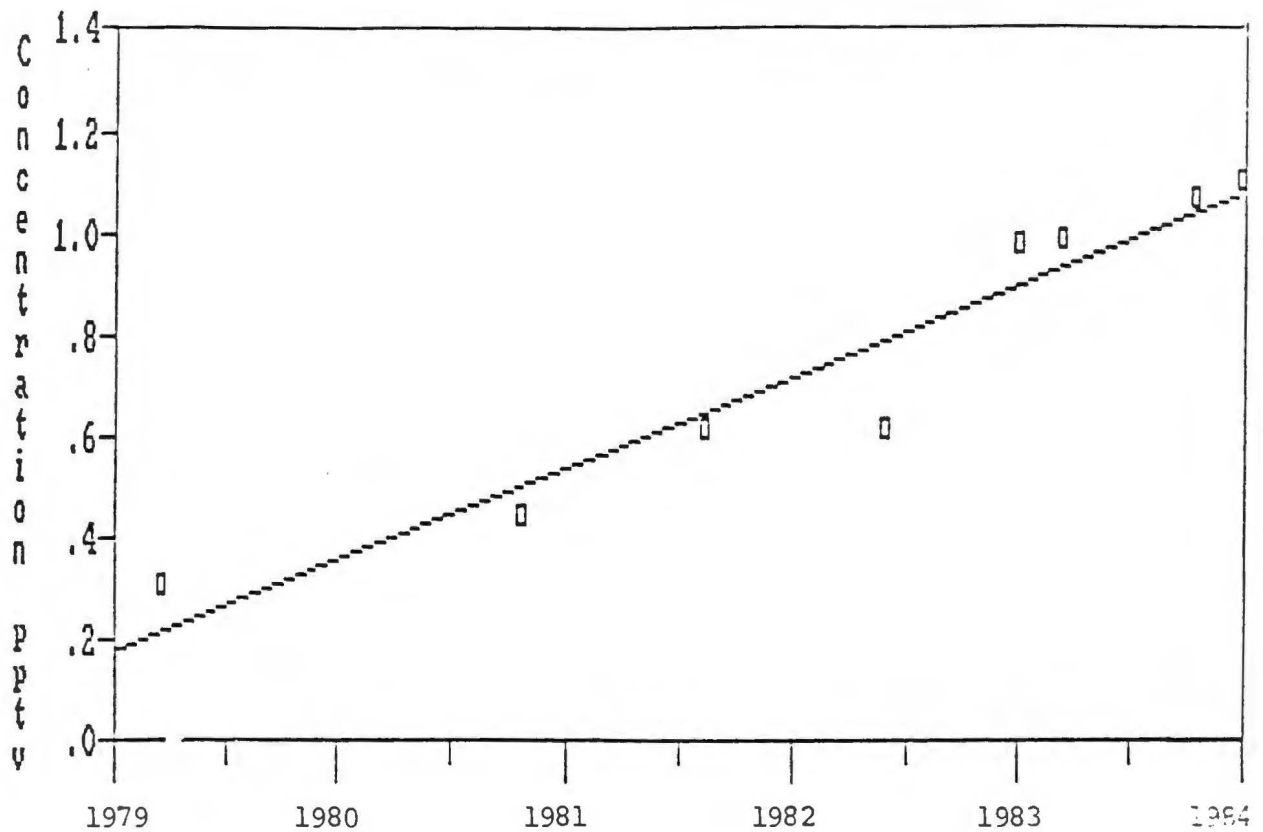
problems compared to the havoc that would occur if a future base year were used.

A UNEP Study Group can Resolve Remaining Issues

Because Halons have not been studied as much as CFCs, we suggest that UNEP immediately convene an expert panel of fire protection experts to study Halon use and emissions, to evaluate existing alternatives to testing, training, and accidental emissions, and to coordinate development of next-generation fire-fighting agents with little or no stratospheric ozone depleting potential. The panel could report to the first meeting of the parties with recommendations on additional cooperative efforts and possible amendments to the international Halon regulatory approaches.

EXHIBIT 1

Measured Increases in Tropospheric Concentrations of Halon-1211 (CF₂ClBr)



Measurements from South Pole. Average concentrations of Halon-1211 are increasing at approximately 23 percent per year.

Source: Khalil and Rasmussen, 1985.

