Ralph

The Society of the
Plastics Industry, Inc.

1275 K Street, N.W., #400
Washington, D.C. 20005
(202) 371-5200

August 27, 1987

The Honorable John C. Whitehead
Deputy Secretary of State
Main State Department Bldg.
2201 C Street, NW
Room 7220
Washington, DC 20520

Dear Secretary Whitehead:

On behalf of the Society of the Plastics Industry, I am writing to request a meeting to discuss our concerns relative to chlorofluorocarbons (CFCs) and the draft protocol to the ozone convention. I would like for you to meet with representatives of our multi-billion dollar CFC-dependant industry segments whose businesses will be significantly negatively impacted by the imposition of restrictions on CFCs.

SPI member companies with a specific interest in the protocol include manufacturers of raw materials used in making rigid foam plastic insulation and flexible polyurethane foam, producers of certain foam insulation products made using CFCs, and polyurethane insulating spray foam contracters. While CFC-11, and to a lesser extent CFC-12, acts as an expansion or blowing agent during foam formation, its primary function in insulation products is to remain in the foam as an insulating gas. CFCs have a very low thermal conductivity which results in excellent resistance to heat transfer. CFCs have a number of other characteristics which make them highly desirable to use: they are relatively safe in the workplace as they are non-flammable and have very low toxicity characteristics. They are chemically inert and have excellent compatibility with other materials. Any proposed substitute must have all of these characteristics. It is estimated that use in the foam blowing industry represents approximately 30% of the CFCs produced in the United States.

CFCs are a significant cost factor (20%-30%) of many final products like foam plastic insulation. Any restriction on CFCs will increase their prices. For example, one of our member companies analyzed the impact of tripling the cost of the CFC blowing agent. The study concluded that 50% of the existing rigid polyurethane market for roofing and siding would be lost. Further, the study concluded that chemical substitutes would in general be more flammable and poor insulators. Therefore, any government action related to CFCs would have a major impact on our industry.

Foam plastics insulation products are used to insulate residential and commercial buildings and refrigerators. They are also used in refrigerated trucks and rail cars and for tank and pipe insulation. CFC blown foams have the highest R-values, or insulating ability, of all available insulation products. They thus provide an important contribution to the nation's energy-saving goals. These goals should be given special weight by the Department of State, particularly in light of current tensions in the Mid-East, which may increase the possibility of future oil shortages. Flexible polyurethane foam is the principle cushioning material used in furniture and automobiles, bedding, and carpet cushion. It is also used in textile laminates and for packaging. Various types of foam plastics are also used in the packaging marketplace. Finally, CFCs are also used to make fluoroupolymers which are used in the electrical and electronics industry, in chemical processing equipment, and for non-stick coating.

It has been estimated that in the United States alone, chlorofluorocarbons are used by 5,000 businesses at 375,000 locations to produce goods and services worth more than $28 billion a year. Further, it has been estimated that more than 715,000 jobs depend on CFCs. In addition to those in the plastics foam industry, CFCs are a critical as: coolants and refrigerants in the air conditioning and refrigeration industries, as cleaning agents for micro chips and other components of electronic equipment, as food freezants, as sterilants in hospitals and in the manufacture of medical equipment. Overall, CFCs make major contributions to the quality of life as well as substantial contributions to energy conservation efforts and to the national economy.

The following are specific issues of concern to SPI and the CFC-dependant segments of the plastics foam industry:

(1) SPI opposes reductions of CFCs beyond the contemplated freeze; SPI also believes that further reductions should be made only when scientific evidence warrant them and substitutes are economically and technologically feasible.

Debate continues about ozone depletion and the causes for the depletion, and there are many as yet unanswered questions. Nevertheless, and despite the scientific uncertainties, SPI does support a global strategy to control CFC emissions in the form of a worldwide freeze given the potential risks of ozone depletion. Existing data does not, however, suggest that there is imminent danger to health or the environment. Thus, severe curtailment of CFC production worldwide is not needed. Given this fact, as well as the usefulness of CFCs, the lack of available substitutes for many end-use applications, including most plastics foam applications and remaining scientific uncertainties about the role of CFCs in the atmosphere, SPI opposes further reductions of CFC use beyond the contemplated freeze.

(2) (a) If the United States agrees to reductions beyond a freeze, SPI's position is that the longest possible time frame should be alloted for users to adjust to any additional reductions of CFCs. At least 10 years are needed for many in the foam industry, particularly insulation manufacturers.

An extended time frame for implementation of any further reduction in CFCs is especially important for industries like the foam plastics industry where the critical path to chemical substitutes is a long one. A longer timetable will help reduce the economic impact of the reductions on user industries. SPI has estimated that at least 7 to 10 years of work will be necessary to ensure that chemical substitutes can be commercially used in the foam plastics product. Given that CFC producers themselves estimate that a 3-6 year period will be required for substitute CFCs to be made commercially available (with some producers advising that at least 7 years will be needed for full commercialization of alternatives), the time period for implementation of all phases of the CFC control strategy is a critically important aspect of the protocol.

b) We urge the State Department to be sensitive to the fact that regulations which are too stringent may stop development of CFC subsititutes. Regulations that cause the collapse of businesses that are dependent on CFCs, such as foam blown plastics which represent a major market for CFCs, will diminish the market for substitute CFCs, thus reducing the incentive for producers to invest in substitute development. A realistic regulatory time frame is critical to reduced pressure on CFC prices which is essential for foam blown plastics businesses to survive until substitutes are available.

c) Delaying CFC rollbacks produces no significant increase in ozone depletion. An analysis using the ozone depletion models of the Chemical Manufacturers Association show a minimal, if any, impact on ozone depletion. Therefore, delaying the regulatory timetable is a sensible policy since it reduces the economic burden on industry, increases incentives for the producers to develop substitutes, and causes little or no increase in environmental effects.

(3) If the United States agrees to CFC reductions beyond a freeze, SPI believes that the protocol should state that no additional reductions should be made unless agreed to by affirmative votes representing two-thirds of world consumption. (This recommendation is somewhat different from our written comment to Ms. Suzanne Butcher on August 21; it reflects our further consideration of this issue.)

(4) Since the U.S. unilaterally banned the use of CFCs in aerosols in 1978, we believe that some "credit" should be accorded to the U.S. as a result of this action. We understand that the issue of this unilateral action by the U.S. was not raised in the negotiations and we are puzzled by that fact. We further understand that the easiest, most environmentally significant step that could be taken would be a worldwide ban on CFC use in aerosols because the substitute technology has been available for many years, and reportedly according to the National Oceanic and Atmospheric Administration, such a worldwide ban would result in a 30% reduction in CFC emissions.

(5) We are aware that there are a number of outstanding issues to be resolved in the protocol. SPI believes that this resolution includes complex economic and technological feasibility issues that must be assessed in detail to fully understand the impact of any restrictions on CFCs. SPI therefore urges the State Department to seek out and consider the perspectives of all relevant government bodies including - The White House, the Office of Management and Budget, the Departments of Commerce, Energy, Interior, Justice; the U.S. Trade Representative and the Environmental Protection Agency - so that it can make the most informed decisions with respect to an international protocol.

We appreciate your consideration of our concerns and look forward to an affirmative response to our request for a meeting at your earliest convenience.

Sincerely,

Margaret Rogers
Director
Federal Government Affairs

MR/cmc

cc: Honorable Richard Benedick
Deputy Assistant Secretary for Environment,
Health, and Natural Resources
Department of State
2201 C St., NW Rm. 7825
Washington, DC 20520

Honorable Howard H. Baker, Jr.
Chief of Staff to the President
The White House
1600 Pennsylvania Ave., NW
Room 1/WW
Washington, DC 20500

Mr. Ralph Bledsoe
Executive Secretariat
Domestic Policy Council
Old Executive Office Bldg., Rm. 200
17 St. and Pennsylvania Ave., NW
Washington, DC 20500

C. Boyden Gray, Esquire
Counsellor to the Vice President
Old Executive Office Bldg. Rm. 280
17th St. & Pennsylvania Ave., NW
Washington, DC 20501

Mr. David M. Gibbons
Deputy Associate Director
Natural Resources Division
Office of Management & Budget
Room 8202 NEOB
726 Jackson Place, NW
Washington, DC 20503

Mr. T. Kenneth Cribb, Jr.
Assistant to the President
for Domestic Affairs
The White House
1600 Pennsylvania Ave., NW
Rm. 2/WW
Washington, DC 20500

Dr. William R. Graham, Jr.
Science Advisor to the President
Old Executive Office Building, Rm. 358
17th St. & Pennsylvania Ave., NW
Washington, DC 20506

Mr. James C. Miller III
Director
Office of Management and Budget
Old Executive Office Bldg., Rm. 252
17th St. & Pennsylvania Ave., NW
Washington, DC 20503

Mr. Ron Fairweather
Acting Branch Chief
Office of Management and Budget - Natural
Resources Division
726 Jackson Pl., NW Room 822
Washington, DC 20503

Mr. Jan W. Mares
Senior Policy Analyst
Office of Policy Development
Room 472
The White House
Washington, DC 20500

Ms. Nancy J. Risque
Assistant to the President and
Cabinet Secretary
The White House
1600 Pennsylvania Ave., NW
Rm. G/WW
Washington, DC 20500

Dr. Beryl W. Sprinkel, Chairman
Council of Economic Advisers
Old Executive Office Bldg. Rm. 314
17th St. & Pennsylvania Ave., NW
Washington, DC 20500

Mr. Bob Hahn
Senior Staff Economist
Council of Economic Advisors
Old Executive Office Bldg.
17th St. & Pennsylvania Ave., NW
Washington, DC 20500

Ms. Vicki Masterman
Domestic Policy Council
The White House
Room 200
Washington, DC 20500

Honorable George P. Shultz
Secretary of State
Main State Department Bldg.
2201 C St., NW
7th Floor
Washington, DC 20520

