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*Last Updated: 05/16/2024*

## SUPPORT FOR EPA POSITION ON STRATOSPHERIC OZONE

1. **NEGOTIATING POSITION:** The U.S. negotiating team needs to have sufficient flexibility in its negotiating position. There is strong interaction between the components of the protocol, and a strong position on all issues should be maintained so that trade-offs among components can be made.
2. **SUBSTANTIAL RISKS:** The health and environmental risks from ozone depletion would be substantial. Agreement exists that large increases in skin cancer cases and deaths would occur. Available evidence also points to suppression of the immune response system, increases in cataracts, damage to crops and aquatic systems, increases in ground level ozone (smog) and damage to outdoor plastics.
3. **BENEFITS EXCEED COSTS:** Even though many of the potential damages cannot be quantified, under almost all scenarios the potential benefits of controls of up to 50% far outweigh the costs.
4. **NEED FOR INCENTIVES FOR SUBSTITUTES:** Recycling, conservation, and product substitutes are available to achieve a 20% reduction in CFC use at relatively low cost. To provide an adequate incentive for the development of chemical substitutes, reductions of 50% would be necessary. The timeframe proposed in the Chair's text for an automatic 50% reduction (eight years after entry into force) is consistent with industries' concerns for an adequate transition period.
5. **SCIENTIFIC UNCERTAINTY:** While scientific uncertainties remain, recent evidence suggests more, not less reason for concern and that our estimates of risk are too low. Because of the long lifetime of CFCs, the costs and disruption to industry would be far greater if we delay taking effective action now and must do it with a smaller lead time later.
6. **LEGAL RISKS - DOMESTIC ACTION:** If a protocol does not require a 50% automatic reduction, based on the public record developed to date, EPA may, under the Clean Air Act, be required to go beyond 50% domestically -- an outcome that should be avoided.
7. **CONGRESSIONAL RISKS:** The Senate and the House have made it clear that they support a strong international protocol. The Senate resolution (passed by 80-2) calls for an automatic 50% reduction, while the House resolution (Dingell's resolution) calls for the "virtual elimination" of CFCs.
8. **DIPLOMATIC EMBARRASSMENT:** U.S. diplomatic leadership has been the driving force in the progress of the negotiations to date. A major turnabout would make future international negotiations more difficult and would particularly anger those countries seeking more stringent controls (e.g., Canada, Norway, West Germany, etc.).

The earlier U.S. position calling for credit for the U.S. unilateral aerosol ban came under attack by other countries who correctly pointed out that the U.S. was largely responsible for the problem as it had been and continues to be the largest producer of CFCs. Only when the U.S. moved to the existing negotiating framework has international progress been made.

Scanlon, "both measures can be expected to result in a transfer of many ATVs from experienced to inexperienced riders, something we know greatly increases risk. In fact, our own data lead to the conclusion that, if one-third (200,000) of the adult-size ATVs presently being used by children were turned in (as part of the recall) and then resold (as the commission majority has voted), there could be as many as 50 additional deaths and 16,000 extra injuries.

"Similarly, if one-third (500,000) of all the three-wheeled ATVs are turned in pursuant to a recall and later resold, as voted, our data suggest that an additional 100 deaths and 40,000 injuries could be expected."

Scanlon expressed the belief that increased warnings of the safety risks, together with mandatory provision of rider training, would, "if promptly implemented, be sufficient to bring about a significant reduction" in ATV accidents.

"But if the commission wanted to go further," he added, "other alternatives would have made more sense than" the proposed recalls. "For instance, stopping the sale of adult-sized ATVs (over 125 cc's) to children could prevent up to 100 deaths and 30,000 injuries per year at little or no cost. Moreover, there is ample precedent for such a step, such as laws preventing young children from riding motorcycles while allowing some of them to ride mopeds.

"In short," said Scanlon, "the recall proposals which the commission has voted are an inappropriate remedy to the risks posed by ATVs. There were, and are, better ways to promote safer use of ATVs which I hope the commission will pursue to the fullest possible extent."

But, at this point, the determination of whether those "better ways" are actually pursued may well have more to do with what the Justice Department decides concerning the proposed lawsuit than with anything the three CPSC members decide.