REFERENCES

Gormley, E.F., Fluorocarbon Program Panel, Chemical Manufacturers Association, letter of May 18, 1987 to J. Hess, Committee on Environment and Public Works, U.S. Senate.

Industrial Economics, Incorporated, (1987), Historical and Projected Growth of Halons Bank and Emissions, IEC, Cambridge, MA.

Khalil, M.A.K., and R.A. Rasmussen, (1985), "The Trend of Bromochlorodifluoromethane (CBrClF_2) and the Concentrations of other Bromine Containing Gases at the South Pole", Antarctic Journal of the United States: 1985 Review.

HIGH CONSUMING COUNTRIES

FORMULA $C = \bar{P} + I - E$

	C	P
STEP 1 (1 year)	100%	105%
STEP 2 (4 years)	80%	85%
STEP 3 (8-10 years)	50%	55%

NOTE: THE DIFFERENCE BETWEEN C AND P IS TO ENSURE THAT ADEQUATE
SUPPLY OF WORLD PRODUCTION IS AVAILABLE FOR LCC NEEDS

ADDITIONALLY

- (1) ANY GROUP OF PARTIES MAY FORM A UNIT FOR THE PURPOSE OF COMPLIANCE
WITH THE PROVISIONS OF ARTICLES 2 AND 7
- (2) ANY SUCH GROUP MUST DECLARE THEMSELVES A UNIT AT LEAST 1 YEAR PRIOR
TO EACH OF THE ABOVE STEPS AND REMAIN A UNIT FOR THE DURATION OF
THAT STEP

LOW CONSUMING COUNTRIES

FORMULA

$$C = \bar{P} + I - E$$

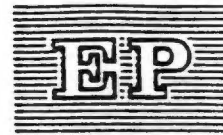
	C	P
STEP 1	UNLIMITED	105%
STEP 2	UNLIMITED	105%
STEP 3	LIMITED AT CURRENT LEVEL	105%



United Nations Environment Programme



Distr.
LIMITED



UNEP/IG.79/3/Rev.1 PS./CRP/16
10 September 1987

ORIGINAL: English

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

Montreal, 8 - 11 September 1987

Proposal by Legal Drafting Group

Article 6

Assessment and review of control measures

Beginning in 1990, and at least every 4 years thereafter, the Parties shall assess the control measures provided for in Article 2 on the basis of the available scientific, environmental, technical and economic information. At least one year before each assessment, the Parties shall convene one or more panels of experts qualified in the fields mentioned and determine the composition and terms of reference of any such panels. Within one year of being convened the panels will report their conclusions, through the secretariat, to the Parties.



United Nations Environment Programme



Distr.
LIMITED



UNEP/IG.79/3/Rev.1 PS./CRP/15
10 September 1987
ORIGINAL: ENGLISH

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

Montreal, 8 - 11 September 1987

Proposals from Dr. Tolba arising from informal consultations, 10 September 1987

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 that world-wide emissions of 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 ozone depleting
substances emissions,

Determined to protect the ozone layer by taking precautionary measures
to control total global emissions of ozone depleting substances with the
ultimate objective of their elimination on the basis of developments in
scientific knowledge, taking into account technical and economic
considerations,

Mindful of the precautionary measures for controlling emissions of
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 ozone depleting substances should be based on relevant
scientific knowledge, taking into account technical and economic
considerations,

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

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

Article 2.

1. Each Party shall ensure that within 12 months of the 1st day of the month following the entry into force of this Protocol, consumption within its jurisdiction of the controlled substances in Group I of Annex A does not exceed its level of consumption in 1986. Each Party producing the controlled substances in Group I shall at the same time ensure that its production of these substances does not exceed its level of production in 1986, except that its production may increase by no more than [10%] above the 1986 level, in order to meet the demands for consumption of Parties under the provisions of Article 5 and for industry rationalisation between Parties.

2. Each Party shall ensure that within three years following the entry into force of the Protocol, consumption within its jurisdiction of fully halogenated bromine-containing alkanes listed in Group II of Annex A does not exceed its level of consumption in 1986. Each Party producing these substances shall ensure at the same time that its production of these substances shall not exceed its level of production in 1986, except that its production may increase by no more than [10%] above the 1986 level in order to meet the demands for consumption of Parties under the provisions of Article 5 and for industry rationalisation between Parties. The mechanism for implementing this measure will be decided by the Parties at their first meeting following the first scientific review.