Honorable John Negroponte, Assistant Secretary
Bureau of Oceans and International
Environmental and Scientific Affairs
Department of State
2201 C St., NW
Room 7831
Washington, DC 20520

Mr. Lee Thomas, Administrator
U.S. Environmental Protection Agency
401 M Street, S.W.
Washington, DC 20460

Mr. J. Craig Potter
Assistant Administrator
Office of Air & Radiation
U.S. Environmental Protection Agency
401 M Street, S.W.
Washington, DC 20460

Ms. Eileen B. Claussen, Director
Office of Program Development
Office of Air and Radiation
U.S. Environmental Protection Agency
401 M Street, SW
Washington, DC 20460

Mr. John Hoffman
U.S. Environmental Protection Agency
401 M Street, S.W. Rm. 1019
Washington, DC 20460

Honorable Clarence J. Brown
Acting Secretary
Department of Commerce
14th Street and Constitution Ave.
Washington, DC 20230

Mr. Michael J. Kelly, Acting Director
Office of Chemicals and Allied Products
Department of Commerce
14th & Constitution Ave., NW
Rm. 4045
Washington, DC 20230

Mr. S. Bruce Smart, Jr.
Under Secretary for International
Trade
Department of Commerce
Rm. 3850
14th St. and Constitution Ave., NW
Washington, DC 20230

Charles E. Cobb, Jr.
Assistant Secretary for
Trade Development
Department of Commerce, Room 3832
14th Street and Constitution Ave., NW
Washington, DC 20230

Honorable John S. Herrington
Secretary of Energy
Forrestal Building
Rm. 7A257
1000 Independence Ave., S.W.
Washington, DC 20585

Mr. Edward Williams
Director, Office of Environmental
Analysis
Department of Energy
Forrestal Building
1000 Independence Ave., SW
Rm. 4G-036
Washington, DC 20585

Honorable Donald P. Hodel
Secretary of the Interior
Interior Building
Rm. 6151
C Street between 18 & 19 St., NW
Washington, DC 20240

Ms. Becky N. Dunlop
Deputy Chief Operating Officer
Department of the Interior
Interior Building
Rm. 6117
C Street between 18 & 19 Sts., NW
Washington, DC 20240

Mr. Martin L. Smith
Deputy Assistant Secretary for
Policy, Budget and Administration
Department of the Interior
Interior Building, Rm. 4412
C Street between 18 & 19 St., NW
Washington, DC 20240

Ambassador Clayton Yeutter
U.S. Trade Representative
600 17th St., NW Rm. 209
Washington, DC 20506

Mr. Irving "Pep" Fuller, Director
Chemical and Advanced Technology
Trade Policy
U.S. Trade Representative Office
600 17th Street
Rm. 401
Washington, DC 20506

Mr. F. Henry Habicht II
Assistant Attorney General
Land and Natural Resources Division
Department of Justice
10th and Constitution Ave., NW
Washington, DC 20530

Honorable John Dingell
U.S. House of Representatives
Rm. 2125
Washington, DC 20530

Honorable Max Baucus
U.S. Senate
706 Senate Hart Office Building
Washington, DC 20510

Mr. C. E. O'Connell
President
Society of the Plastics Industry, Inc.
1275 K Street, NW
Washington, DC 20005

Mr. Buddy Cockrell
RPC Industries
407 Copeland Dr.
Hampton, VA 23661

Mr. Jerry Weinstein
UC Industries
2 Sylvan Way
Parsippany, NJ 07054

Mr. John McKirdy
Dow Chemical
2040 Building
Midland, MI 48674

Ms. Lorraine Aulisio
Celotex/Polyisocyanurate
Manufacuring Association
1500 N. Dale Mabry Hwy.
Tampa, FL 33607

Mr. Kevin J. Fay, Executive Director
Alliance for Responsible CFC Policy
1901 North Fort Myer Drive
Suite 1204
Rosslyn, VA 22209

Mr. John Butler
Putnam, Hayes and Bartlett
1615 L Street, NW
Suite 600
Washington, DC 20036

Mr. Joseph M. McGuire
Director of Public Affairs
Air Conditioning and Refrigeration Institute
1501 Wilson Boulevard, Sixth Floor
Arlington, VA 22209

Mr. Joe Steed
Environmental Manager
E. I. Dupont
1007 Market Street, B-13230
Wilmington, DE 19898

Ms. Elizabeth Gormley
Chemicals Manufacturers Association
2501 M. Street, NW
Washington, DC 20037

Ms. Nancy Sherman, Director
Communications and Legislative Affairs
Single Service Institute
1025 Connecticut Ave., NW Suite 513
Washington, DC 20036

Mr. Gerald Stofflet
Motor Vehicle Manufacturers Association
General Motors Corporation
151 Wendelton
Troy, MI 48084

Mr. Morris Ward, Director
Environmental Occupational Health
American Electronics Association
1612 K Street, NW, Suite 1100
Washington, DC 20006

Mr. Tim McCarthy
Motor Vehicle Manufacturers Association
of the United States, Inc.
1620 Eye Street, NW, Suite 1000
Washington, DC 20006

Mr. Robert M. Gants
Vice President - Government Relations
Association of Home Appliance Manufacturers
1901 L Street, NW
Washington, DC 20036

Ms. Theresa Pugh
Associate Director of Environmental Quality
National Association of Manufacturers
1331 Pennsylvania Ave., NW
Washington, DC 20004

Dr. J. E. Cox
Director of Government Affairs
ASHRAE
1825 K Street, NW, Suite 215
Washington, DC 20006-1202

Mr. Ray Feder
Allied Corporation
Engineered Materials Sector
P.O. Box 2332 R
Morristown, NJ 07960

Mr. Edwin Tuttle
Pennwalt
Three Parkway
Philadelphia, PA 19102

David Doniger, Esquire
Natural Resources Defense Council
1350 New York Ave., NW, Suite 300
Washington, DC 20006

Mr. Irving Mintzer
World Resources Institute
1735 New York Ave., NW Suite 400
Washington, DC 20006

Ralph

The Society of the
Plastics Industry, Inc.

SPI

1275 K Street, N.W., #400
Washington, D.C. 20005
(202) 371-5200

August 13, 1987

Mr. Stephen Seidel
U.S. Environmental Protection Agency
Washington, D.C 20460

Re: Preliminary Comments on the August 4, 1987 Presentation to SPI of CFC Regulatory Options

Dear Steve:

Thank you for your presentation on chlorofluorocarbon (CFC) regulatory options to The Society of the Plastics Industry, Inc. (SPI) on August 4, 1987. As you know, SPI is the major national trade association for the plastics industry. Members having a specific interest in proposals to regulate CFCs include producers of raw materials used in the manufacture of CFC-blown foams, producers of foam products using CFCs, along with polyurethane insulating spray foam contractors. During your presentation, you indicated that you would be interested in any reaction or response from our industry on the options you discussed. This letter provides you with some initial thoughts on the control options and suggests some possible modifications in the proposals as outlined to address some of those concerns. These comments of necessity are only preliminary, as SPI has not had the benefit of access to documents which outline the economic assumptions with respect to the Environmental Protection Agency's (EPA) control strategies. Accordingly, SPI is not in a position to recommend one option over another at the present time.

In this regard, while SPI did receive copies of an April 13, 1987 draft document entitled Preliminary Analysis of Costs and Benefits of Stratospheric Ozone Protection, you indicated that this document is still undergoing revisions. We understand that the background data and description of the assumptions made in the course of developing the April 13, 1987 draft (as well as the revised document itself) will be associated with the revised report. Although we have repeatedly been promised a copy of this revised document since early May, we have not yet received it. Given the Agency's exceedingly fast timetable for development of a proposal and preparation of a Regulatory Impact Analysis, SPI is at a severe disadvantage

as a result of its lack of access to the critical background information which has formed the basis of the EPA's current thinking on a proposed rule. Nevertheless, and with the understanding that SPI reserves the right to comment more extensively on the EPA's proposed CFC control options once we do have access to the background material, this letter will outline some of our thoughts on the strategies proposed.

Comments on EPA Action and the Proposed International Protocol

Initially, SPI notes that, as you pointed out in our meeting, the current EPA action is occurring within the framework of 1) a court-mandated deadline for regulatory decisions and 2) international negotiations on protection of the ozone layer. The international negotiations are taking place while scientific research to 1) verify the fact and extent of global ozone depletion and 2) study the causes for ozone depletion continue. Significant scientific uncertainties remain regarding the role of CFCs and other substances or phenomena with respect to ozone depletion. These comments will not address the scientific issues. Despite scientific uncertainties, SPI has indicated that a freeze on CFC emissions worldwide, while it may cause hardships to CFC user industries and impose costs on the public at large, is a prudent step given the potential risks of ozone depletion. It does not appear, however, that further reductions at the levels being discussed in the international arena are necessary to protect the environment and health. SPI is therefore providing comments to the U.S. Department of State on the proposed protocol to address this and other concerns.

Although SPI does have some concerns about certain aspects of the draft international protocol, SPI supports an international approach to stratospheric ozone control. In SPI's view, unilateral action by the EPA would not only be ineffective from an environmental standpoint, it would be unduly burdensome to American industry. SPI therefore urges the EPA to avoid unilateral action. The EPA must adhere to the framework of an international agreement with respect to both the extent and timing of CFC control strategies.

Comments on the EPA's Assessment of the Technological Feasibility and Economic Impact of Control Strategies

You pointed out at our meeting on August 4, 1987 that the EPA is proceeding with its proposed stratospheric ozone

control strategies under § 157B of the Clean Air Act. The Act specifically states that any regulations designed to control stratospheric ozone "shall take into account the feasibility and the costs of achieving such control" (emphasis added). Accurate information on the technological feasibility of control strategies and economic impact on users is thus a critically important element of the Agency's analysis required by law.