### President Must Decide

## State Department Pushes Radical Ozone Treaty

Environmentalists were again on the warpath—and the media and their cartoonists were having a field-day — over remarks reportedly made by Secretary of the Interior Donald Hodel while arguing that the U.S. should not go along with an international agreement to halt the depletion of the ozone layer—a depletion that many argue has led to an increase in the incidence of skin cancer. The agreement — which the State Department had hoped to sneak through almost unnoticed — was based on limiting and eventually all but eliminating the production and use of chlorofluorocarbons (CFCs) and halogens, chemicals considered responsible for the deterioration of ozone in the atmosphere.

The Washington Post and others reported that at a Cabinet meeting Hodel said that, instead of signing this agreement, the Administration should offer as an alternative the recommendation that people wear "hats, sunglasses and sun-screening lotion" if they were concerned about the risks of skin cancer.

Shortly after this story appeared, representative from various environmental groups, wearing hats, sun-block lotions and dark glasses called on Hodel to resign.

In fact, Hodel made no such recommendation to replace international efforts to protect the ozone layer with a program of "personal protection."

"I want to get this on the record," Hodel told HUMAN EVENTS. "I did not argue that sunglasses and hats and lotions were the solutions [to the ozone problem] . . . I don't think it came out in the meeting in that way at all.

"There was discussion during the meeting; we were concerned about human health. We know



HODEL

that at a period of time when we don't think the ozone layer was being depleted by CFCs that we've seen a 750 per cent increase in skin cancer. That suggests people have changed their behaviors and gone into the sun more . . . people desiring a good tan, for example.

"Even if we enter into an agreement on CFCs, we have an ongoing commitment to join with the American Cancer Society to warn people of the hazards of exposure to ultraviolet light. It is really two separate issues. This was not offered as an alternative to an international agreement."

A major aspect of this whole controversy, as Hodel noted, is the supposed link between ozone depletion and the rise in the incidence of skin cancer. Ozone is a gas in the stratosphere that acts as a filter for harmful ultraviolet (UV) rays from the sun and overexposure to UV rays is a major cause of skin cancer.

Although it has never been actually proved, the use of CFCs and also a class of chemicals called halogens is thought by some scientists to be related to the depletion of ozone in the atmosphere. These chemicals are in wide use in a variety of everyday applications: aerosols (banned unilaterally in the U.S. in 1978 and by a mere handful of countries subsequently); air conditioning; fire extinguishers, cleaning solvents (such as those used in dry cleaning); foam insulation and foam cushions, among others. They also have wide application in industry, especially the automobile industry, and in the military.

# Inside Washington

If the use of CFCs continues unabated, the argument goes, there will be a depletion of ozone, more UV rays reaching earth and an increase in the incidence of skin cancer. This theory, however, relates to projected *future* increases in the incidence of skin cancer. There is, at present, no scientific evidence linking the current increases in the incidence of skin cancer to depletions in the ozone layer.

Indeed, in a letter to Rep. John Dingell (D.-Mich.), chairman of the House Committee on Energy and Commerce, Dr. Margaret Kripke of the University of Texas System Cancer Center, one of the country's leading cancer research institutes, said:

"Speaking of the increasing incidence of skin cancer...there is at present *no evidence* that a decrease in the ozone layer is responsible for the recent increase in the incidence of skin cancers. There have been several erroneous statements in the press recently, linking the increases in skin cancer to ozone depletion. It is important to note that... (common skin cancers) develop over a period of decades... decreases in global ozone are too recent to account for the rising incidence of skin cancer over the past 20 years. The implication... that increased UV radiation has resulted from decreased stratospheric ozone has no scientific basis at the present time."

Given that the present increase in the incidence of skin cancers cannot be attributed to ozone depletion, Hodel's suggestion that, apart from any agreement limiting CFCs, people be educated on how to protect themselves from excessive exposure to sunlight is eminently sensible, just as education has reduced cigarette smoking.

It is clear that Hodel's remarks were leaked out of context and mangled in the media in order to draw attention away from the very serious reservations he expressed about the way the State Department and the Environmental Protection Agency have gone about negotiating the agreement to limit CFCs.

The controversial protocols to reduce and eventually eliminate CFCs grew out of the 1985 Vienna Convention for the Protection of the Ozone Layer. In his message to the Senate supporting ratification of the convention, President Reagan said it addresses an important environmental issue "primarily by providing for international cooperation in research and exchange of information. It could also serve as a framework for the negotiations of possible protocols containing harmonized regulatory measures that might in the future be considered necessary to protect this critical global resource."

