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THE WHITE HOUSE

WASHINGTON

April 7, 1987

MEMORANDUM FOR NANCY J. RISQUE

FROM: VICKI MASTERMAN

SUBJECT: Stratospheric Ozone Depletion Summary

This responds to your request for a memorandum summarizing the stratospheric ozone issue and the actions to date.

The Ozone Depletion Problem

Strong international and domestic concern exists over ozone depletion caused by emissions of chlorofluorocarbons (CFCs) reacting chemically in the upper atmosphere (stratosphere). Ozone is an essential buffer of ultraviolet light; significant depletion could cause skin cancer, suppress the human immune system, retard crop production, damage aquatic and terrestrial ecosystems, and contribute to global warming.

Although stratospheric ozone concentrations have decreased over the past seven years, it is unclear whether any significant change in natural ozone levels has occurred. The only area where scientists have observed significant depletion is Antarctica. There, ozone depletion of approximately 50 percent has been found every spring since 1985. Scientists are not sure of the cause of the Antarctic depletion. Potential causes include chemical emissions, the solar cycle and climate change. Significant global depletion is expected to occur absent global emissions reduction efforts. EPA has estimated ozone depletion of 25 percent by 2075 at current rates of CFC emissions growth.

Scientists are unable to predict when depletion will occur or what levels of CFC emissions will trigger significant depletion. Yet the sudden unexplained appearance of the Antarctic ozone hole suggests large global changes could be irreversible before scientists will conclusively find that significant depletion has occurred. Complicating the policy problem further is the fact that substantial CFC emissions will continue for years after a decision to curb emissions. This is because the industrial transition to CFC substitutes and emissions controls will take time, and products containing CFCs (e.g. refrigerators and air conditioners) may continue to emit the ozone depleting gases for years during use. There is also a question as to how soon ozone would recover after significant depletion; CFCs have an atmospheric lifetime of 75 to 100 years.

International and Domestic Actions

International: The Vienna Convention for the Protection of the Ozone Layer, ratified by the Senate in July 1986, established an international framework for scientific cooperation and initiated negotiations toward a protocol for controls on ozone depleting chemicals. The United States, through the State Department and EPA, has participated in two negotiating sessions toward a Protocol to the Vienna Convention on the Control of Chlorofluorocarbons (Geneva, December 1986, and Vienna, February 1987). The next negotiating session is scheduled for April 27-30, 1987 in Vienna. The final negotiating session is tentatively scheduled for July 1987, with the diplomatic signing ceremony tentatively scheduled for September 1987 in Canada.

The State Department received authority to negotiate an emissions control protocol pursuant to interagency approval of the November 28, 1986 Circular 175 requesting such authority. The Circular 175 authorized the delegation to negotiate an international agreement requiring a near-term freeze on emissions of ozone depleting chemicals and a long-term reduction of emissions by as much as 95 percent depending upon scientific developments. The United States delegation's negotiating strategy in the early stages of the negotiations has been to explore the potential for a 95 percent reduction over an unspecified period of time.

As the negotiations toward a protocol move into the final stages, some departments and industrial representatives are concerned that the United States may commit to unreasonable reductions. On the other hand, some believe the the United States has already committed to long-term reductions and would object to changing that position.

Domestic: EPA banned CFC use in nonessential aerosols in 1978 and is now considering further controls. Pursuant to a judicial consent decree resulting from a lawsuit against EPA by an environmental group, the agency must issue a notice summarizing its findings regarding an ozone protection plan by May 1987. The notice will either propose further regulation of ozone depleting chemicals or present the basis for a proposed decision to take no further action at this time.

In addition to administrative action, several Senators have proposed a complete phase-out of ozone depleting chemicals. Also, in 1980, representatives of CFC affected industries formed the Alliance for Responsible CFC Policy. The Alliance advocates reducing the growth of CFC production rather than reducing emissions. In addition, the Alliance strongly advocates international rather than unilateral domestic action in order to protect U.S. competitiveness.

Proposals for domestic ozone protection programs are largely dependent upon the outcome of the international negotiations toward a protocol on the control of ozone depleting chemicals.

EPA has announced its intent to place considerable emphasis on United States participation in the international discussions as it formulates domestic CFC control policy. The legislative parties drafting the proposed emissions control bills and the environmental parties threatening continued ozone litigation have been attending the international negotiations as observers. Indeed, they have been basing their domestic actions on the progress of the international negotiations.

Status of the Issue

The Interior Department, the Commerce Department, OMB and the Office of the U.S. Trade Representative have expressed reservations about the direction of the international negotiations toward a protocol on control of ozone depleting chemicals. Some representatives have questioned whether we are committing to a reduction in CFC emissions before science has determined such a reduction is necessary.

In response to these concerns, OMB is sponsoring a series of briefings on ozone issues for any interested executive branch representatives. The briefings started last week and will conclude this week. The issues covered include the science, the economics, the models for predicting ozone depletion, the effects of depletion and the effects on industry of emissions controls. The Energy, Natural Resources, and Environment Working Group is also considering potential DPC involvement in ozone policy.

THE WHITE HOUSE

WASHINGTON

April 7, 1986

NOTE FOR OZONE SUBGROUP MEMBERS

FROM: VICKI MASTERMAN *VM*

SUBJECT: Draft Ozone Paper

Attached is a partial draft of an ozone issue paper. The options portion is only in summary form as a few of you are providing information to delineate the specific elements of each option and to quantify the pro's and con's of the various options.

We hope this draft will encourage you to provide written or oral comments very quickly. Our plan is to develop a draft that this subgroup will bring to the working group next week. Please call if you have any questions, 456-2749 or 456-6640.

Here is Vicki's draft of the background

Steve Delano

*FIS
320-5785*

4

Draft Ozone Paper

ISSUE

What should the Administration's position be regarding the April United Nations negotiations toward an international protocol for control of ozone depleting chemicals?

BACKGROUND

Strong international and domestic concern exists over ozone depletion caused by emissions of chlorofluorocarbons (CFCs) reacting in the upper atmosphere (stratosphere). Ozone is an essential buffer of ultraviolet light; significant depletion could cause skin cancer, suppress the human immune system, retard crop production and damage aquatic and terrestrial ecosystems.

Although stratospheric ozone concentrations have decreased over the past seven years, it is unclear whether any significant change in natural ozone levels has occurred. The only area where scientists have observed significant depletion is Antarctica. There, ozone depletion of approximately 50 percent has been found every spring since 1985. Scientists are not sure of the cause of the Antarctic depletion. Potential causes include chemical emissions, the solar cycle and climate change. Global depletion is expected to occur absent global reduction efforts.

Scientists are unable to predict when depletion will occur or what levels of chemical emissions will trigger significant depletion. Yet the sudden unexplained appearance of the Antarctic ozone hole suggests large global changes could occur before scientists observe them. Further complicating the problem is the fact that substantial CFC emissions will continue for years after a decision to curb emissions. This is because the industrial transition to CFC substitutes and emissions controls will take time, and products containing CFCs (e.g. refrigerators and air conditioners) may continue to emit the ozone depleting gases for years during use. There is also a question as to how soon ozone would recover after significant depletion; CFCs have an atmospheric lifetime of 75 to 100 years.