SPI has previously provided the EPA with specific information regarding the technological feasibility of certain control strategies for the foam blowing industry outlined by the EPA in its Preliminary Analysis of Costs and Benefits of Stratospheric Ozone Protection. It is not the intent of this letter to provide further detailed analysis on this score. We note, however, that some of the control options suggested for the foam plastics industry in that document can not be implemented, some have limitations due to constraints on process technology or product performance requirements, while virtually all will cost more than the Agency has estimated.

SPI will be providing additional information on the economic impact of CFC regulation on the foam plastics industry to the Agency. SPI has previously noted, however, that it appears that many secondary economic effects which could result from CFC controls, such as higher energy costs, have been ignored. Again, SPI's efforts to provide up to date information to the Agency on the economic impact of CFC controls on our industry have been seriously hampered by the failure of the Agency to provide it with the appropriate background documents.

Additionally, the Agency has assumed an excessively optimistic timetable for the development of substitutes. Many chemical substitutes are just now in the initial phase of toxicity testing. If testing indicates adverse toxicity, serious delay in the commercial availability of products made with substitutes will follow.

SPI strongly disagrees with your comments that the foam plastic industry will not suffer undue economic harm as a result of CFC controls. One key point in the EPA's April 13 Preliminary Analysis of Costs and Benefits of Stratospheric Ozone Protection is that a 30% reduction of CFC use can be obtained with a price rise of only about 7 cents a pound. Controls which are so inexpensive would in all probability have been adopted by now. While we realize that this information was contained in a "preliminary" document, SPI believes that

the Agency has significantly underestimated 1) the feasibility of technological control options within the foam plastic industry, 2) the time frame necessary for the development of chemical substitutes suitable for most foam blowing applications, 3) the likely CFC price increases which will follow from controls, 4) the time necessary for modifying and/or developing process technology suitable in foam blowing operations using substitute CFCs, and 5) the economic impact on the foam plastic industry which will ensue as a result of CFC controls.

Comments on CFC Regulatory Options

You outlined at our meeting five possible regulatory control options which are currently being considered by the Agency. You indicated that the Agency has not selected one particular option, but hopes to begin "prioritizing" the five options in the course of developing a proposed rule. Since only a relatively sketchy outline of how these various options will operate in practice is available, SPI's analysis of these options is necessarily somewhat abbreviated. We are likewise unable to recommend any particular option at present. Instead, this letter points out a number of important considerations which SPI believes need to be assessed in more detail by the Agency as it reviews the options it is currently considering. Comments on the specific options outlined follow. As noted earlier, these comments reflect SPI's preliminary reactions only to some of the more obvious issues connected with each option.

1. Marketable permits.

In your presentation, you outlined a variety of "economic incentive" plans to control CFC use. The first involves a system of marketable production permits, auctioned annually by the EPA and open to producers and users alike. Under the scheme, as you explained it at the meeting on August 4, the total number of CFC production permits would be established by the "regulatory goal." Although this goal is not defined, it is SPI's view that the "regulatory goal" must be identical to the goals established in the international protocol.

As you explained it, all CFCs would be grouped based on the depletion potential of each. In other words, specific permits to produce, e.g., CFC 11, CFC 12, etc., are not contemplated. The ultimate cost of CFCs to users would presumably reflect the permit price as well as the premium likely to evolve by virtue of the scarcity imposed by limiting the total

number of permits. Enforcement would focus on the small number of CFC producers; producers could not produce CFCs without the appropriate number of permits.

Apparently, the EPA believes that a system of marketable permits is an economically efficient means of achieving the regulatory goal. You suggested, for example, that the option "treats all firms equally." In SPI's view, government-imposed controls leading to scarcity of an important commodity will work inequitably. From an economic and technological feasibility standpoint - key issues required to be assessed by the EPA - a permit scheme will unduly penalize those for whom substitute chemicals or other reasonable control options are not available, particularly in the short term, as well as those with only limited ability to raise prices on final CFC-using products to reflect higher CFC costs.

Another significant drawback of the permit auction concept is that businesses will have no certainty for business planning purposes. Companies, including those who use CFCs and those who supply other critical raw materials to CFC using industries, need certainty for planning purposes. Business planning is frequently done yearly, and long-range "5 year plans" are developed as well. Permit auctions could disrupt these plans in the foam industry, depending on ultimate CFC prices. One consideration, for example, relates to building new facilities. For larger chemical companies, a year of planning and two years of construction could go into bringing a new facility on line suitable for manufacturing chemical products, including non-CFC materials used in foam plastics. If customers of such manufacturers can not obtain CFCs or reliable substitutes, they will not buy other materials used in foams.

You indicated that a production permit scheme will be economically efficient if firms have available to them "inexpensive" options to reduce CFC consumption. At the same time, you suggest that CFC price increases which will result from the imposition of a permit scheme are not likely to be great. SPI believes that price increases will be significant. Preliminary economic impact work prepared for the Alliance for Responsible CFC Policy, for example, suggests that a CFC production freeze alone could cause CFC prices to double in the near term.

Moreover, the Agency has failed to consider that some users are far better able to absorb even relatively modest additional CFC costs than other users. In the case of the foam plastics industry, for example, many industry members will

likely cease doing business if CFC costs increase too much. The cost of CFCs represent a high portion of the cost of foam plastics products, but the ability to pass on that cost to consumers will be limited by factors which include the price of alternative products. In contrast, many CFC users could withstand far more significant price increases without switching to alternatives, implementing control strategies, or hurting their product markets, as the increased cost can be borne more readily by the consumer. Accordingly, the price at which various CFC users are likely to turn to alternatives will vary tremendously among different user groups. Thus, firms will not be treated "equally" as you suggest; firms in the foam plastics industry will likely face much higher economic losses than firms in other industries under a pure permit auction control strategy.

Another issue which has not been considered is the likelihood that hoarding or brokering of permits will occur. It is extraordinarily naive to think that speculators in the CFC permit market will not operate to drive up the price of CFCs, just as they do with respect to markets for other commodities. For a relatively modest investment by financial market standards it seems likely that speculators would take a substantial position in the CFC permit market, thus driving up permit costs. Hoarding and brokering of permits will force CFC users to in effect pay a fee on top of a permit fee, with additional wealth transfers going to speculators, not the U.S. Treasury. Additionally, those users manufacturing products where the cost of CFCs represent a high proportion of the finished product, i.e., whose applications are more price sensitive, would be particularly vulnerable to any marketplace activity designed to unfairly drive up the price of CFCs. SPI therefore urges the Agency to specifically prohibit speculation in the permit market should this control option be selected.

You indicated that the EPA's current thinking in connection with a production permit control option is to issue a total number of permits at a level determined to be consistent with the protection of the ozone layer, and to group all CFCs based on depletion potential. You also stated that in this way CFC producers and users could all participate in the CFC auction. As you know, the various CFCs are generally used in very different markets. A CFC permit auction will not assure the availability of CFCs for all end users. It is necessary, then, that the EPA assure the availability of CFCs for end uses, like foam blowing, where substitutes do not exist for many segments of the market. Otherwise, foam blowers will

face disproportionate economic losses under a permit auction scheme.

The principal issue of concern relative to a production permit control option is the vulnerability of users, like foam blowers, for whom CFCs represent a high proportion of the total cost of the end product in which the CFC is used. In order to ensure that implementation of a permit option does not work unfairly, some protection for such users is needed. This could be done in the form of a set-aside, i.e., dedicating a certain percentage of the available permits for the specific CFCs used in the foam blowing industry for foam blowing use, based on historical use data. User permit set-asides will also preserve the viability of these end use markets, thus giving producers incentives to continue to invest in the development of substitutes.

Alternatively, user permits, based on historic use in various end product applications, could be granted to all user groups. The total permit allocation could also include an assessment of alternatives, feasibility of controls, and the like. While you indicated that the Agency believes a user permit system would be administratively burdensome, the overriding concerns under the Act must be economic impact and technological feasibility. Administrative costs will also likely be imposed on producers and users under a permitting scheme. Those costs do not appear to have been considered. Administrative burdens on the Agency might be reduced if outside groups administer the permits to users.

One unresolved issue, of course, is the legal authority of the EPA to proceed with a production or user permit auction. You indicated that attorneys within EPA are scrutinizing the issue. Given the time pressures, SPI is unable to provide you with any detailed analysis on this score, but notes that this question must be resolved. Additionally, the financial burdens imposed by the permit system might operate to inhibit research and development efforts on the part of users seeking substitutes.

2. Emissions Fees

You explained that a second option under consideration by the Agency is the imposition of "emission" fees. In reality, these fees are not fees on emissions of CFCs, but, rather, are fees on the production and importation of CFCs. In this sense, styling this control option as an "emissions fee" is a

fiction. If fees on emissions are established, then, logically, actual emissions must be the basis for the fees. In this regard, some credit or lower fee should be offered to users who destroy CFCs before they are emitted or who "capture" CFCs in such a way that they are not emitted.

Many of the same concerns outlined above in connection with the EPA's production permit control option apply to the production fee concept as well. In particular, a flat fee collected from producers who pass on the cost to users or consumers will operate unfairly with respect to users, like many in the foam blowing industry, for whom CFC costs are a high percentage of the cost of the finished product. The Agency's goal is to create economic incentives for users to reduce CFC consumption. That goal will only be satisfied if fees are set for each user group at a level designed to spur reductions in that use. This is because the level to which CFC prices must increase so that reductions will be taken, conservation efforts made, recycling technologies adopted, or substitutes used, will vary dramatically from industry to industry. Technological feasibility issues will therefore also come into play here and should be considered with respect to establishing production or emission fees.

Moreover, your own analysis indicates that adoption of this alternative as outlined will not assure that environmental goals are met. From this standpoint, it is difficult to understand why a production fee concept remains under consideration.