But officials at the State Department, led by chief negotiator Richard Benedick, and at the Environmental Protection Agency, have used that highly tentative language to push their own radical negotiating program for international controls on CFCs, and they have done so largely out of sight of the Administration.

Such out-of-sight maneuverings are hardly new for Mr. Benedick. As HUMAN EVENTS readers might recall, back in July 1985, on the eve of an international conference on population control in

Mexico City, Benedick, then head of State's Office on Population Affairs, organized opposition to the official White House policy of withholding all funds for international organizations that encourage abortion as a means of population control.

Furious at not being chosen a member of the U.S. delegation to Mexico City, Benedick arranged a transfer out of the Population Office into State's Environmental Health and Natural Resources desk, where he proceeded to work quietly on the CFC agreement.

Now that more light has been shed on his activities, however, Benedick disclaims any desire to keep the protocol maneuverings hush-hush. "Our negotiating position was authorized last November," Benedick told the *Washington Post* May 29, "and it's hard to imagine that people weren't aware of it." In a follow-up story the next day, the *Post* claimed that State's negotiating position "was cleared throughout the government."

But that's not what senior government officials have told HUMAN EVENTS. According to them, the proposed U.S. negotiating position, calling for "up to a 95 per cent reduction in CFCs," was not brought to the attention of the Working Group of the Domestic Policy Council—let alone the entire government—until February of this year. Even Benedick has now admitted he was "misquoted" in the May 29 *Post* story.



DINGELL

Given the enormous impact any agreement on CFCs is likely to have, Hodel argued that the Cabinet should have been kept fully abreast of the negotiations and be able to evaluate all options so that the President would not be "boxed in."

In fact, after Hodel and others sounded some preliminary cautionary notes at a DPC meeting three weeks ago, Secretary of State George Shultz, reportedly at the urging of Benedick and his boss, John Negroponte, wrote Attorney General Meese that the Geneva negotiations on CFCs should be withdrawn from discussion by the DPC. The Attorney General, the day after receiving that letter, wrote Shultz to make it clear that the CFC negotiations would remain a topic for discussion by the full DPC, and State and EPA would not be allowed to circumvent normal Cabinet procedures on a matter of such importance.

THIS WEEK'S NEWS FROM

## Inside Washington



Nor is Hodel alone in these concerns. Rep. Dingell, who is sponsoring a resolution supporting the international efforts under way to resolve the ozone problem, has also raised doubts as to the way the State Department and EPA have handled the negotiations.

At a hearing on the Geneva talks, Dingell said, "My support for a protocol is not without limits. Indeed, I am deeply concerned that our chief negotiator, Ambassador Richard Benedick, and his EPA staff support, are negotiating almost on a 'seat-of-the-pants' basis. I am concerned they lack adequate technical and policy support within the Administration and that they may be bowing too far toward those seeking very stringent reductions now."

"Seat-of-the-pants" is an apt description. The November document laying out the State Department's negotiating position admits that "given the

complex chemistry and dynamics of the atmosphere, scientific uncertainties currently prevent a conclusive determination of safe levels of emissions [of CFCs]." This assessment is repeated in the document. Yet despite this admission, State and EPA have gone ahead with negotiations aimed at drastic reductions in emission levels.

Recent scientific studies also cast doubt on the relation of CFC emissions to the so-called "Arctic hole." Environmentalists and others pushing for stringent regulations of CFCs point to the annual appearance, observed since 1979, of a "hole" in the ozone layer over the South Pole. This hole, which appears for a few months and then disappears, is actually a reduced concentration of ozone, which some believe is caused by CFCs.

But a recent report by the American Geophysical Society provides compelling evidence that the hole

(Continued on page 17)

may have nothing to do with CFC emissions. Rather, it may be caused naturally, by the periodic bombardment of the Earth's atmosphere by high-energy electrons originating from the sun and/or Jupiter.

It is clear that continued study and caution are necessary in moving toward an international protocol on reducing CFCs. But these have been noticeably lacking on the part of our negotiating team.

Since January, Dingell has asked EPA and the State Department to provide his committee with an adequate analysis supporting the negotiating position laid out in State's November document. According to the Michigan Democrat, he has yet to receive it.

In a March letter to EPA head Lee Thomas, Dingell writes: "Despite the fact that the law requires EPA to 'take into account the feasibility and costs of achieving' control by regulation, there is no evidence that these factors are even being addressed in the process. There is no discussion of the problems of conversion to the user industries, including the financial implications and timing of any capital changes for relatively small business."