The Vienna Convention for the Protection of the Ozone Layer, ratified by the Senate in July 1986, established an international framework for scientific cooperation and initiated negotiations toward a protocol for controls on ozone depleting chemicals. The United States has had a leading role in the negotiations toward a control protocol. The next negotiating session is scheduled for April 27-30, 1987. The last negotiating session is tentatively scheduled for July 1987, with the diplomatic signing ceremony tentatively scheduled for September in Canada.

There is domestic as well as international movement toward controls on ozone depleting chemicals. Several Senators have proposed a complete phase-out of ozone depleting agents. And in response to a judicial consent decree, EPA must either propose controls or present the basis for taking no action by May 1987.

Industry recognizes the need for some form of control on ozone depleting agents. The industrial Alliance for Responsible CFC Policy favors reducing the growth of CFC production rather than reducing emissions and strongly disfavors unilateral domestic controls that would disadvantage U.S. competitiveness.

DISCUSSION

Causes of Depletion

Emissions of man-made chemicals are changing the chemical composition of the atmosphere. In particular, atmospheric concentrations of chemicals known to deplete ozone are increasing. These chemicals are: chlorofluorocarbons (CFCs) 11, 12, and 113; halons 1211 and 1301; methyl chloroform; and carbon tetrachloride. Global atmospheric concentrations of CFCs 11 and 12 have been growing in recent years at a rate of five percent per year. Concentrations of CFC 113 have been increasing at a rate of 10 percent per year. Concentrations of halon 1211 have been increasing by 23 percent a year. No trend estimates have been published for halon 1301. Concentrations of methyl chloroform have been increasing by 7 percent a year, and of carbon tetrachloride by 1 percent a year.

Measurements also show atmospheric increases in ozone enhancing agents. These chemicals are carbon dioxide and methane. Concentrations of nitrogen oxides are also increasing; these chemicals deplete ozone in the upper atmosphere (stratosphere) and enhance ozone in the lower atmosphere (troposphere). Even though emissions of ozone enhancing agents offset total atmospheric depletion, the offset is not sufficient to prevent ozone depletion at current emission rates. Moreover, the ozone enhancing chemicals increase ozone concentrations in the lower atmosphere while depletion occurs in the upper atmosphere, altering the vertical distribution of ozone. Ozone in the lower atmosphere can be dangerous as it is a toxic gas and it contributes to global warming.

At current use volumes, CFCs 11 and 12 have the most ozone depleting potential, followed by CFC 113. Industrialized countries have relied heavily on CFCs 11 and 12 for use as aerosol propellants, refrigeration, foam-blowing, and solvents. The following is a proportional breakdown of uses:

CFC 11

<u>Use</u>	<u>World</u>	<u>United States</u>
Rigid Foam	39%	51%
Aerosol	31%	5%
Flexible Slabstock	15%	15%
Flexible Molded	4%	5%
Chillers	3%	6%
Unallocated	8%	18%

CFC 12

<u>Use</u>	<u>World</u>	<u>United States</u>
Aerosol	32%	4%
Mobile Air Conditioning	20%	37%
Rigid Foam	12%	11%
Refrigerators	6%	6%
Chillers	1%	1%
Miscellaneous	7%	10%
Unallocated	22%	31%

While use of CFC 113 has not been as great as use of the other CFCs, 113 is increasingly used in solvents for cleaning electronic equipment.

CFC emissions occur in production of the chemicals, in use of the chemicals (operating losses and leakage) and in destruction of products containing CFCs (e.g. foam crushing). Once emitted into the atmosphere, CFCs have unusually long atmospheric lifetimes of 75 to 100 years. Their chemical stability and unusual persistence enables them to reach the stratosphere where they react with ultraviolet radiation to release ozone-depleting chlorine.

Halons 1211 and 1301 are used in fire extinguishers. Current production of these chemicals is relatively low. However, halons contain bromine which has much greater ozone depleting potential than the chlorine in CFCs.

Scientists are not sure of the cause of the Antarctic ozone hole. Potential causes include man-made ozone depleting chemicals, the solar cycle, and climate change.

Depletion Projections

Various scientific models have predicted the future ozone depletion expected to result from varying rates of CFC growth. Projections of future depletion are also dependent upon the relative growth rates of the other ozone depleting and ozone enhancing chemicals.

EPA has estimated global ozone depletion in 2075 for six alternative CFC global use scenarios (assuming constant rates for other ozone altering chemicals). For reference in assessing these EPA projections, it may be useful to note that studies of future CFC demand estimate the median annual growth rate for CFCs 11 and 12 as 2.5 percent. The United Nations Environment Program suggested scenario testers use a range of 0% to 5% annual growth for CFCs 11 and 12 for the 1986-2100 period.

World

<u>CFC Use</u>	<u>Projected Ozone 2075</u>
Decrease 80% by 2010	3% Increase
Constant (1985-2100)	.3% Increase
1.2% Increase 1985-2050 and no growth 2050-2100	4.5% Depletion
2.5% Increase 1985-2050 and no growth 2050-2100	25% Depletion
3.8% Increase 1985-2050 and no growth 2050-2100	>50% Depletion
5% Increase 1985-2050 and no growth 2050-2100	>50% Depletion

Questions exist regarding the accuracy of the models. Generally, observational data support model predictions of the atmospheric concentrations of chemicals. Yet there is a 20-50 percent discrepancy between observed and predicted ozone in the upper stratosphere even though the accuracy of ozone predicting models is increasing with time. The models also failed to predict the 50 percent seasonal ozone depletion in Antarctic ozone that scientists confirmed in 1985.

Effects of Depletion

Depletion of the total amount of atmospheric ozone would increase the amount of harmful ultraviolet radiation reaching the earth. Although many uncertainties exist as to the precise impacts of the increase in ultraviolet radiation, scientific data and/or case studies indicate it would increase nonmelanoma skin tumors, increase cutaneous malignant melanoma, suppress the human immune system, increase cataracts, reduce crop yield, harm aquatic life, accelerate the degradation of polymers, and contribute to global warming and the attendant sea level rise threatening coastal populations.

Of all of the potential adverse effects of ozone depletion, the best scientific data exists for the likely increases in skin cancer. Several studies suggest that the ultraviolet radiation

naturally absorbed by ozone is the most important solar radiation component in the incidence of common skin cancer (nonmelanoma tumors). The mortality rate from nonmelanoma skin cancer is two percent. Health projections indicate there will be 500,000 new cases of nonmelanoma skin cancer in 1987 with an expected mortality of 10,000. Studies show that a one percent increase in the ultraviolet radiation absorbed by ozone results in a 1.8 - 2.5 percent increase in the incidence of nonmelanoma skin tumors. (A one percent depletion in ozone increases the weighted ultraviolet radiation by about two percent.)