As with the production permit concept, the production fee proposal raises certain legal issues. Fees operate in a sense as a tax, and the EPA lacks authority to impose taxes. Fees which are high enough to discourage CFC use may also have the effect of limiting the user's available resources for research and development efforts into alternatives. A positive way to spur moves to alternatives would be to give CFC "credits" to those who use control technologies, purchase capital equipment designed for use with chemical substitutes, invest in R&D or the like. The EPA should also consider supporting legislative initiatives to give tax incentives to CFC users who adopt control strategies.

3. Production Quotas

Another option under consideration by the EPA is establishment of production quotas. Under this option, the EPA would allocate CFC production quotas to producers and importers

based on historic market share. The producers themselves would benefit from any price increases resulting from CFC scarcity. Again, the Agency is currently considering establishing quotas for total CFC production. Producers will be able to trade among themselves based on the depletion potential of the various CFCs. Since specific CFCs are destined for different end-use applications, it might be more equitable for quotas to be established for different CFCs, with periodic review and adjustment by the EPA. Again, setting aside a certain proportion of CFCs for foam blowing use will help limit the disproportionate economic impacts likely to be faced by the industry.

Additionally, an overriding concern is the potential inequity of this control option vis-à-vis many in the foam plastics industry for whom CFCs are a high cost and substitutes only a long term solution. In addition to consideration of historic CFC production data, production quotas for individual CFCs could therefore take into account the ability of the specific end-user groups for each CFC to absorb price increases so as to operate more equitably. Alternatively, production set-aside could be one means of ensuring that vulnerable user groups are able to obtain the necessary CFCs.

4. Command and Control Regulations

Command and control regulations have traditionally been the means by which the EPA has regulated industries to achieve environmental goals. Under a command and control scenario, the EPA would target specific industries for CFC controls. You explained that the criteria for selection includes (1) the availability of controls/substitutes; (2) the number and size of firms affected; (3) the quantity of CFCs used; and (4) enforceability. SPI believes that the first criteria is the most important of those listed. Obviously, the economic impact of a command and control strategy will be largely dependent on the availability of controls and chemical substitutes.

Industries which have available substitutes would lend themselves more readily to command and control regulations than those which do not. With respect to the foam blowing industry, most segments of the industry are many years away from commercially available products using chemical substitutes. This is because many end use segments of the industry must undergo lengthy and often expensive tests for flammability, toxicity, and long-term performance (such as R-value in the case of foam plastic insulation). For example, building insulation products

must be tested and accepted by building code authorities, a process which often takes years. Packaging foams also must frequently undergo stringent tests before these products can be used due to code and insurance regulations. Some segments of the foam plastic industry do have substitutes, but negative health and environmental impacts, with associated costs, could result from their use. Thus, command and control regulations imposed on the foam plastics industry could well have the effect of forcing many manufacturers out of business, particularly if imposed in the short term. The availability of substitutes in the long term will be of no use to such manufacturers.

Secondary economic impacts must also be considered. In this regard, the energy savings consumers realize by using foam plastic insulation represent an important aspect of the social utility of the product. Energy savings help to achieve other important environmental goals, such as reduction of acid rain. This type of social utility should be factored into the EPA's analysis as well.

5. Production Quotas Plus Product Bans/Controls

Under the so-called "hybrid" option, production quotas on CFCs are established based on the regulatory goal, and specific industries are then targeted for direct regulation. The same factors outlined above should be considered in targeting specific industries. While some industries may be affected and others may not, if the industries who are technologically and economically able to switch to substitutes are targeted, the overall result might well operate more equitably than some of the other options currently under consideration by the Agency. In addition, overall CFC price increases may be minimized.

Conclusion

You have been provided with SPI documents relating to extruded polystyrene rigid foam insulation boardstock and polyurethane and polyisocyanurate insulation. We suggest that these documents be consulted as further background to support the questions SPI has raised regarding the uncertain viability of substitute CFCs, both technically and economically. The issues of substitute availability, cost of CFCs in the interim, and adequate time to make the transition given the kind of testing yet to be done are the overriding concerns for our industry.

We hope that our preliminary comments on the options you outlined are useful to you. We look forward to a continuing dialogue with the EPA on this matter. We again reiterate, however, our need for the relevant background documents to enable us to engage in a meaningful exchange of ideas with the Agency.

Respectfully submitted,

Margaret Rogers
Director, Federal Government Affairs
The Society of the Plastics Industry, Inc.

THE WHITE HOUSE
WASHINGTON

September 11, 1987

TO: Nancy Risque

FROM: Ralph Bledsoe

Attached is a cable received from Montreal. I have highlighted some significant statements. The bottom line is noted in the first highlight that complex issues remain. They may have to have weekend sessions.

There will be a meeting tomorrow at the State Department at 10:30 a.m. Bob Johnson and I will attend, and Richard Benedick will be there.

~~CONFIDENTIAL~~

WHITE HOUSE SITUATION ROOM

PRT: BLEDSOE
SIT: EOB VAX

<PREC> IMMEDIATE <CLAS> CONFIDENTIAL <DTG> 111252Z SEP 87

FM AMCONSUL MONTREAL

TO SECSTATE WASHDC IMMEDIATE 8515

~~C O N F I D E N T I A L~~ SECTION 01 OF 04 MONTREAL 02997
FROM USMISSION ICAO
DEPT. FOR OES, J. NEGROPONTE AND PASS TO EPA,
L. THOMAS AND WHITE HOUSE/DPC, R. BLEDSOE
E.O. 12356: DECL: OADR
TAGS: SENV, ETRD, UNEP
SUBJECT: OZONE PROTOCOL NEGOTIATIONS (MONTREAL)
-- STATUS REPORT
1. (C - ENTIRE TEXT).
2. FOLLOWING PROVIDES STATUS AS OF 5 P.M. THURSDAY OF FAST-PACED NEGOTIATIONS WHICH HAVE INVOLVED NIGHT SESSIONS SINCE MONDAY. WHILE SIGNIFICANT PROGRESS IS BEING MADE, COMPLEX ISSUES REMAIN. SCHEDULE CALLS FOR AVAILABILITY OF COMPLETE TEXT (WITH BRACKETED LANGUAGE) BY FRIDAY AFTERNOON. HOWEVER, THIS MAY NOT BE ACHIEVABLE, AND THERE ARE RUMORS NOW OF WEEKEND SESSIONS. BECAUSE OF UNANTICIPATED DEADLOCKS THURSDAY, UNEP EXECUTIVE DIRECTOR TOLBA CANCELLED TRIP TO ADDRESS WILDLIFE CONFERENCE IN COLORADO, WHICH WOULD HAVE KEPT HIM AWAY FROM CONFERENCE THURSDAY NIGHT TO SATURDAY NIGHT. USDEL WILL CABLE FULL TEXT IMMEDIATELY AS IT BECOMES AVAILABLE. GIVEN TRADE-OFFS ON LINKAGES AMONG VARIOUS ARTICLES, IT DOES NOT SEEM USEFUL TO SEND TEXT PIECEMEAL. MUCH OF WHAT FOLLOWS REPRESENTS TENTATIVE, INFORMAL VIEWS AND DECISIONS, SINCE EVERYONE IS WAITING TO SEE HOW PIECES (DEVELOPED IN NUMEROUS WORKING GROUPS) FIT TOGETHER, AND WHAT TRADE-OFFS CAN BE MADE.
3. ATMOSPHERICS - NEGOTIATIONS ATTENDED BY 31 COUNTRIES, PLUS EUROPEAN COMMUNITY. IN CONTRAST TO PREVIOUS ROUNDS, DEVELOPING COUNTRY PARTICIPATION IS MUCH MORE ACTIVE AND BETTER COORDINATED THROUGH ATTENDANCE OF CHINA, PERU, INDONESIA, KUWAIT, YEMEN, PHILIPPINES AND TUNISIA IN ADDITION TO ARGENTINA, BRAZIL, COLOMBIA, EGYPT, GHANA, KENYA, MEXICO, AND VENEZUELA. DISCUSSIONS CHARACTERIZED BY DETERMINED OPTIMISM THAT EFFECTIVE PROTOCOL CAN AND MUST BE ACHIEVED BY END OF DIPLOMATIC CONFERENCE NEXT WEDNESDAY. INDIVIDUAL EC MEMBER STATES MUCH MORE OPEN AND ENGAGED THAN IN PAST WHEN THEY DEFERRED TO COMMISSION: AND U.S.-EC RELATIONSHIP ALSO CLOSER AND MORE COOPERATIVE. A MAJOR BREAKTHROUGH IS JAPAN, WHICH IS PASSIVELY, IF NOT OPENLY, SUPPORTING NEARLY ALL U.S. POSITIONS, REPRESENTING CRITICAL CHANGE IN PRIOR JAPANESE POSITION ON HALONS AND 50 PERCENT