Many big businesses that manufacture CFCs would probably have the financial and other resources to adjust to restrictions in CFC production. If necessary, some could simply move their CFC producing operations overseas, to a country that is not a party to the Geneva protocols.

But what of small business and individual users? For example, CFCs are necessary for air-conditioning. While this may seem a luxury for many, air-conditioning is vital during the hot summer months for the elderly and those with health problems. Air filtration and purification systems which are necessary for hospitals and those suffering respiratory diseases also require CFCs. CFCs are also used in producing foam for insulation, which is necessary for energy conservation. How would environmental groups balance their demands for decreases in CFCs with increases in energy conservation?

Although Benedick and Co., negotiating for the U.S., want a 95 per cent CFC reduction, the protocol now apparently will call for a freeze, then an initial a 20 per cent reduction, to be followed by a 30 per cent reduction in CFCs from 1986 levels.

The United States, however, has already banned the use of non-essential aerosols; most other countries involved in the negotiations, including most of the European Economic Community, have not. Those countries could achieve a large part of their 20 per cent reduction merely by doing what the U.S. has already done—banning non-essential aerosols. But that might mean the U.S. would have to turn to uses more important than deodorants and hairsprays to achieve *its* reductions.

None of these concerns, among many others, including possible trade restrictions and sanctions against those countries which continue to produce CFCs outside the agreement, are being adequately addressed by our negotiators. Despite this, they want the Administration to sign the protocol this September in Montreal.

Secretary Hodel has also questioned the scope of the protocols. Only some 31 countries have entered the negotiations, including the U.S., members of the European Economic Community, the Soviet Union (but excluding all other Warsaw Pact countries), the Nordic countries and Japan. A few countries from the Third World were represented, but by and large the bulk of the Third World did

not participate. India and China, which are making important strides in developing their industrial bases were not represented.

"We need to be sure," Hodel told HUMAN EVENTS, "that enough countries, covering enough of the production and consumption of CFCs, agree to sign the agreement. You've got to have broad enough agreement that it's going to make a difference. We shouldn't unilaterally do this, because that won't solve the CFC problem. It will only cause an economic hit to the United States. Secondly, it has to include all five CFCs and the two halogens—all seven of the offending chemicals. Some of our allies were considering two, some three, but only a handful, including ourselves, were thinking in terms of all seven chemicals."

The inclusion of as many countries as possible in the protocols is vital to the success of any international program to reduce CFCs. As much of the Third World, especially Asia and Africa, begin to develop their industry, it is only to be expected they will increase their production of CFCs. The protocol will in large part be undermined if there are no provisions to guarantee that these countries will eventually be brought under similar restrictions. At present, there are no such provisions beyond a vague recognition of the problem.

"At least, the President ought to be able," Hodel said, "to weigh the difference between a proposal that would tie the United States into any agreement with a limited number of countries in which they may agree only to deal with a limited amount of chemicals, on the one hand, and an agreement, on the other, that would have sufficiently broad coverage and a sufficient number of chemicals and be mutually verifiable. In the event that requirement postpones the signing date, so be it."

The State Department and the EPA, apparently, did not want to give the President that option. But given the lack of hard scientific evidence on the long-term effects of CFCs on the ozone layer, there is at present no need for the President to commit the U.S. to any massive, mandated, global regulatory program of CFC reductions, nor even to a freeze in 1990. Such a freeze, as envisioned in the current protocols, would be at 1986 levels; given the four-year time lapse, the freeze would necessarily turn into a reduction.

Currently, a team of international scientists, headed by NASA, is undertaking extensive research and review of the ozone problem. Their report is not due until 1990.

Until that time, any action to freeze or reduce CFCs would be premature. The President should resist pressure from the State Department and EPA to sign such an agreement now. Instead, he should leave it to his successor to decide in 1990, when the results of the scientific review are available, whether any reductions are needed.

Meanwhile, environmentalists might consider joining Hodel in educating the American people to the dangers of skin cancer that exist now and cannot be traced to the deterioration of ozone.