Although there is uncertainty about the relationship between solar radiation and the more serious form of skin cancer, cutaneous malignant melanoma, much evidence supports the link between solar radiation and this disease. Health projections indicate there will be 25,000 new cases of cutaneous malignant melanoma in 1987; the mortality rate from this disease is 30 percent.

Numerous variables affect the incidence of either form of skin cancer including duration of exposure, latitudinal location at time of exposure, time of day, time of year, behavior (clothes and sunscreens) and pigmentation of the skin. White people, whose skin contains less protective melanin, have higher incidence of skin cancer than people with more melanin. The higher incidence of skin cancer among white people than among non-white populations suggests the increase in skin cancer incidence from ozone depletion may not be as important globally as in the United States and western Europe.

Unfortunately, very little scientific data exists to assess the likely adverse effects of ozone depletion with the greatest potential global impact -- suppression of the immune system and disruption of aquatic and terrestrial ecosystems. These data are not likely to be available for a long time at current research funding levels. Even if the necessary research were undertaken immediately, meaningful results would not be available for years. Case studies suggest the potential effects of immune system suppression and ecosystem disruption would be disastrous and irreversible. In the studies conducted on plants and animals, ultraviolet radiation weakens the immunological system and reduces the ability to resist disease. Several studies also indicate that the immune response of humans is depressed by ultraviolet radiation. There is, however, no evidence as to the magnitude of the risk. Likewise, limited studies of the effect of ultraviolet radiation on crops and aquatics generally show adverse impacts, but are not sufficient to quantify the overall risk.

human

Status of International and Domestic Actions

(Status of Int'l & Domestic Actions)

International -- The United States, through the State Department and EPA, has played a leading role in the negotiations toward a Protocol to the Vienna Convention on the Control of Chlorofluorocarbons. The State Department received authority to negotiate a protocol pursuant to inter-agency approval of the November 28, 1986 Circular 175 requesting such authority. The Circular 175 authorized the delegation to negotiate a protocol providing for:

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

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

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

The next negotiation toward a protocol is scheduled for April 27-30, 1987. As the Circular 175 authorized, the United States has pressed for a near-term freeze on emissions of CFCs and halons and for long-term emissions reductions of up to 95 percent subject to periodic scientific assessment. A proposed reduction of 95 percent has not been well-received in the negotiations. Short of the 95 percent proposal, countries have various preferences. A significant issue is how to deal with developing countries that have not reaped the economic benefits of CFC use and thus have not caused the ozone depletion problem, yet also threaten to contribute to depletion as they industrialize and use CFCs for aerosols, refrigeration, solvents and foam-blowing.

Domestic -- The United States has substantially reduced CFC use in aerosols and is now considering further controls on ozone depleting chemicals. In 1978, the United States unilaterally reduced CFC use as an aerosol propellant pursuant to an EPA ban of CFC use in nonessential aerosol spray cans. Prior to 1978, CFC use in aerosols was 56 percent of United States CFC use and 25 percent of world use. Aerosols now represent less than five percent of United States use of CFCs 11 and 12, yet remain the largest single use of CFCs outside of the United States (31 percent).

As a result of a lawsuit by an environmental group against EPA, the agency plans to issue a notice summarizing its findings regarding an ozone protection program by May 1987. The notice will either propose further regulation of ozone depleting chemicals or present the basis for a proposed decision to take no

further action at this time.

Proposals for domestic ozone protection programs are largely dependent upon the outcome of the international negotiations toward a protocol on the control of ozone depleting chemicals. EPA's public announcement of its intent to announce its ozone protection plan findings by May 1987 placed considerable emphasis on United States participation in the international discussions. Indeed, the legislative parties drafting ozone protection bills and the environmental parties threatening continued litigation have been attending the international negotiations toward a protocol and have been basing their domestic actions on the progress of international negotiations. In 1980, representatives of U.S. industry formed the Alliance for Responsible CFC Policy. The Alliance has emphasized that any control action must be global in scope to protect the ozone layer and to prevent disadvantaging U.S. industrial competitiveness.

Two important scientific studies should be completed this calendar year. First, a team of scientists from NASA, NOAA, industry and universities is evaluating the existing data on the amount of the decline in total atmospheric ozone concentrations over the past several years. The team is reanalyzing the data with a view toward addressing the inconsistencies and the uncertainties. The team's findings will be ready in late 1987. Second, a team of scientists from government laboratories and universities is analyzing the results of the 1986 National Ozone Expedition in the Antarctic. This team is assessing the most recent measurements of the Antarctic ozone hole and is analyzing the potential causes.

Additional scientific studies are continuing. For example, NASA, NOAA and the Chemical Manufacturers Association are sponsoring the 1987 Airborne Ozone-Hole Campaign to study Antarctic ozone loss in July through September 1987.

OPTIONS

1. Continue Circular 175 Process

The Administration could let the State Department and EPA continue to negotiate toward a protocol on ozone depleting chemicals pursuant to the Circular 175 process. Under this process, the delegation would coordinate the inter-agency review of the U.S. negotiating positions as the international discussions progress.

(Delineation of elements of options and pro's and con's .. still to come.)

2. Advise the U.S. Delegation of Desired Positions

The Administration could select a negotiating position for the delegation to take to the next round of talks. This position would be selected from among a range of negotiating options including:

- a. Freeze plus 95% reduction in 10-14 years.
- b. Freeze plus 40-70% reduction in 6-10 years.
- c. Freeze plus 20-40% reduction in 6-10 years.
- d. Freeze only

Within each alternative negotiating position, sub-options exist for the chemicals to be covered by the agreement, for the processes to be covered by the agreement (production, consumption, adjusted production), and for the countries to be covered by the agreement (i.e. equity issues for developing countries, trade issues with non-parties).

Each potential negotiating position would be subject to future scientific assessment.

3. Impose Domestic Controls Unilaterally

EPA could impose controls on U.S. ozone depleting chemicals while the delegation continues to participate in international discussions.

4. Await Scientific Results for International or Domestic Action

The Administration could delay international agreement or domestic action until there is more scientific certainty about the likely levels of ozone depletion and the causes of depletion.

THE WHITE HOUSE

WASHINGTON

June 17, 1987

MEMORANDUM FOR THE DOMESTIC POLICY COUNCIL

FROM:

RALPH C. BLEDSOE *Ralph Bledsoe*
Executive Secretary

SUBJECT:

Domestic Policy Council Meeting of June 18

Attached are an agenda and materials for the Domestic Policy Council meeting with the President on Thursday, June 18, 1987 at 2:00 p.m. in the Cabinet Room. The topic to be discussed is Stratospheric Ozone.

The background paper contains a listing of issues pertaining to this topic which were reviewed by the Council on May 20 and June 11. The purpose of the meeting will be to seek the President's guidance for the U.S. delegation to the international negotiations on a protocol for reducing depletion of the stratospheric ozone layer.

Attachment

THE WHITE HOUSE

WASHINGTON

DOMESTIC POLICY COUNCIL

Thursday, June 18, 1987

2:00 p.m.