3. Each Party shall ensure that by 1 January 1994 consumption within its jurisdiction of the controlled substances in Group I of Annex A does not exceed 80% of the level of consumption in 1986. Each Party producing the controlled substances in Group I shall at the same time ensure that its production of these substances does not exceed 80% of its level of production in 1986, except for production needed to meet the demands for consumption by Parties under the provisions of Article 5 and for industry rationalisation between Parties; in meeting these demands its production shall not exceed [90%] of the 1986 level.

4. Each Party shall ensure that by 1 January 1999 consumption within its jurisdiction of the controlled substances in Group I of Annex A does not exceed 50% of the level of consumption in 1986. Each party producing the controlled substances in Group I shall at the same time ensure that the production of these substances does not exceed 50% of its level of production in 1986, except for production needed to meet the demands for consumption by Parties under the provisions of Article 5 and for industry rationalisation between Parties; in meeting these demands its production shall not exceed [65%] of the 1986 level. This paragraph will apply unless the parties decide otherwise by a two-thirds majority [representing at least [60%] [two-thirds] of the estimated global consumption of the controlled substances of the Group I.] This decision will be made in the light of the assessments referred to in Article 6.

4bis. Parties whose level of production in 1986 of the controlled substances in Group I of Annex A was less than 25 kt/yr may transfer to any other Party production in excess of the limits set out in paragraphs 1, 3 and 4 above provided that the total combined production of these Parties does not exceed the production limitations set out in this Article.

4ter. Notification of any transfer of production for industry rationalisation under paragraphs 1-4bis above shall be sent to the Secretariat, no later than the time of the transfer of production.

5. (a) Based on the assessments made pursuant to Article 6, the Parties may decide whether: (i) adjustments to the calculated ozone depleting potentials specified in Annex A should be made and, if so, what adjustments; and (ii) adjustments and further reductions of production or consumption of the controlled substances from 1986 levels should be undertaken and, if so, the scope, amount, and timing of any such adjustments;
- (b) Proposals for such adjustments shall be communicated to the Parties by the secretariat at least six months before the meeting of the Parties at which they are proposed for adoption;

(c) In taking such decisions, the Parties shall make every effort to reach agreement by consensus. If all efforts at consensus have been exhausted, and no agreement reached, such decisions shall as a last resort be adopted by a [two-thirds majority] [majority] vote of the Parties present and voting [representing at least [60%] [two-thirds] of the total consumption of the controlled substances of the Parties];

(d) The decisions, which shall be binding on all Parties, shall forthwith be communicated to the Parties by the Depository. Unless otherwise provided in the decisions, the decisions shall enter into force on the expiry of six months from the date of the circulation of the communication by the Depository.

5bis

(a) Based on the assessments made pursuant to Article 6 and in accordance with the procedure set out in Article 9 of the Convention, the Parties may decide

(i) whether any substances, and if so which, should be added to or removed from any annexes to this protocol; and

(ii) the mechanism, scope and timing of the control measures that should apply to those substances;

(b) Any such decision shall become effective, provided that it has been accepted by a two-thirds majority vote of Parties present and voting [representing at least [60%] [two-thirds] of the total consumption of the controlled substances of the Parties].

.../5.

[6. Any Parties which are Member States of a regional economic integration organisation as defined in Article 1(6) of the Convention may agree that they shall jointly [as well as individually] fulfil their obligations under this Article provided that neither their total combined production nor their total consumption exceed the levels required by this Article.

The Parties to any such agreement shall inform the Secretariat of the terms of the agreement before the date of the reduction in production or consumption with which the agreement is concerned.]

7. Notwithstanding the provisions contained in this Article, Parties may take more stringent measures than those required by this Article.



United Nations Environment Programme



Distr.
LIMITED



UNEP/IG.79/3/Rev.1 PS./CRP/9/Rev.1
10 September 1987

ORIGINAL: English

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

Montreal, 8 - 11 September 1987

ARTICLE 4: CONTROL OF TRADE WITH NON-PARTIES

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.

In view of the special situation of the Developing countries, this paragraph shall not apply to import from or export to such countries which are not Parties / Signatories to this Protocol for a period of 4 3 years after its entry into force.