THE WHITE HOUSE

WASHINGTON

June 23, 1987

MEMORANDUM FOR NANCY J. RISQUE

FROM:

Vicki Masterman 

SUBJECT:

Ozone Negotiations -- Recent Articles

Attached for your information are copies of two recent articles related to the international ozone negotiations. The article from today's New York Times discusses the conflict of interest question raised by Richard Benedick's plans to join the Conservation Foundation as a temporary resident scholar after completion of the ozone negotiations this fall. The other article from the June 20 issue of Human Events discusses many aspects of the ozone issue and criticizes Benedick's performance in the negotiations.

According to Mr. Benedick, he will remain on the State Department payroll while at the Conservation Foundation. He called today and said he felt justified in responding to the allegations of a conflict of interest when Phil Shabecoff called him. Mr. Benedick has orally informed us that State Department lawyers have no legal objection to his temporary posting at the Conservation Foundation. As far as we can determine without a complete inquiry, the Conservation Foundation has not been active in the ozone issue.

## State Department

# A Wrangle Over Ozone Policy

By PHILIP SHABECOFF

Special to The New York Times

WASHINGTON, June 22 — Conflict-of-interest cases usually involve accusations that a Government official has used the powers of office improperly for financial self-interest. But, an ethics charge concerning policy on ozone with no question of financial gain involved?

Such a dispute has arisen in the Reagan Administration concerning the role of Richard E. Benedick, the Deputy Assistant Secretary of State, in international negotiations aimed at concluding a treaty to limit the production of chlorofluorocarbons, or CFC's, the chemicals that are widely believed to be destroying the ozone in the earth's stratosphere. The ozone layer protects the earth from ultraviolet radiation from the sun that can cause skin cancer, damage crops and cause a variety of other health and environmental problems.

The dispute arises from Mr. Benedick's temporary posting by the State Department, starting later this year, as a resident scholar with the Conservation Foundation, an environmentalist organization.

According to Administration sources, officials in the Commerce Department have asked that Mr. Benedick be required to file with the State Department's ethics office a statement that his appointment to the environmental group does not conflict with his official duties in the ozone negotiations.

The Environmental Protection Agency has supported the State Department in the position adopted by the American delegation at meetings in Geneva and Vienna for cutbacks in the production of chlorofluorocarbons. But the Commerce Department, Interior Department and other agencies oppose it.

Interior Secretary Donald P. Hodel said his department had not asked for a conflict-of-interest review of Mr. Benedick. But he said: "What would you write if our chief negotiator were



The New York Times

Richard E. Benedick

leaving to take a position with a CFC-producing company? It is a self-answering question."

Mr. Benedick himself said the State Department's ethics office had looked into the issue and would soon issue a statement that there was no conflict of interest in his being assigned to temporary duty with the Conservation Foundation. He said the environmental group was not an advocacy group but a "think tank" that does no lobbying on policy issues and had not sought to influence the ozone negotiations in any way.

"It is like a Defense Department official being detailed to the Rand Corporation for a year to do some thinking about defense issues," he said, adding that the temporary assignment was a normal rotation for a Foreign Service officer and had been planned long before the ozone negotiations were "in the works."

Meanwhile, the conservative publication Human Events published an article last week concluding that the

United States, led by Mr. Benedick, had pursued "a radical negotiating program for international controls on CFC's."

Environmentalists, who are pushing for the strongest possible treaty to limit the chemicals depleting the ozone layer, seemed bemused at the charges that Mr. Benedick was pursuing a radical program.

"He is a very cautious guy," said David D. Doniger, a lawyer with the Natural Resources Defense Council. Mr. Doniger, who has been an observer at several of the negotiating sessions in Europe, said Mr. Benedick had pushed for the official United States position but had taken a "conservative" approach to the talks.

Mr. Benedick said he had "tried in the conduct of negotiations and in the conduct of discussions with the outside industrial and environmental communities to steer a reasonable middle course and to avoid any exaggeration or overstatement of the case."

Largely because of United States leadership, countries producing CFC's tentatively agreed earlier this year to freeze production and then start rolling it back so as to halt the deterioration of the ozone layer. The tentative pact calls for an initial 20 percent rollback and then an additional 30 percent within five years.

Administration opponents of the official United States position on the ozone layer took their case to President Reagan last week. The President has not yet announced whether he will seek a change in that position.

Supporters of a strong pact, such as Mr. Doniger of the Natural Resources Defense Council, believe that trade restrictions on countries that refuse to join an anti-CFC protocol would be a sufficient deterrent. He and other environmentalists are convinced that opposition to the proposed protocol within the Administration "springs from a visceral antipathy to any governmental interference in the marketplace."