Cabinet Room

AGENDA

1. Stratospheric Ozone -- Lee M. Thomas
Administrator
Environmental Protection Agency

THE WHITE HOUSE

WASHINGTON

June 17, 1987

MEMORANDUM FOR THE DOMESTIC POLICY COUNCIL

SUBJECT: Stratospheric Ozone

ISSUE: What guidance should the U.S. delegation be given for the next stages of international negotiation of an agreement for regulation of chemicals believed capable of future depletion of stratospheric ozone?

BACKGROUND:

Beginning in the 1970's, concerns were expressed in some parts of the scientific community that continued growth in the use of certain chemicals would result in future depletion of stratospheric ozone. Scientists' models predict this could cause adverse health and environmental effects, including increased skin cancer deaths, cataracts, effects on the immune system, damage to crops and materials and impacts on aquatic life. Other scientists believe that some of these projections, which extend as far as the year 2165, do not accurately account for numerous scientific uncertainties and for future technological, scientific, medical and behavioral changes that may occur. The chemicals in question, chlorofluorocarbons (CFCs) and Halons, are used commercially in refrigerators, building and mobile air-conditioners, foam insulation and fire extinguishers, and by the electronics industry. Some of them have important national defense applications for which there are currently no substitutes.

Based on their models, most scientists now believe that significant ozone depletion is likely to occur by the year 2040 unless global action is taken to control the chemicals at issue, even though there are numerous medical and scientific uncertainties about the potential impacts of such depletion. Ideally, any freeze or reduction in CFCs should be based on reliable scientific evidence that use of CFCs will cause depletion of stratospheric ozone. While there are differing views within the Council on the reliability of the scientific evidence available at this time, the long life of CFC accumulations, and the consequent risk assessments associated with projected ozone depletion argue for strong action to secure an international agreement this year, with provision for future scientific assessment. Since U.S. participation in an international agreement will require domestic regulations, the Domestic Policy Council will address these and potential non-regulatory options as additional policy guidance is needed.

Congressional Interest. Concern over the predicted depletion of ozone led Congress to add an ozone protection section to the Clean Air Act in 1977 and led EPA to ban CFC aerosols in 1978. Some other countries subsequently implemented partial bans of CFC aerosol use. Currently, there is strong congressional pressure for additional action to protect the ozone layer. The Senate has passed a resolution calling for a strong international agreement, and urging an automatic reduction in CFC production of fifty percent. If an effective international agreement is not reached, and we fail to secure firm and concrete commitments from other countries, Congress and the courts may require unilateral domestic reductions of the chemicals in question. Such U.S. action, alone, would not protect the ozone layer and would disadvantage American businesses in world markets.

International Negotiations. The U.S. is a party to the 1985 Vienna Convention for Protection of the Ozone Layer. (Note: Although the Convention is not in effect yet, we expect it will be ratified by a sufficient number of countries.) The President's ratification message to the Senate stated that this Convention addresses stratospheric ozone depletion "primarily by providing for international cooperation in research and exchange of information . . . and could also serve as a framework for negotiation of regulatory measures that might in the future be considered necessary. . . ." The U.S. has received considerable credit by some in Congress for its leadership role in the three negotiating sessions held thus far to develop an international agreement on control of the chemicals in question. However, some are concerned that not all emerging industrialized nations have participated in the negotiations. The U.S. interagency delegation has been guided by a Circular 175 approved under the authority of the Secretary of State, following approval by some agencies at various staff levels. The next negotiating session is scheduled for June 29, 1987 with a plenipotentiary conference scheduled in Montreal in September to sign the agreement.

Cost-Benefit. In a cost benefit analysis relying on EPA estimates of ozone depletion effects on cancer deaths thought 2165, the potential benefits of taking some actions to protect the ozone layer were found to be substantially greater than the costs of controlling the relevant chemicals. Cost benefit analysis suggests that both a freeze and a further 20-percent reduction of the ozone-depleting chemicals are economically justified. Further reductions are also indicated in a majority of cases, depending on information that will be acquired prior to taking such steps.

DISCUSSION: The most recent international negotiations have produced a Chairman's Text for an agreement based on the structure presented by the U.S. Each country has been asked to review this Text prior to the June 29 meetings. The Domestic Policy Council met on May 20 and June 11 to discuss the Chairman's Text, as well as the overall negotiations. The Council agreed that we should continue with negotiations.

ISSUE 1 -- PARTICIPATION AND ENTRY INTO FORCE OF THE PROTOCOL

Ideally, all nations that produce or use ozone-depleting chemicals should participate in the protocol if it is to address globally the ozone depletion problem. Otherwise, production of CFCs by nonparticipants could eventually offset reductions by the participating countries.

Which of the following positions should the U.S. delegation seek with regard to entry into force (EIF) and continuing effect of the protocol?

_____ Option 1. Entry into force of the protocol should occur only when a substantial proportion of producing/consuming countries as determined by the U.S. delegation have signed and ratified it.

_____ Option 2. Entry into force should occur only when, according to a pre-determined formula, essentially all major producing/consuming countries have signed and ratified the protocol.

_____ Option 3. Entry into force should occur when the specific minimum number of countries required by the Convention have signed and ratified the protocol, regardless of their production or consumption.

ISSUE 2 -- GRACE PERIOD FOR LESSER DEVELOPED COUNTRIES

To encourage participation by all countries, should lesser developed nations be given a limited grace period up to the year 2000, to allow some increases in their domestic consumption? This has been the U.S. position.

Yes _____ No _____

ISSUE 3 -- VOTING

Should the U.S. delegation seek to negotiate a system of voting for protocol decisions that gives due weight to the significant producing and consuming countries?

Yes _____ No _____

ISSUE 4 -- MONITORING AND ENFORCEMENT

Should the U.S. delegation seek strong provisions for monitoring, reporting, and enforcement to secure the best possible compliance with the protocol?

Yes _____ No _____

ISSUE 5 -- CREDITS FOR PREVIOUS ACTION

Should the delegation seek a system of credits for emissions reduction for the 1978 U.S. ban of non-essential aerosols? In previous negotiations, other countries rejected this proposal, claiming that the U.S. is still the largest consumer of CFCs.

_____ Option 1. Yes.

This would assure the consideration of previous actions taken to deal with ozone depletion.

_____ Option 2. No.

This could stalemate the negotiations, and stimulate unnecessary proposals from other parties.

ISSUE 6 -- FREEZE

Should the U.S. delegation seek a freeze at 1986 levels on production/consumption of all seriously ozone-depleting chemicals (CFCs 11, 12, 113, 114, 115; Halons 1201 and 1311), to take effect one or two years after the protocol entry into force? This proposal is consistent with the Chairman's Text.

Yes _____

No _____

A freeze will achieve a majority of the health and environmental benefits derived from retention of the ozone layer. It will also spur industry to develop substitutes for ozone-depleting chemicals. Halons are not presently mentioned in the Chairman's Text, but it is intended that they will be included. The earliest expected entry into force (EIF) date is 1988.