2. Within 3 years after entry into force of this Protocol, the Parties shall elaborate in an annex, in accordance with Article 10, paragraph 4(f) of this Protocol, a list of products containing controlled substances. Within 1 year following adoption of this annex, Parties accepting the annex shall ban the import of these products from any State not Party to this Protocol.

3. Within five years of the entry into force of this Protocol, the Parties shall determine the feasibility of banning or restricting imports of products produced with but not containing controlled substances from any State not Party to this Protocol. If determined feasible, the Parties shall elaborate in an Annex, in accordance with Article 10, paragraph 4(f) of this Protocol, a list of such products and within 1 year following adoption of this annex, Parties accepting the annex shall ban or restrict the import of these products from any State not Party to this Protocol.

*The inclusion of an export ban to non-Parties was intended by some countries to deal with problems arising from the formula for the definition of emissions. One alternate approach might be to add to the end of Article 3 sub-paragraph (b) "Beginning in () year after entry into force of this Protocol, only exports to Parties shall be subtracted in calculating each Party's consumption level".

** Pending decision on paragraph 1 article 2.

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

5. Parties shall refrain from granting new subsidies, aid, credits, guarantees or insurance programmes for the export of products, equipment, plants or technology that would facilitate the production of the controlled substances to States not Party to this Protocol.

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

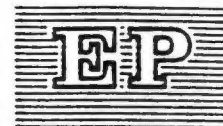
7. Notwithstanding the provisions of this Article, imports and exports referred to in paragraphs 1, 2 and 3 may be permitted from or to any State not Party Signatories to this Protocol if that State is determined by the Parties to be in full compliance with Article 2 and this Article and has submitted data to that effect, as specified in Article 7.



United Nations Environment Programme



Distr.
LIMITED



UNEP/IG.79/3/Rev.1 PS./CRP/11
10 September 1987

ORIGINAL: English

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

Montreal, 8 - 11 September 1987

Proposal by Legal Drafting Group

Article 1

para. 4. A "controlled substance" means a substance listed in Annex A to this Protocol, whether existing alone or in a mixture.

para. 4bis An "export" or "import" of a controlled substance means an export or import where the controlled substance is the sole or principal substance being traded, but does not include an export or import where the controlled substance is a constituent part of a manufactured product.



United Nations Environment Programme



Distr.
LIMITED



UNEP/IG.79/3/Rev.1 PS./CRP/11/Rev.
10 September 1987

ORIGINAL: English

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

Montreal, 8 - 11 September 1987

Proposal by Legal Drafting Group

Article 1

para. 4. A "controlled substance" means a substance listed in Annex A to this Protocol, whether existing alone or in a mixture. It excludes, however, any such substance which is in a manufactured product other than a container used for the transportation or storage of the substance listed.



United Nations Environment Programme



Distr.
LIMITED



UNEP/IG.79/3/Rev.1 PS./CRP/12
10 September 1987

ORIGINAL: English

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

Montreal, 8 - 11 September 1987

Article 5: Special Situation of Developing Countries*

1. In order to meet its basic domestic needs, any developing country Party whose annual consumption of the controlled substances is less than [0.2] [0.3] kg. per capita shall be entitled to delay its compliance with the provisions of paragraphs 1 to 4 of Article 2 by ten years after that specified in that Article and to substitute 1995-1996-1997** for 1986 as the base year, provided that such Party shall not exceed an annual consumption[production] level of [0.2] [0.3] kg. per capita.

2. The Parties undertake to facilitate access to environmentally safe alternative chemicals and technology to Parties referred to in paragraph 1, and assist the latter to make expeditious use of such alternatives.

3. The Parties undertake to facilitate bilaterally and/or through multilateral channels, the provision of subsidies, aid, guarantees or insurance programmes to the developing countries for the use of alternative technology and substitute products.

*The inclusion of a paragraph on import supply guarantees may be reconsidered if the formula on trade controls does not deal with it adequately.