REDUCTION. JAPANESE REPS ARE NEARLY CERTAIN THAT JAPAN WILL SIGN PROTOCOL NEXT WEEK, BARRING TECHNICAL DELAY IN FINAL INSTRUCTION FROM TOKYO.
4. STATUS AND PRINCIPAL ISSUES (BY ARTICLE).
(A) ARTICLE 1 (DEFINITIONS AND SCOPE) - DEFINITIONS BEING ADJUSTED, IN PARTICULAR TO FIND NON-QUANTITATIVE MEANS OF DEFINING BULK SUBSTANCES (I.E., AS A REPLACEMENT FOR QUOTE 20 PERCENT BY WEIGHT OR VOLUME UNQUOTE EXPRESSION). NO MAJOR PROBLEMS, ALTHOUGH U.K. HAS PROPOSED DEFINITION OF CONTROLLED SUBSTANCES THAT EXCLUDES CFC 502, WHICH CONTAINS 50 PERCENT OF CFC 115. U.S. IS OPPOSING THIS PROPOSAL AND HAS OFFERED ALTERNATIVE DEFINITION.
(B) ARTICLE 2 CONTROL MEASURES) -
(I) BASE YEAR - SOVIETS ARGUING FOR 1990 BASE YEAR BECAUSE THEIR 1986-1990 NATIONAL PLAN CALLS FOR NEW CFC PRODUCTION CAPACITY TO MEET INTERNAL CONSUMPTION. U.S., EC, NORDICS, CANADA, NEW ZEALAND, OBJECTING, WHILE TRYING TO EXPLORE OPTIONS WHICH MIGHT ENCOURAGE ACCESSION BY SOVIETS AS WELL AS OTHER MEDIUM/LOW-CONSUMING COUNTRIES. THURSDAY A.M. SOVIETS INSISTED ON LEEWAY TO REACH 0.5 KG. PER CAPITA TO ESTABLISH THEIR BASE FOR FUTURE REDUCTIONS, WHICH WOULD IMPLY ADDITION TO GLOBAL PRODUCTION OF APPROXIMATELY 70-80,000 KILOTONS ABOVE EXISTING SOVIET PRODUCTION. THEY ARGUE THAT BECAUSE OF THEIR LOW EXISTING PER CAPITA CONSUMPTION AND LOW HISTORIC CONTRIBUTION TO THE OZONE DEPLETION PROBLEMS, THEY SHOULD BE GIVEN FLEXIBILITY TO INCREASE DOMESTIC CONSUMPTION BEFORE EMBARKING ON PHASE-DOWN SCHEDULE. SOVIETS ARE ADAMANT, BUT ISOLATED. THEY ALSO SEEM TO BE CONCERNED ABOUT NOT SIGNING PROTOCOL, AND SEEM GENERALLY CONFUSED BY THE FAST AND COMPLEX
BT
#2997
BT
~~C O N F I D E N T I A L~~ SECTION 02 OF 04 MONTREAL 02997
FROM USMISSION ICAO
DEPT. FOR OES, J. NEGROPONTE AND PASS TO EPA,
L. THOMAS AND WHITE HOUSE/DPC, R. BLEDSOE
E.O. 12356: DECL: OADR
TAGS: SENV, ETRD, UNEP
SUBJECT: OZONE PROTOCOL NEGOTIATIONS (MONTREAL)
PACE OF NEGOTIATIONS ON THE CONTROL ARTICLE IN TOLBA'S QUOTE INFORMAL UNQUOTE WORKING GROUPS, WHICH ARE HELD ONLY IN ENGLISH.
(II) REGULATORY MEASURES - SCENARIO OF CFC FREEZE - 20 PERCENT REDUCTION - ADDITIONAL 30 PERCENT REDUCTION APPEARS TO HAVE BEEN ACCEPTED BY ALL. ISSUE REMAINS OVER TIMING, WITH CONSENSUS BUILDING FOR 10-YEAR PERIOD (RATHER THAN 8 YEARS) WITH FIRM ANCHOR DATE OF JANUARY 1, 1999 FOR REACHING SECOND REDUCTION STEP (I.E., 50 PERCENT TOTAL REDUCTION). EC (PRESSED BY U.K. AND FRANCE) SUGGESTS FIRST CUT OF 20 PERCENT TO TAKE EFFECT JANUARY 1, 1994, RATHER THAN IN 4 YEARS AFTER ENTRY INTO FORCE (EIF), AS IN PREVIOUS TEXTS. FREEZE IS NOW AGREED AT ONE YEAR AFTER EIF

(SEE ARTICLE 15, BELOW).
(III) HALONS - AFTER MOVE BY EC COMMISSION, PLUS U.K. AND FRANCE, TO ELIMINATE HALONS FROM PROTOCOL AND COVER THEM MERELY WITH CONFERENCE RESOLUTION CALLING FOR QUOTE FUTURE DECISION BY PARTIES UNQUOTE, EC NOW APPARENTLY WILLING TO ACCEPT HALONS WITHIN PROTOCOL, WITH A FREEZE ON CONSUMPTION AFTER THREE YEARS OF EIF, AS IN EARLIER TEXT. THIS WOULD BE IN EXCHANGE FOR AGREEMENT TO STRETCH OUT 50 PERCENT REDUCTION FROM 8 TO 10 YEARS (SEE PRECEEDING PARAGRAPH).
(IV) DECISION-MAKING - AFTER INITIAL U.S. EFFORT TO MAKE DECISIONS ON POSSIBLE REVERSAL OF CONTROLS AND OTHER ADJUSTMENTS TO PROTOCOL (E.G., ADDITION/SUBTRACTION OF CHEMICALS; FURTHER REDUCTION STEPS) TO REQUIRE QUOTE TWO-THIRDS MAJORITY REPRESENTING AT

Non-EIF Weighted voting

LEAST 90 PERCENT OF GLOBAL CONSUMPTION UNQUOTE WAS UNIVERSALLY REJECTED, U.S. IS CURRENTLY PUSHING FOR 67 PERCENT. DEBATE ON THIS NOT SUFFICIENTLY ADVANCED TO JUDGE LIKELY OUTCOME, WITH MANY COUNTRIES CLEARLY FAVORING NO WEIGHTING FACTOR AT ALL.

(V) CONTROL QUOTE FORMULA UNQUOTE - FORMULA FOR CONTROLLING PRODUCTION/CONSUMPTION REMAINS A CENTRAL ISSUE, ALTHOUGH PROGRESS HAS BEEN MADE IN RESOLVING SPLIT OVER ADJUSTED PRODUCTION (C EQUALS P PLUS I MINUS E) AS FAVORED BY U.S., CANADA, NEW ZEALAND AND NORDICS AND E.C. STRAIGHT PRODUCTION APPROACH. BILATERALS ON SUNDAY AND TOLBA GROUP DISCUSSIONS MONDAY MADE CLEAR THAT THE EC ARRIVED JUST AS COMMITTED TO PRODUCTION CONTROLS AS U.S., CANADA AND NEW ZEALAND WERE TO CONSUMPTION CONTROLS. NORDICS AND JAPANESE FAVORED CONSUMPTION CONTROLS, BUT MADE CLEAR THEY WERE WILLING TO ACCEPT THE COMBINED CONTROLS IN THE SEVENTH REVISED DRAFT TEXT AS A QUOTE COMPROMISE UNQUOTE. USDEL BELIEVES THAT PROPOSAL (DESCRIBED BELOW) REPRESENTS SOUND CONCEPT COMPATIBLE WITH U.S. OBJECTIVES AND INTERESTS. APPROACH IS TO PROVIDE FOR GAP BETWEEN CONSUMPTION AND PRODUCTION TARGETS FOR INDIVIDUAL COUNTRIES (AT EACH STAGE OF FREEZE/REDUCTION SCENARIO) WHICH WOULD ALLOW THE EXCESS PRODUCTION CAPACITY TO MEET THE NEEDS OF DEVELOPING COUNTRIES AND ALSO PROVIDE FOR QUOTE RATIONALIZATION UNQUOTE OF PRODUCTION AMONG PRODUCING COUNTRIES BY ENABLING, E.G. U.S. TO INCREASE PRODUCTION TO MEET CANADIAN NEEDS IF LATTER CLOSES PLANT WHICH BECOMES INEFFICIENT AFTER REDUCTION CONTROLS TAKE EFFECT. BECAUSE PRODUCTION INCREASES IN SOME COUNTRIES WOULD BE OFFSET BY DECREASES IN OTHER COUNTRIES, THE NET EFFECT ON GLOBAL CONSUMPTION WOULD BE NEUTRAL (EXCEPT FOR THE ADDITIONAL CONSUMPTION MARGIN ALLOWED TO LOW-CONSUMING DEVELOPING COUNTRIES (SEE ARTICLE 5 BELOW).

(C) ARTICLE 3-CALCULATION OF CONTROL LEVELS - ONLY ISSUE INCLUDES CONCERN OF SEVERAL COUNTRIES ABOUT ACCURACY OF OZONE DEPLETION POTENTIALS AND

SUGGESTION THAT THEY BE DROPPED AS A FACTOR IN CALCULATING EMISSIONS. USDEL BELIEVES THIS WILL BE TURNED ASIDE, AS WE AND OTHERS HAVE ARGUED FOR THE NEED TO INCLUDE DEPLETING POTENTIAL.

BT

#2997

BT

~~C O N F I D E N T I A L~~ SECTION 03 OF 04 MONTREAL 02997

FROM USMISSION ICAO

DEPT. FOR OES, J. NEGROPONTE AND PASS TO EPA, L. THOMAS AND WHITE HOUSE/DPC, R. BLEDSOE

E.O. 12356: DECL: OADR

TAGS: SENV, ETRD, UNEP

SUBJECT: OZONE PROTOCOL NEGOTIATIONS (MONTREAL)

ARTICLE 4 - (CONTROL OF TRADE) - ISSUES SEEM WELL ON WAY TO RESOLUTION ALONG LINES OF U.S. PREFERENCE/GUIDANCE. HOWEVER, FULLY-AGREED TEXT NOT POSSIBLE AT THIS TIME, DUE PRIMARILY TO BRAZILIAN ATTEMPTS TO EXEMPT TRADE RESTRICTIONS ON LDC NON-PARTIES. WITH RESPECT TO PARAGRAPH 2, LIST OF PRODUCTS CONTAINING CONTROLLED SUBSTANCES WOULD BE DRAWN UP BY PARTIES AT LATER TIME, WITH CONTROLS APPLYING TO NON-PARTIES, WITHIN 4 YEARS OF EIF. AGREEMENT WAS REACHED ON PARAGRAPH 7 EXEMPTION, WITH U.S. PROPOSED LANGUAGE OF QUOTE COMPLIANCE AS DETERMINED BY THE PARTIES UNQUOTE ACCEPTED.