ISSUE 7 -- SCHEDULED 20% REDUCTION

Should the U.S. delegation seek a 20% reduction from 1986 levels of CFCs 11, 12, 113, 114 and 115, 4 years after EIF, about 1992, following the 1990 international review of scientific evidence?

_____ Option 1. The 20% reduction should take place automatically, unless reversed by a 2/3 vote of the parties.

This is consistent with the Chairman's Text and the Circular 175. CFC 113 has national defense applications for which there are currently no available substitutes.

_____ Option 2. The 20% reduction should take place only if a majority of the parties vote in favor following the 1990 scientific review.

_____ Option 3. Further reductions should not be scheduled at this time. We may later decide to seek these in light of future scientific evidence.

ISSUE 8 -- SECOND PHASE REDUCTION

Should the U.S. delegation seek a second-phase CFC reduction of an additional 30% from 1986 levels, consistent with the Chairman's Text? This would occur about 8 years after EIF (about 1996).

_____ Option 1. Yes, and this should occur automatically, unless reversed by a 2/3 vote of parties, following scientific review.

_____ Option 2. Yes, and this should occur only if a majority of the protocol parties vote in favor, following scientific reviews.

_____ Option 3. Further reductions should not be scheduled at this time. We may later decide to seek these in light of scientific evidence not now available about the results of a freeze and any other reduction. This would curtail future reductions, and require a new protocol.

ISSUE 9 -- LONG RANGE OBJECTIVE

Should the U.S. delegation support the ultimate objective of protecting the ozone layer by eventual elimination of realistic threats from man-made chemicals, and support actions determined to be necessary based on regularly scheduled scientific assessments.

Yes _____ No _____

CEQ believes the ultimate objective is development of substitute non-ozone-depleting chemicals.

ISSUE 10 -- TRADE PROVISIONS

The international negotiations have focused on a trade provision 1) to insure that countries are not able to profit from not participating in the international agreement, and 2) to insure that U.S. industry is not disadvantaged in any way through participation.

What should be the nature of any trade article sought for the protocol by the U.S. delegation?

_____ Option 1. Seek a provision which will best protect U.S. industry in world markets, by authorizing trade restrictions against CFC-related imports from countries which do not join or comply with the protocol provisions.

_____ Option 2. Do not seek a trade article for the protocol.

R. T. Blodgett

THE WHITE HOUSE

WASHINGTON

DOMESTIC POLICY COUNCIL

Thursday, June 18, 1987

2:00 p.m.

Cabinet Room

AGENDA

1. Stratospheric Ozone -- Lee M. Thomas
Administrator
Environmental Protection Agency

Domestic Policy Council Meeting

June 18, 1987

PARTICIPANTS

The President

The Vice President

Secretary Hodel
Secretary Baker
Secretary Lyng
Secretary Bowen
Secretary Pierce
Secretary Herrington
Senator Baker
Administrator Thomas
Deputy Secretary Whitehead
(Representing Secretary Shultz)
Deputy Secretary Taft
(Representing Secretary Weinberger)
Deputy Attorney General Burns
(Representing Attorney General Meese)
Deputy Director Wright
(Representing Director Miller)
Ambassador Woods
(Representing Ambassador Yeutter)

T. Kenneth Cribb, Jr., Assistant to the President for Domestic Affairs

Nancy J. Risque, Assistant to the President and Cabinet Secretary

Gary L. Bauer, Assistant to the President for Policy Development

Ralph C. Bledsoe, Executive Secretary

Additional Attendees

William L. Ball, Assistant to the President for Legislative Affairs

Rhett B. Dawson, Assistant to the President for Operations

Frank J. Donatelli, Assistant to the President for Intergovernmental Affairs

Kenneth M. Duberstein, Deputy Chief of Staff

Marlin Fitzwater, Assistant to the President and Principal Deputy Press Secretary

Danny L. Crippen, Assistant to the President

Grant Greene, Executive Secretary, National Security Council

Beryl Sprinkel, Chairman, Council of Economic Advisers

Thomas P. Rona, Deputy Director of the Office of Science and Technology Policy

Jacqueline Schafer, Member, Council on Environmental Quality

C. Boyden Gray, Counsellor to the Vice President

Bruce Smart, Under Secretary for International Trade, Department of Commerce

Wendell Willkie, General Counsel, Department of Education

Steve Galebach, Senior Special Assistant to the Attorney General

Becky Norton Dunlop, Deputy Chief Operating Officer, Department of the Interior

THE WHITE HOUSE

WASHINGTON

June 17, 1987

MEMORANDUM FOR THE PRESIDENT

FROM: THE DOMESTIC POLICY COUNCIL

SUBJECT: Stratospheric Ozone

Issue: What guidance should the U.S. delegation be given for the next stages of international negotiation of an agreement for regulation of chemicals believed capable of future depletion of stratospheric ozone?

Background: Since 1985, the U.S. has been a leader in international negotiations on the above issue. Representatives of several of the parties to the negotiations will next meet on June 29 to discuss a Chairman's Text, which contains recommended provisions for a protocol. A plenipotentiary conference is scheduled for September in Montreal for signing of a protocol agreement. The Domestic Policy Council met in May and June to discuss the issue, and has determined that your guidance is needed for the U.S. delegation as they enter the final stages of the negotiations.

While some feel that the scientific evidence is not sufficient to warrant a major U.S. commitment at this time, politically and internationally the negotiations have raised expectations to where the Council believes it is wise to continue in the negotiations, but to seek the best possible U.S. position on the major issues.

The following issues are those for which the Council will recommend you provide guidance:


1. Participation and Entry Into Force of the Protocol. Ideally, all nations should participate in the protocol. However, since this does not appear practicable, the U.S. delegation should be given guidance on whether to seek that a) a sufficient number, b) essentially all, or c) only the minimum number of countries sign and ratify the protocol before it would enter into force. CEA, State, USTR, EPA, DOD and HHS support a); and Interior, Commerce and OSTP support b).
2. Grace Period for Lesser Developed Countries. The Council recommends that you instruct the U.S. delegation to support a limited grace period, up to the year 2000, for increased domestic consumption in lesser developed countries. This should encourage participation by more countries.