**The annual average

M87-065



United Nations Environment Programme



Distr.
LIMITED



UNEP/IG.79/3/Rev.1 PS./CRP/13
10 September 1987

ORIGINAL: English

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

Montreal, 8 - 11 September 1987

Proposal by Federal Republic of Germany

to amend Article 8, para. 1

Subparas. (a) and (b) should read as follows:

- (a) Best technologies for improving the containment, recovery, recycling or destruction of the controlled substances or otherwise ordinary emissions of the controlled substances;
- (b) Possible alternatives to the controlled substances, to products containing these substances, and to products manufactured with them;



United Nations Environment Programme



Distr.
LIMITED



UNEP/IG.79/3/Rev.1 PS./CRP/14
10 September 1987
ENGLISH
ORIGINAL: FRENCH

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

Montreal, 8 - 11 September 1987

Delegate of Tunisia

Article 5

- 4 Low consuming developing countries wishing to meet their needs for controlled substances through production or increase of their domestic production within a cooperative framework between such countries shall be entitled to meet their common needs through production or increase of their common production within the limits specified in paragraph 1 of this Article.



United Nations Environment Programme



Distr.
LIMITED



UNEP/IG.79/3/Rev.1 PS./CRP/10
10 September 1987

ORIGINAL: English

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

Montreal, 8 - 11 September 1987

PROPOSAL BY EEC

New Article 2(6)

Any Parties which are Member States of a regional economic integration organisation as defined in Article 1(6) of the Convention may agree that they shall jointly fulfil their obligations under this Article provided that neither their total production nor their total consumption exceed the levels required by this Article.

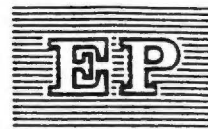
The Parties to any such agreement shall inform the Secretariat of the terms of the agreement before the date of the reduction in production or consumption with which the agreement is concerned.



United Nations Environment Programme



Distr.
LIMITED



UNEP/IG.79/3/Rev.1 PS./CRP/9/Rev.1
10 September 1987

ORIGINAL: English

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

Montreal, 8 - 11 September 1987

ARTICLE 4: CONTROL OF TRADE WITH NON-PARTIES

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.

In view of the special situation of the Developing countries, this paragraph shall not apply to import from or export to such countries which are not Parties / Signatories to this Protocol for a period of 4 / 3 years after its entry into force.

2. Within 3 years after entry into force of this Protocol, the Parties shall elaborate in an annex, in accordance with Article 10, paragraph 4(f) of this Protocol, a list of products containing controlled substances. Within 1 year following adoption of this annex, Parties accepting the annex shall ban the import of these products from any State not Party to this Protocol.

3. Within five years of the entry into force of this Protocol, the Parties shall determine the feasibility of banning or restricting imports of products produced with but not containing controlled substances from any State not Party to this Protocol. If determined feasible, the Parties shall elaborate in an Annex, in accordance with Article 10, paragraph 4(f) of this Protocol, a list of such products and within 1 year following adoption of this annex, Parties accepting the annex shall ban or restrict the import of these products from any State not Party to this Protocol.

*The inclusion of an export ban to non-Parties was intended by some countries to deal with problems arising from the formula for the definition of emissions. One alternate approach might be to add to the end of Article 3 sub-paragraph (b) "Beginning in () year after entry into force of this Protocol, only exports to Parties shall be subtracted in calculating each Party's consumption level".

** Pending decision on paragraph 1 article 2.

4. Each Party shall discourage the export of technology to any State not Party to this Protocol for producing or using the controlled substances.
5. Parties shall refrain from granting new subsidies, aid, credits, guarantees or insurance programmes for the export of products, equipment, plants or technology that would facilitate the production of the controlled substances to States not Party to this Protocol.
6. The provisions of paragraphs 4 and 5 shall not apply to environmentally sound products, equipment, plants or technology which improve the containment, recovery, recycling or destruction of the controlled substances, promote the development of alternative substances or otherwise contribute to the reduction of emissions of the controlled substances.
7. Notwithstanding the provisions of this Article, imports and exports referred to in paragraphs 1, 2 and 3 may be permitted from or to any State not Party Signatories to this Protocol if that State is determined by the Parties to be in full compliance with Article 2 and this Article and has submitted data to that effect, as specified in Article 7.



United Nations Environment Programme



Distr.
LIMITED



UNEP/IG.79/3/Rev.1 PS./CRP/11
10 September 1987

ORIGINAL: English

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

Montreal, 8 - 11 September 1987

Proposal by Legal Drafting Group

Article 1

para. 4. A "controlled substance" means a substance listed in Annex A to this Protocol, whether existing alone or in a mixture.

para. 4bis An "export" or "import" of a controlled substance means an export or import where the controlled substance is the sole or principal substance being traded, but does not include an export or import where the controlled substance is a constituent part of a manufactured product.