(E) ARTICLE 5-(LOW-CONSUMING COUNTRIES) - USDEL MANAGED TO GET TITLE (AND CONCEPT) AMENDED TO RESTRICT THIS EXEMPTION/GRACE PERIOD TO DEVELOPING COUNTRIES (I.E., WHICH WOULD ELIMINATE USSR FROM POSSIBLE QUALIFICATION). DEVELOPING COUNTRIES, LED BY BRAZIL, ARGENTINA, GHANA, VENEZUELA AND CHINA ARE NOW PRESSING FOR CFC CONSUMPTION LEVEL TO BE SET AT 0.3 KG/CAPITA (RATHER THAN 0.1 OR 0.2 AS IN PREVIOUS TEXT.) USDEL INSISTING ON LOWER NUMBER, BUT PREPARED TO ACCEPT 0.3 FIGURE IN INTEREST OF ATTRACTING CHINA AND OTHER LDCS. THIS IS CONSISTENT WITH INTERAGENCY DISCUSSIONS IN WASHINGTON LAST WEEK AND U.S. INDUSTRY VIEWS EXPRESSED PRIVATELY DURING THESE NEGOTIATIONS. CONSENSUS HAS BEEN REACHED THAT GRACE PERIOD WILL EXTEND FOR 10 YEARS. DURING THAT TIME LDCS THAT REACH AGREED-UPON CONSUMPTION LEVEL AS CONSUMPTION GROWS WOULD THEN BE FROZEN AT THAT LEVEL.

DEVELOPING COUNTRIES WOULD THEN FOLLOW THE REDUCTION SCHEDULE TO 80 PERCENT AND THEN 50 PERCENT, DELAYED BY TEN YEARS FROM THE YEARS WHEN OTHER COUNTRIES MUST COMPLY. DEVELOPING COUNTRIES NOW ABOVE THE AGREED LEVEL (0.2 OR 0.3) WOULD BE REQUIRED TO REDUCE TO THAT LEVEL BUT NOT TO MAKE FURTHER REDUCTIONS DURING THE INITIAL 10 YEAR GRACE PERIOD.

(F) ARTICLE 6 - (REVIEW AND ASSESSMENT) - USDEL INTRODUCED LANGUAGE TO ENSURE THAT SCIENTIFIC/TECHNICAL/ECONOMIC REVIEW, AND ASSESSMENTS BY PARTIES, ARE KEPT TO MAIN DECISION POINTS OF REGULATORY CONTROL SCHEDULE. WE FURTHER PROPOSED ESTABLISHMENT OF EXPERTS PANEL ON

TECHNOLOGICAL/ECONOMIC ASPECTS IN ADDITION TO PREVIOUSLY AGREED-UPON SCIENTIFIC GROUP.

(G) ARTICLES 7 - 17, DATA-TECHNICAL ASSISTANCE MEETING OF PARTIES, ETC. WITH EXCEPTION OF ARTICLE 15, BELOW, NO MAJOR ISSUES REMAIN. U.K. RAISED DATA CONFIDENTIALITY ISSUE EARLY IN WEEK BUT HAVE NOT PRESSED ANY LANGUAGE CHANGES: AND JAPAN QUESTIONING FINANCIAL MECHANISM.

(H) ARTICLE 15 (ENTRY INTO FORCE) - AS ENVISIONED, THIS REMAINS MAJOR STUMBLING BLOCK. UNEP EX DIR TOLBA CHARACTERIZED EIF THIS A.M. AS QUOTE THE MAJOR PROBLEM, GIVEN TRIO OF FIRMLY HELD POSITIONS UNQUOTE. HE DESCRIBED THESE AS QUOTE FAMOUS AND WELL-KNOWN U.S. 90 PERCENT PRODUCTION APPROACH: WHICH HE OBSERVED HAD NO SUPPORT; (2) THOSE COUNTRIES WHICH FAVOR NO WEIGHTING AT ALL; AND (3) HIS OWN COMPROMISE OF 60 PERCENT. (ACTUALLY, USSR SUPPORTED 90 PERCENT. EC AND JAPAN APPEAR TO HAVE NO PROBLEM WITH 60 PERCENT.) PROBLEM OF EIF REQUIREMENT WAS EXACERBATED WHEN EC COMMISSION REPRESENTATIVE BRINKHORST ADMITTED THAT EC ASSESSION WOULD NOT CARRY WITH IT THE ABILITY TO BRING IN AND COMMITT ALL MEMBER NATIONS. RATHER, MEMBER STATES ENJOY SOVEREIGNTY OF JOINING OR NOT JOINING, SO THAT EACH WOULD PROBABLY JOIN SEPARATELY, ADDING THEIR VOTES AND INDIVIDUAL CONSUMPTION PERCENTAGES SERIALLY. THUS, THE IMPRESSION OF U.S. AND ALL OTHERS UP UNTIL NOW

BT

#2997

BT

~~C O N F I D E N T I A L~~ SECTION 04 OF 04 MONTREAL 02997

FROM USMISSION ICAO

~~CONFIDENTIAL~~

WHITE HOUSE SITUATION ROOM

DEPT. FOR OES, J. NEGROPONTE AND PASS TO EPA,
L. THOMAS AND WHITE HOUSE/DPC, R. BLEDSOE
E.O. 12356: DECL: OADR
TAGS: SENV, ETRD, UNEP
SUBJECT: OZONE PROTOCOL NEGOTIATIONS (MONTREAL)
THAT WHEN E.C. JOINS IT WOULD REPRESENT OVER
40 PERCENT OF GLOBAL PRODUCTION WAS ERRONEOUS. AT
THIS POINT ANY SUPPORT U.S. HOPED TO GET FOR
SOMETHING CLOSE TO 90 PERCENT REQUIREMENT EVAPORATED.
BRINKHORST STATED THAT THE 9 EC MEMBERS IN
ATTENDANCE WILL ALL SIGN AND RATIFY.
(NON-ATTENDEES ARE IRELAND, GREECE AND PORTUGAL.)
HE ALSO PROPOSED ADDING QUOTE DATES CERTAIN
UNQUOTE TO ENTRY INTO FORCE AND THE CONTROL
SCHEDULE WHICH WOULD CALL FOR E.G.,
EIF TO OCCUR BY JANUARY 1, 1989 WITH THE
FREEZE TWELVE MONTHS LATER AND REDUCTION
STEPS AS DESCRIBED ABOVE. (EIF WOULD STILL BE
SUBJECT TO NUMBER OF RATIFICATION AND
PERCENTAGE OF GLOBAL CONSUMPTION REQUIRED.) WHILE
LARGELY SYMBOLIC, THE EIF DATE WOULD
HELP THE COMMISSION AND MORE PROGRESSIVE EC MEMBERS
TO GENERATE PRESSURE ON OTHER EC MEMBERS TO
RATIFY (ACCORDING TO BRINKHORST AND REPS OF
FRG, BELGIUM AND DENMARK).

NEGOTIATIONS CONTINUING ON THIS
ISSUE, WITH U.S. HOLDING FIRM TO ITS 90 PERCENT
POSITION. THIS WILL UNDOUBTEDLY BE
ONE OF SEVERAL ISSUES CARRIED OVER INTO
DIPLOMATIC CONFERENCE. IT IS CLEAR THAT MOST
COUNTRIES WILLING TO ACCEPT 11 COUNTRY
RATIFICATIONS, RATHER THAN 9, TO BRING PROTOCOL,
INTO EFFECT.
(I) REIO ISSUE: THE EC REMAINS INSISTENT THAT
THE PROTOCOL INCLUDE PROVISIONS WHICH
PERMIT REIO-MEMBER STATES TO FULFILL THEIR
OBLIGATIONS UNDER ARTICLE 2 (CONTROL MEASURES)
JOINTLY. THEIR NEW PROPOSAL LIMITS JOINT TREATMENT
ONLY TO MEMBER STATES OF SUCH ORGANIZATIONS THAT
ARE PARTIES TO THE PROTOCOL AND REQUIRES
THAT SUCH STATES' JOINT PRODUCTION/CONSUMPTION
NOT EXCEED LEVELS SET IN ARTICLE 2. SIGNIFICANTLY,
THE NEW PROPOSAL DOES NOT PROVIDE FOR GROUP
COMPLIANCE FOR ARTICLE 4 (CONTROL OF TRADE WITH
NON-PARTIES). PROTOCOL WILL MOST LIKELY BE
QUOTE MIXED UNQUOTE AGREEMENT FOR THE EC, THAT IS,
BOTH THE ORGANIZATION AND MEMBER STATES WILL BECOME
PARTIES. EC COMMISSION REPRESENTATIVES
HAVE INDICATED THAT THEY EXPECT ALL OR VIRTUALLY
ALL EC-MEMBER STATES TO JOIN THE PROTOCOL, AND HAVE
STRESSED THE STRONG ENFORCEMENT ROLE THE COMMISSION
INTENDS TO PLAY VIS-A-VIS ITS MEMBER STATES
REGARDING IMPLEMENTATION OF THE PROTOCOL. U.S.
AND OTHER DELEGATIONS ARE STUDYING THE NEW
EC PROPOSAL IN CONJUNCTION WITH OTHER DEVELOPMENTS.
STOHR
BT
#2997

THE WHITE HOUSE
WASHINGTON

Date: September 17, 1987

TO: Senator Baker

FROM: **NANCY J. RISQUE** Nancy

I prepared this and submitted it last night, but if at all possible, and if you agree, I would very much like to bring Lee in for 5 to 10 minutes to brief the President today (after Philadelphia)? If time does not permit, I'll ask Rhett to put paper forward and submit a recommended telephone call.

Visit ✓ Telephone call ___

Thanks.

THE WHITE HOUSE

WASHINGTON

September 16, 1987

MEMORANDUM FOR THE PRESIDENT

FROM: NANCY J. RISQUE

SUBJECT: International Protocol on Chlorofluorocarbons

On behalf of the U.S., EPA Administrator Lee Thomas today signed an international protocol aimed at protecting the stratospheric ozone layer by limiting the future world-wide emissions of chlorofluorocarbons (CFCs) and halons. Joining the United States in signing the protocol, among others, were members of the European Community, Japan and the Soviet Union - ensuring that the protocol will enter into force after next year.