3. Voting. The Council recommends that you direct the delegation to negotiate a system of voting on protocol decisions that gives due weight to significant producing and consuming countries.
4. Monitoring and Enforcement. The Council recommends that you instruct the U.S. delegation to seek strong provisions for monitoring, reporting, and enforcement in the protocol, including verification if possible. This would help secure the best possible compliance.
5. Credits for Previous Action. The Council is split on whether the U.S. delegation should seek a system of credits for the previous emissions reduction, resulting from the 1978 U.S. ban of non-essential aerosols. Interior and OSTP think we should, while State, EPA, Justice, CEA, HHS, Energy, USTR, and CEQ feel we should not raise this issue again. Previously, this proposal resulted in objections by other countries, and almost caused a stalemate.
6. Freeze of Ozone-Depleting Chemicals. The Council recommends that, consistent with the Chairman's Text, you instruct the U.S. delegation to seek a freeze, at 1986 levels, of all ozone-depleting chemicals. This would take effect 1-2 years after entry into force (EIF). EIF is estimated to be 1988 at the earliest.
7. A Scheduled 20% Reduction. The Council supports the U.S. delegation being instructed to seek a 20% reduction of ozone-depleting chemicals emissions, two to four years after the EIF and following the 1990 scientific review. However, there is not agreement on how this should occur. EPA, State, Justice, HHS, Energy, DOD and USTR support an automatic reduction unless reversed by a vote of the parties, while CEQ and Interior support the reduction following a majority vote by the parties. OSTP feels that the current scientific evidence does not warrant scheduling a 20% reduction at this time. Commerce and DOD object to inclusion of three of the specific chemicals, on the basis that they are important for national security products and substitutes are not currently available.
8. Second-Phase Reductions. There is Council disagreement on what instructions you should give the U.S. delegation regarding negotiation of emissions reductions beyond the 20% reduction. There is general consensus that the U.S. should seek second-phase reductions that make the cumulative reductions more or less than 50% of 1986 levels, and that these would begin 8 or more years after EIF (about 1996). EPA and State would like these second-phase reductions to occur automatically at specified points in time, unless reversed by a vote of the parties. Interior, HHS, Energy,

DOD, CEA, CEQ, and USTR would prefer that such reductions should only occur if a majority of the parties vote in favor, following scheduled scientific review. Commerce and OSTP feel that no second-phase reductions are warranted, and that we should only seek these in light of future scientific evidence and under a new protocol.

9. Long Range Objective. The Council recommends that you instruct the U.S. delegation that, consistent with the Chairman's Text, the ultimate objective is to achieve eventual elimination of realistic threats to the stratospheric ozone layer from man-made chemicals, as determined necessary by regularly scheduled scientific assessments. CEQ believes the real ultimate objective is development of substitute non-ozone-depleting chemicals.
10. Trade Provisions. The final issue is what instruction should be given the U.S. delegation regarding trade provisions. USTR, State, EPA and others recommend that you direct the delegation to ensure that a provision is included in the protocol authorizing trade restrictions against CFC and related imports from countries which do not join or comply with the protocol.

A decision memorandum will be forwarded to you following the Council meeting on June 18.


Ralph C. Bledsoe
Executive Secretary
Domestic Policy Council

Cabinet Mtg 6/15

Whether shld instruct or leave relatively
uninstructed

Lee Thomas / Presen.
= stratosphere

What shld we do or not to deal w/ this
depletion?

shld we have a WW agreement to control
these chemicals?

Freeze

Freeze + 50% ↓ - depletion 3%
" + 20% ↓ - " 6-7%

Protocol Freeze

(89% compliance ww) -- 24% depletion.

There's uncent, but most sci agree

What mean of depletion?

Health effects
& others unq'tified but EPA just as concerned.

Legal Issues

[?] = What further lines to deleg?

Legis = Senate -- 50% Resol, if we did 20%
Senate wld do 95%??

②

Hodel = everybody wants an effective protocol, but ^{particip} _{-prior ban ~ reciprocated}

Whitehead

- diff opin on means but not end
- 3 sessions
- good progress
- lots dev'g countries will sign
- on verge of claiming major victory.
- ~~resist~~ resist restraints on negotiators that wld be impossible to achieve & so result ~~also~~ in no agreement.

Wright

- Instruc's will be private
- tell them what to do if particip ~ good
- Inpt not be public.

Hodel - decis memo ~ circ'd.

(he ate jellybeans & paid phone bill!)

Thomas - deleg's need confidentiality
- all chem's for ex.

Hodel

- ↳ need deleg flexib - true --
- ↳ but wld hamstring U.S. if only 31 countries pass as are currently particip'g
- ↳ assembl's 2165 - like - 1809!

Pres -- How convinced are we these are the cause?

Thomas bla-blah-blah.

④

RR - what are we elimin'g?

[Thomas] CFC 12 a/c's

↳ no substitu'ts now, but ~8 yrs (123)

CFC 113 (elec's, chips)

↳ no avoid/foreseeable substitu'ts.

[Hodel] - 123 not viable b/c toxic

- no substitu'ts.

- sci review.

[RR] - am I degrading w/ bug spray?

[Thomas] no, using a substitu't.

but w/ a/c you are.

[RR] - never use it, even in July, MK is cold,

- cold only in phys sense, ambient.

[Woods - USA] Trade - w/ care

- but need leverage for participo.

[Commerce] - need flexible

[Smart] - use trade restrict's only as last resort.

[Whitehead] - bulk chemicals - - all agree

prob =

[RR] = Has anybody thought of way to invent O₃?

[Lynn] - sci is not firm; ^{Scientists} US Agric Research = not think a prob.

[Sec Baker] = need competitively p'd substitu'ts; otherwise, trade

[Sam Baker] - sci is in dispute

- negot'g position ~ strong

- Cong almost surely will act unilat'ly

[Bauer] - industry?

[Hodel] - Freeze = ok, of some support with back.

[Thomas] - Afraid of unilat ac.

[Whitehead] = Time

THE WHITE HOUSE

WASHINGTON

June 18, 1987

MEMORANDUM FOR THE PRESIDENT

FROM: THE DOMESTIC POLICY COUNCIL

SUBJECT: Stratospheric Ozone

ISSUE: What guidance should the U.S. delegation be given for the next stages of international negotiation of an agreement for regulation of chemicals believed capable of future depletion of stratospheric ozone?

BACKGROUND:

Beginning in the 1970's, concerns were expressed in some parts of the scientific community that continued growth in the use of certain chemicals would result in future depletion of stratospheric ozone. Scientists' models predict this could cause adverse health and environmental effects, including increased skin cancer deaths, cataracts, effects on the immune system, damage to crops and materials and impacts on aquatic life. Other scientists believe that some of these projections, which extend as far as the year 2165, do not accurately account for numerous scientific uncertainties and for future technological, scientific, medical and behavioral changes that may occur. The chemicals in question, chlorofluorocarbons (CFCs) and Halons, are used commercially in refrigerators, building and mobile air-conditioners, foam insulation and fire extinguishers, and by the electronics industry. Some of them have important national defense applications for which there are currently no substitutes.

Based on their models, most scientists now believe that significant ozone depletion is likely to occur by the year 2040 unless global action is taken to control the chemicals at issue, even though there are numerous medical and scientific uncertainties about the potential impacts of such depletion. Ideally, any freeze or reduction in CFCs should be based on reliable scientific evidence that use of CFCs will cause depletion of stratospheric ozone. While there are differing views within the Council on the reliability of the scientific evidence available at this time, the long life of CFC accumulations, and the consequent risk assessments associated with projected ozone depletion argue for strong action to secure an international agreement this year, with provision for future scientific assessment. Since U.S. participation in an international agreement will require domestic regulations, the Domestic Policy Council will address these and potential non-regulatory options as additional policy guidance is needed.

Congressional Interest. Concern over the predicted depletion of ozone led Congress to add an ozone protection section to the Clean Air Act in 1977 and led EPA to ban CFC aerosols in 1978. Some other countries subsequently implemented partial bans of CFC aerosol use. Currently, there is strong congressional pressure for additional action to protect the ozone layer. The Senate has passed a resolution calling for a strong international agreement, and urging an automatic reduction in CFC production of fifty percent. If an effective international agreement is not reached, and we fail to secure firm and concrete commitments from other countries, Congress and the courts may require unilateral domestic reductions of the chemicals in question. Such U.S. action, alone, would not protect the ozone layer and would disadvantage American businesses in world markets.

International Negotiations. The U.S. is a party to the 1985 Vienna Convention for Protection of the Ozone Layer. (Note: Although the Convention is not in effect yet, we expect it will be ratified by a sufficient number of countries.) Your ratification message to the Senate stated that this Convention addresses stratospheric ozone depletion "primarily by providing for international cooperation in research and exchange of information . . . and could also serve as a framework for negotiation of regulatory measures that might in the future be considered necessary. . . ." The U.S. has received considerable credit by some in Congress for its leadership role in the three negotiating sessions held thus far to develop an international agreement on control of the chemicals in question. However, some are concerned that not all emerging industrialized nations have participated in the negotiations. The U.S. interagency delegation has been guided by a Circular 175 approved under the authority of the Secretary of State, following approval by some agencies at various staff levels. The next negotiating session is scheduled for June 29, 1987 with a plenipotentiary conference scheduled in Montreal in September to sign the agreement.

Cost-Benefit. In a cost benefit analysis relying on EPA estimates of ozone depletion effects on cancer deaths through 2165, the potential benefits of taking some actions to protect the ozone layer were found to be substantially greater than the costs of controlling the relevant chemicals. Cost benefit analysis suggests that both a freeze and a further 20-percent reduction of the ozone-depleting chemicals are economically justified. Further reductions are also indicated in a majority of cases, depending on information that will be acquired prior to taking such steps.

DISCUSSION: The most recent international negotiations have produced a Chairman's Text for an agreement based on the structure presented by the U.S. Each country has been asked to review this Text prior to the June 29 meetings. The Domestic Policy Council met on May 20 and June 11 to discuss the Chairman's Text, as well as the overall negotiations. The Council agreed that we should continue with negotiations; however, your further guidance on the following issues and options is requested.

ISSUE 1 -- PARTICIPATION AND ENTRY INTO FORCE OF THE PROTOCOL

Ideally, all nations that produce or use ozone-depleting chemicals should participate in the protocol if it is to address globally the ozone depletion problem. Otherwise, production of CFCs by nonparticipants could eventually offset reductions by the participating countries. The Council believes we should seek maximum participation.

Which of the following positions should the U.S. delegation seek with regard to entry into force (EIF) and continuing effect of the protocol?

RR

Option 1. Entry into force of the protocol should occur only when a substantial proportion of producing/consuming countries as determined by the U.S. delegation have signed and ratified it.

This option is supported by State, EPA, DOD, DOE and HHS.

Option 2. Entry into force should occur only when a substantial proportion of producing countries, as determined by an established formula, have signed and ratified it.

This option is supported by Interior, Commerce, Justice, CEQ and OSTP.

ISSUE 2 -- GRACE PERIOD FOR LESSER DEVELOPED COUNTRIES

To encourage participation by all countries, should lesser developed nations be given a limited grace period up to the year 2000, to allow some increases in their domestic consumption? This has been the U.S. position and is unanimously supported by the Council.

Yes RR

No _____

ISSUE 3 -- VOTING

Should the U.S. delegation seek to negotiate a system of voting for protocol decisions that gives due weight to the significant producing and consuming countries? This proposal has unanimous support of the Council.

Yes RR

No _____

ISSUE 4 -- MONITORING AND ENFORCEMENT

Should the U.S. delegation seek strong provisions for monitoring, reporting, and enforcement to secure the best possible compliance with the protocol? This proposal has unanimous support of the Council.

Yes RR No _____

ISSUE 5 -- CREDITS FOR PREVIOUS ACTION

Should the delegation seek a system of credits for emissions reduction, resulting from the 1978 U.S. ban of non-essential aerosols? In previous negotiations, other countries rejected this proposal, claiming that the U.S. is still the largest consumer of CFCs.

_____ Option 1. Yes.

This would assure the consideration of previous actions taken to deal with ozone depletion and is supported by Interior, CEQ and OSTP.

RR Option 2. No.

State is convinced that seeking credits would stalemate the negotiations, and will stimulate unnecessary proposals from other parties. This option is supported by State, EPA, Justice, HHS, DOE and USTR.

ISSUE 6 -- FREEZE

Should the U.S. delegation seek a freeze at 1986 levels on production/consumption of all seriously ozone-depleting chemicals (CFCs 11, 12, 113, 114, 115; Halons 1201 and 1311), to take effect one or two years after the protocol entry into force? This proposal is consistent with the Chairman's Text and has unanimous support of the Council.

Yes RR No _____

A freeze will achieve a majority of the health and environmental benefits derived from retention of the ozone layer. Interior, Commerce, OSTP and CEQ feel that it will also spur industry to develop substitutes for ozone-depleting chemicals. Halons are not presently mentioned in the Chairman's Text, but it is intended that they will be included. The earliest expected entry into force (EIF) date is 1988.

ISSUE 7 -- SCHEDULED 20% REDUCTION

Should the U.S. delegation seek a 20% reduction from 1986 levels of CFCs 11, 12, 113, 114 and 115, four years after EIF, about 1992, following the 1990 international review of updated scientific evidence? The Council supports this action, but is divided over options for how the reductions should be implemented:

RR

Option 1. The 20% reduction should take place automatically, unless reversed by a 2/3 vote of the parties.

This is consistent with the Chairman's Text and the Circular 175. It is supported by EPA, State, Justice, CEQ, HHS, DOE and USTR. Commerce and DOD support this option for all chemicals except CFC 113; 113 has national defense applications for which there are currently no available substitutes.

Option 2. The 20% reduction should take place only if a majority of the parties vote in favor following the 1990 scientific review.

This option is supported by Interior.

Option 3. Further reductions should not be scheduled at this time. We may later decide to seek these in light of future scientific evidence.

This option is supported by OSTP.

ISSUE 8 -- SECOND PHASE REDUCTION

Should the U.S. delegation seek a second-phase CFC reduction of an additional 30% from 1986 levels, consistent with the Chairman's Text? This would occur about 8 years after EIF (about 1996).

RR

Option 1. Yes, and this should occur automatically, unless reversed by a 2/3 vote of parties, following scientific review.

This is supported by EPA and State.

Option 2. Yes, and this should occur only if a majority of the protocol parties vote in favor, following scientific reviews.

HHS, Justice, DOE, DOD, CEQ and USTR support this.

Option 3. Further reductions should not be scheduled at this time. We may later decide to seek these in light of scientific evidence not now available about the results of a freeze and any other reduction.