The U.S. delegation in Montreal and an interagency team in Washington worked together to insure that your instructions were carried out. The protocol requires Senate ratification.

Outlined below are some of the major issues that arose during the negotiations of which you should be aware:

o Entry Into Force. The delegation was able to obtain in the protocol a provision that it shall enter into force on January 1, 1989, provided that it is ratified by least eleven parties representing two-thirds of 1986 estimated global consumption of the controlled substances. These parties would represent countries that now produce over 80% of the CFCs and halons.

o Soviet Allowance. Throughout the negotiations the Soviets wanted reductions based upon 1990 production levels, because of their current five year plan. The U.S. delegation and the other negotiating parties were unanimously opposed to changing the base year from 1986 levels. The Soviets were isolated but firm. A compromise was worked out that allows any party with production facilities under construction or planned for completion prior to the end of 1990 to increase their annual per capita consumption of CFCs and halons up to 0.5 kilograms. We agreed to this because now the Soviets have agreed (as did others) to report their production and consumption levels of CFCs and halons - something they had opposed earlier - and are committed to limit their CFC and halon production. Neither would have been achieved without the compromise.

o European Community. The European Community (EC) proposed that any regional economic integration organization should be allowed to jointly fulfill their obligations. This would, in effect,

allow the EC an advantage in world trade markets, by permitting reductions by one member country to offset increases in production by another member country as long as the EC totals were reduced. The compromise was that the EC could jointly meet consumption reductions, but each country would be required to individually meet reduced production levels for CFCs and halons. It was also agreed that all the member countries must join in the protocol for this to be permitted.

o Timing. Some timing changes were also accepted to get more desirable features in the protocol. The freeze on halons will take effect at the end of three years, instead of the "one or two years" contained in your instructions. This was needed to get the EC to agree to include halons in the controlled substances listing. Also, a ten year period for the 50% reduction of CFCs was agreed to, instead of the "about eight years" contained in your instructions. The first phase of a 20% reduction of CFCs will occur during the fifth year after entry into force, instead of the "four years" contained in your instructions. The second phase, a further 30% CFC reduction, will occur five years after the first phase. This timing ensured that Japan would agree to the protocol.

All of the fundamental principles contained in your instructions - a weighted voting system, a grace period for lesser developed countries, strong enforcement provisions, periodic assessments of the control provisions, and equitable trade provisions - were incorporated into the protocol.

Overall, the United States was a leader in drafting an international protocol that will reach your ultimate objective of protecting the ozone layer through supporting actions determined to be necessary based on regularly scheduled scientific assessments. This is a significant Administration achievement on both the domestic and the world environmental front.

The Ozone Treaty

THE REAGAN administration deserves enormous credit for the part it played in achieving the world ozone treaty signed this week. On most environmental issues the administration has been more laggard than leader. On this the reverse has been true. Environmental administrator Lee Thomas and Secretary of State George Shultz were able to brush aside the minority of objecting ideologues within the administration and produce a sound position.

The treaty signed in Montreal under U.N. auspices must still be ratified, but that is thought likely. It deals with chlorofluorocarbons, or CFCs, compounds widely used—in air conditioning, refrigeration, the manufacture of a wide variety of foam products and as solvents—because, among their other attributes, they are cheap, durable and neither flammable nor toxic. But when released into the atmosphere, as almost all eventually are, these compounds rise to mix with and dilute the ozone layer that shields the Earth from ultraviolet radiation. A thinning of the ozone layer is thought likely to lead to more skin cancer, crop and other plant damage and serious climatic changes.

The treaty would freeze CFC production in 1990 at 1986 levels, then cut it in half by 1999. By itself this might not be enough to stop attenuation of the ozone layer. But the 50 percent cut is thought likely to stimulate development of alternate compounds, which will then supplant the offending CFCs. The chemical industry feels confident that it can produce such compounds. That may have helped to make this an easier treaty to negotiate; the affected interest group had less to lose. But the industry has behaved in exemplary fashion even so.

Some people hope the ozone treaty will become the example for other such agreements. We don't know if it can, but it is an extraordinary achievement on its own terms, the more so because of how quietly it was brought about. A major environmental threat has apparently been deflected with very little of the shouting that usually accompanies such problems—maybe *because* there was so little shouting. Good for everyone involved.

Wash Post Sept 18, 1987

THE WHITE HOUSE

WASHINGTON

September 17, 1987

MEETING WITH LEE THOMAS

Date: September 18, 1987
Location: Oval office
Time: 10:00 a.m. (10 minutes)

From: Nancy J. Risque

I. PURPOSE

To brief you and answer any questions you may have about the international protocol -- aimed at protecting the stratospheric ozone layer -- which was signed by Lee Thomas in Montreal on September 16, 1987. This short meeting will give you an opportunity also to thank Lee for all he did to ensure unified Administration support that culminated in this historic protocol.

II. BACKGROUND

On June 18, 1987, the Domestic Policy Council discussed with you their recommendations on U.S. positions on provisions of the protocol. You gave instructions to the Domestic Policy Council and the negotiators on June 25, 1987.

The fundamental principles contained in your instructions were incorporated into the protocol. I have attached a memorandum outlining some of the issues.

The Domestic Policy Council will receive a briefing on the results of the negotiations next week. You will not be meeting with them at that time. The protocol, which must be ratified by the Senate, will be prepared appropriately for transmittal by you to Congress.

III PARTICIPANTS

Senator Baker, Lee Thomas, Nancy Risque

IV. PRESS PLAN

White House photographer only.

V. SEQUENCE OF EVENTS

We will meet you in the Oval Office. No decisions are required at this point.

Attachment: Issues memorandum

United States Department of State

Washington, D.C. 20520

September 1, 1987

MEMORANDUM

TO: Ben Cohen
White House: Counsel's Office

FROM: Debbie Kennedy
State: Legal Adviser's Office

SUBJECT: Ozone Protocol: Summary of Negotiation and Ratification Process

The attached document briefly describes the remaining steps of the international negotiations on the Ozone protocol and the process of U.S. ratification of the agreement. Feel free to call me if you have any further questions on this subject.

cc: Richard Benedick

Procedural Steps of Ozone Protocol
Negotiations and of U.S. Ratification Process

A. Domestic Process Prior to Signature

1. Request for Authorization to Sign the Agreement. This request takes the form of an action memorandum (typically from the Assistant Secretary of the bureau with substantive responsibility for the subject to which the agreement relates) addressed to the Secretary or, except when a Full Power is to be issued at the same time, any other Principal to whom such authority has been delegated -- i.e., the Deputy Secretary or an Under Secretary. The memorandum is cleared with various State Department bureaus and any other agency which has primary responsibility or a substantial interest in the subject matter.

2. Request for Issuance of Full Power. The full power is is formal evidence of the authority of a particular representative, named in the instrument, to sign the agreement on behalf of his/her government. It is used only for the signing of treaties. The full power is prepared by the State Department's Office of the Assistant Legal Adviser for Treaty Affairs, and must be signed by the Secretary or Acting Secretary of State. It normally is requested at the same time the request for authority to sign the agreement is made.

B. Remaining Steps of International Negotiations

1. September 7: Meeting of legal experts and informal meeting between UNEP Executive Director and selected heads of delegations to the Ad hoc Working Group of Legal and Technical Experts for the Preparation of a Protocol on Ozone-Depleting Substances to the Vienna Convention for the Protection of the Ozone Layer.

2. September 8 - 11: Meeting of Ad hoc Working Group of Legal and Technical Experts for the Preparation of a Protocol on Ozone-Depleting Substances to the Vienna Convention for the Protection of the Ozone Layer. The objective is to have a virtually complete draft of the protocol (the Eighth Revised Draft Protocol) ready by the end of the session on Sept. 11 for review by governments over the weekend.

3. September 14 - 16: Conference of Plenipotentiaries on the Protocol: Consideration by conference of the draft protocol and the report of the Ad hoc Working Group. Discussion of unresolved issues and finalization of the agreement. Adoption of the final text by the conference. (Adoption is the process by which the content of the proposed agreement is settled by the delegates; it is not an expression of a State's agreement to be bound by the agreement, which

Nancy - per Ralph . . .

C. took care of schedule through yesterday

D. Ratification timetable is up to us after state is through. Ralph will call state to get an idea of their schedule

occurs only upon specific expression of its consent -- e.g., through ratification, accession, acceptance.) Adoption of the Final Act of the Conference. (The Final Act may contain a summary of the conference proceedings, names of the States that participated, and resolutions adopted by the conference. It does not contain any international commitments.)

C. U.S. Signature of the Agreement

1. Available Time Period: Under Article 14 of the Seventh Revised Draft Protocol, the protocol will be open for signature in Montreal on September 16 -- at the conclusion of the Conference of Plenipotentiaries. Thereafter, it will be open for signature in Ottawa from September 17, 1987 to January 16, 1988 and at the UN Headquarters in New York from January 17, 1988 to September 16, 1988. If the U.S. does not sign the protocol in Montreal, it could sign subsequently in Ottawa or New York.

2. Significance: Signature connotes a State's intent to seek in good faith the necessary domestic authorization for ratification or acceptance and any implementing legislation or regulations. A signatory State is obliged to refrain from acts which would defeat the object and purpose of the treaty until it makes it intention clear not to become a party to the treaty.

D. U.S. Ratification Process

Because of the breadth and importance of the proposed protocol, a preliminary decision has been made to conclude it as a treaty pursuant to Article II, Section 2 of the Constitution. After U.S. signature of the protocol, the following steps would be those taken in connection with U.S. ratification of the agreement. The consent of the U.S. to be bound by the treaty is expressed by its ratification of the agreement.

1. The Department of State would prepare a treaty package consisting of (a) an explanatory report signed by the Secretary or Acting Secretary of State providing background information on the protocol and an analysis of its provisions; (b) a message to be signed by the President transmitting the protocol to the Senate for its advice and consent to ratification; and (c) a certified copy of the protocol itself.

2. After the report is signed by the Secretary of State, the package is submitted to the White House (via the National Security Council) to obtain the President's signature of the message. The package is then transmitted by the White House to the Senate, where it would be referred to the Senate Foreign Relations Committee (SFRC) for appropriate action.

3. Related documents could be sent to the Hill under separate cover. For example, the environmental impact statement (EIS) may be sent directly to the SFRC by the Department of State. Proposed legislation deemed necessary to implement the protocol, if any, would be transmitted to the Congress through normal OMB procedures.

4. The Committee probably would schedule hearings on the protocol.

5. The Committee would then schedule the protocol on its calendar for a vote, and should the Committee report favorably on the protocol, it would be considered for advice and consent by the full Senate. The Senate normally takes action on treaties in the form of a resolution of ratification.

6. Once approved by a two-thirds vote of those present, the Senate's resolution of ratification is then returned with the certified copy of the treaty to the State Department, at which time an instrument of ratification is prepared in duplicate, forwarded to the White House for the President's signature, returned to State where it is also sealed and signed by the Secretary of State.

7. The protocol, as envisaged, does not appear to require additional legislation for U.S. implementation. The promulgation of additional regulations will be required, however, in order for the U.S. to implement the agreement. Pursuant to the terms of a court order in issued in litigation against the EPA Administrator by the Natural Resources Defense Council, EPA must publish by December 1, 1987 a proposed decision on the need for further domestic regulation under the Clean Air Act of certain ozone-depleting chemicals. A final EPA decision is required by August 1, 1988.

8. After the promulgation of implementing regulations, the U.S. instrument of ratification would be deposited with the Secretary General of the United Nations, the depositary for the Ozone Convention and protocol.

9. The protocol would enter into force for the United States according to the provisions on entry into force specified in the protocol.

10. The final step of the U.S. treaty process is the issuance of a proclamation signed by the President, which declares that on and after the protocol's entry into force, it shall be observed and fulfilled by the U.S., its citizens, and persons subject to U.S. jurisdiction. The proclamation is prepared by the Department of State for the President's signature and printed in the Federal Register.

Drafted:L/T:MBrandt;L/OES:DKennedy:647-1370:22830

Clearance:L/T:HCollums

THE WHITE HOUSE

WASHINGTON

September 17, 1987

MEMORANDUM FOR THE PRESIDENT

FROM: NANCY J. RISQUE

SUBJECT: International Protocol on Chlorofluorocarbons

On behalf of the U.S., EPA Administrator Lee Thomas yesterday signed an international protocol aimed at protecting the stratospheric ozone layer by limiting the future world-wide emissions of chlorofluorocarbons (CFCs) and halons. Joining the United States in signing the protocol were twenty-three other countries, including members of the European Community and Japan - ensuring that, following ratification, the protocol will enter into force after next year. Forty-nine nations, including those who signed the protocol, signed an act approving the meeting's activities. The Soviet Union endorsed the protocol, but their delegation did not have the authority to sign. Countries will have six months within which to formally sign the protocol.

The U.S. delegation in Montreal and an interagency team in Washington worked together to insure that your instructions were carried out. The protocol requires Senate ratification.

Outlined below are some of the major issues that arose during the negotiations of which you should be aware:

o Entry Into Force. The delegation was able to obtain in the protocol a provision that it shall enter into force on January 1, 1989, provided that it is ratified by at least eleven parties representing two-thirds of 1986 estimated global consumption of the controlled substances. These parties would represent countries that now produce over 80% of the CFCs and halons.

o Soviet Allowance. Throughout the negotiations the Soviets wanted reductions based upon 1990 production levels, because of their current five year plan. The U.S. delegation and the other negotiating parties were unanimously opposed to changing the base year from 1986 levels. The Soviets were isolated but firm. A compromise was worked out that allows any party with production facilities under construction or planned for completion prior to the end of 1990 to increase their annual per capita consumption of CFCs and halons up to 0.5 kilograms. We agreed to this because now the Soviets have agreed (as did others) to report their production and consumption levels of CFCs

and halons - something they had opposed earlier - and are committed to limit their CFC and halon production. Neither would have been achieved without the compromise.

o European Community. The European Community (EC) proposed that any regional economic integration organization should be allowed to jointly fulfill their obligations. This, in effect, would have allowed the EC an advantage in world trade markets, by permitting reductions of one member country to offset increases in production of another member country as long as the EC totals were reduced. A compromise was reached that allowed the EC to jointly meet consumption reductions, but each country would be required to individually meet reduced production levels for CFCs. It was also agreed that all the member countries must join in the protocol for this to be permitted.

o Timing. Some timing changes were also accepted to get more desirable features in the protocol. The freeze on halons will take effect at the end of three years, instead of the "one or two years" contained in your instructions. This was needed to get the EC to agree to include halons in the controlled substances listing. Also, a ten year period for the 50% reduction of CFCs was agreed to, instead of the "about eight years" contained in your instructions. The first phase of a 20% reduction of CFCs will occur during the fifth year after entry into force, instead of the "four years" contained in your instructions. The second phase, a further 30% CFC reduction, will occur five years after the first phase. This timing ensured that Japan would agree to the protocol.

All of the fundamental principles contained in your instructions - a weighted voting system, a grace period for lesser developed countries, strong enforcement provisions, periodic assessments of the control provisions, and equitable trade provisions - were incorporated into the protocol.

Overall, the United States was a leader in drafting an international protocol that will reach your ultimate objective of protecting the ozone layer through supporting actions determined to be necessary based on regularly scheduled scientific assessments. This is a significant Administration achievement on both the domestic and the world environmental front.

others he did acknowledge or signal that he was using someone else's words. And, as many sages have observed in the past couple days, campaigning politicians are notorious magpies in any event, swooping down and flying off with one another's phraseology much more than anyone likes to allow. In the age of the ghostwritten everything it is doubly hard to know when you have left the realm of merely deplorable common practice and entered the outrage zone.

identity, something very individual and [illegible] to the speaker.

To appropriate and incorporate something of this character into your rhetoric is really strange. It is the inauthenticity of the cry as issued forth from Sen. Biden, its derivative, simulated nature that troubles. We suspect that it is this, rather than the question of whether Sen. Biden properly credited all his citations, that is troubling people about what has been revealed.

The Ozone Treaty

THE REAGAN administration deserves enormous credit for the part it played in achieving the world ozone treaty signed this week. On most environmental issues the administration has been more laggard than leader. On this the reverse has been true. Environmental administrator Lee Thomas and Secretary of State George Shultz were able to brush aside the minority of objecting ideologues within the administration and produce a sound position.

The treaty signed in Montreal under U.N. auspices must still be ratified, but that is thought likely. It deals with chlorofluorocarbons, or CFCs, compounds widely used—in air conditioning, refrigeration, the manufacture of a wide variety of foam products and as solvents—because, among their other attributes, they are cheap, durable and neither flammable nor toxic. But when released into the atmosphere, as almost all eventually are, these compounds rise to mix with and dilute the ozone layer that shields the Earth from ultraviolet radiation. A thinning of the ozone layer is thought likely to lead to more skin cancer, crop and other plant damage and serious climatic changes.

The treaty would freeze CFC production in 1990 at 1986 levels, then cut it in half by 1999. By itself this might not be enough to stop attenuation of the ozone layer. But the 50 percent cut is thought likely to stimulate development of alternate compounds, which will then supplant the offending CFCs. The chemical industry feels confident that it can produce such compounds. That may have helped to make this an easier treaty to negotiate; the affected interest group had less to lose. But the industry has behaved in exemplary fashion even so.

Some people hope the ozone treaty will become the example for other such agreements. We don't know if it can, but it is an extraordinary achievement on its own terms, the more so because of how quietly it was brought about. A major environmental threat has apparently been deflected with very little of the shouting that usually accompanies such problems—maybe *because* there was so little shouting. Good for everyone involved.

been found guilty of various public mistrusts, our n
not. Therefore, I must presume he is innocent.

MO SU
W

The Petroleum Institute on Be

The Post's editorial Sept. 4 suggests that the American Petroleum Institute helped delay issuance of a new benzene standard of 1 ppm (one part benzene to a million parts of air) by arguing before the Supreme Court that the government had failed to prove "that benzene was a significant risk."

The fact is that in our court brief (filed July 30, 1979) the API forthrightly acknowledged that exposures to high levels of benzene are dangerous.

In the brief, the petroleum industry said:

"Because benzene has been exhaustively studied, far more is known about its health effects than most other chemicals. Short-term exposure to high benzene concentrations (over 250 ppm) can result in 'acute' reactions ranging from headache to rapid death at levels of about 20,000 ppm. Long-term exposure to levels above the present 10 ppm standard can produce 'chronic' toxicity, including bone marrow depression, aplastic anemia, pancytopenia and chromosomal changes.

"For many years, there has been evidence (including unsystematic population studies and case reports dating back as far as 1897), that exposure to high benzene concentrations (in excess of 100 ppm) can cause leukemia. None of these studies or reports, however, associated benzene concentrations below 100 ppm with leukemia."

These statement
the petroleum indu
aware of the need
exposure to benze
industry now, and
decade, have gener
levels well below th
ppm announced Se
tional Safety and H

However, the
maintain, as it d
1986 benzene ru
ing, that there is
tainty about any
lowering benzene
low 10 ppm. More
onstrated during t
the risk assessm
OSHA are flawed
stated historical
zene and oversta
sures.

The API agree
finding that "empl
the provisions of
conscientiously m
they are protectin
and employees wo
ployers can feel
are receiving subs

WIL
Vice President,

they didn't have to
chair the group
that worked on this!