This would curtail future reductions, and require a new protocol. Commerce, Interior and OSTP support this.

ISSUE 9 -- LONG RANGE OBJECTIVE

Should the U.S. delegation support the ultimate objective of protecting the ozone layer by eventual elimination of realistic threats from man-made chemicals, and support actions determined to be necessary based on regularly scheduled scientific assessments. This proposal is consistent with the Chairman's Text and the U.S. delegation's previous position, and has unanimous support of the Council members.

Yes RR No _____

ISSUE 10 -- TRADE PROVISIONS

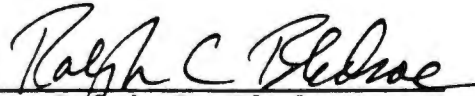
The international negotiations have focused on a trade provision 1) to insure that countries are not able to profit from not participating in the international agreement, and 2) to insure that U.S. industry is not disadvantaged in any way through participation.

What should be the nature of any trade article sought for the protocol by the U.S. delegation?

RR Option 1. Seek a provision that will best protect U.S. industry in world markets, by authorizing trade restrictions against CFC-related imports from countries that do not join or comply with the protocol provisions.

This option is supported by Justice, Interior, OSTP, EPA, DOE, USTR, HHS and State. Note: Commerce is against the use of trade restrictions unless there is no other way to protect U.S. industry.

_____ Option 2. Do not seek a trade article for the protocol.


Ralph C. Bledsoe
Executive Secretary
Domestic Policy Council

Attachment: Chairman's Text

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?

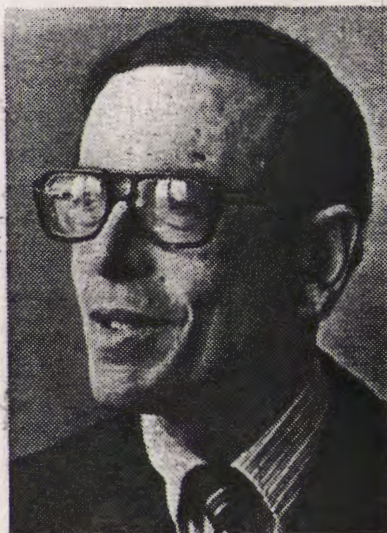
Such a dispute has arisen in the Reagan Administration concerning the role of Richard E. Benedick, the Deputy Assistant Secretary of State, in international negotiations aimed at concluding a treaty to limit the production of chlorofluorocarbons, or CFC's, the chemicals that are widely believed to be 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 contending 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.

Ralph Bledsoe

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 1983, 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.

~~CONFIDENTIAL~~

THE WHITE HOUSE

WASHINGTON

June 25, 1987

MEMORANDUM FOR THE VICE PRESIDENT
THE SECRETARY OF STATE
THE SECRETARY OF TREASURY
THE SECRETARY OF DEFENSE
THE ATTORNEY GENERAL
THE SECRETARY OF INTERIOR
THE SECRETARY OF AGRICULTURE
THE SECRETARY OF COMMERCE
THE SECRETARY OF HEALTH AND HUMAN SERVICES
THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT
THE SECRETARY OF ENERGY
THE SECRETARY OF EDUCATION
DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET
U.S. TRADE REPRESENTATIVE
ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY

The negotiation of an international protocol for regulation of chemicals believed capable of future depletion of stratospheric ozone is of great importance in our efforts to adopt sound environmental policies. Pursuant to this, and after considering the extensive work and recommendations of the Domestic Policy Council over the past several months, the following will guide the U.S. delegation in its negotiating activities leading to an international protocol on protection of the ozone layer, which we hope to be able to conclude later this year.

It is important that all nations that produce or use ozone-depleting chemicals participate in efforts to address this problem. The U.S. delegation will attempt, therefore, to ensure that the protocol enters into force only when a substantial proportion of the producing/consuming countries have signed and ratified it. I expect this to be well above a majority of the major producing/consuming countries.

In order to encourage participation by all countries, it is recognized that lesser developed nations should be given a limited grace period, up to the year 2000, to allow some increases in their domestic consumption. And, the U.S. delegation will seek to negotiate a system of voting for protocol decisions that gives due weight to the significant producing and consuming countries.

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To achieve a majority of the health and environmental benefits derived from retention of the ozone layer, and to spur industry to develop substitutes for chemicals in question, the U.S. delegation will seek a freeze at 1986 levels on production/consumption of all seriously ozone-depleting chemicals, including chlorofluorocarbons (CFCs) 11, 12, 113, 114, 115; and Halons 1201 and 1311, to take effect one or two years after the protocol entry into force. The earliest expected date for entry into force is 1988.

The U.S. delegation will also seek strong provisions for monitoring, reporting, and enforcement to secure the best possible compliance with the protocol, but they need not seek a system of credits for emissions reduction resulting from the 1978 U.S. ban of non-essential aerosols.

In addition to a freeze, the U.S. delegation will seek a 20% reduction from 1986 levels of CFCs 11, 12, 113, 114 and 115 four years after entry into force of the protocol, and following a 1990 international review of updated scientific evidence. The 20% reduction should take place automatically, unless reversed by a 2/3 vote of the parties. The U.S. delegation will seek a second-phase CFC reduction of an additional 30% from 1986 levels, which would occur about eight years after entry into force of the protocol, and following scientific review. This would occur automatically, unless reversed by a 2/3 vote of parties.

The U.S. delegation will seek a trade provision in the protocol that will best protect U.S. industry in world markets, by authorizing trade restrictions against CFC-related imports from countries that do not join or comply with the protocol provisions. It is our policy to insure that countries not be able to profit from not participating in the international agreement, and to insure that U.S. industry is not disadvantaged in any way through participation.

It is the U.S. position that the ultimate objective is protecting the ozone layer by eventual elimination of realistic threats from man-made chemicals, and that we support actions determined to be necessary based on regularly scheduled scientific assessments.



June 29, 1987

OZONE NEGOTIATIONS

Q: What has the President decided on our position in the international negotiations on control of chemicals that deplete the ozone layer?

A. THE REVIEW OF THE U.S. POSITION HAS ~~RE~~AFFIRMED OUR SUPPORT FOR AN EFFECTIVE INTERNATIONAL PROTOCOL TO CONTROL OZONE-DEPLETING CHEMICALS. THIS OBJECTIVE WILL BE PURSUED IN MEETINGS WHICH WILL TAKE PLACE IN BRUSSELS MONDAY AND TUESDAY, JUNE 29-30, WITH U.N. ENVIRONMENT PROGRAM EXECUTIVE DIRECTOR MOSTAFA TOLBA AND OTHER KEY PARTICIPANTS IN THIS INTERNATIONAL NEGOTIATION.

Drafted: OES/ENH: SButcher/OES: JDNegroponce
6/26/87:x79312

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PRESS STATEMENT

The President today instructed the U.S. delegation to the United Nations talks on protection of the ozone layer to seek a strong and effective international agreement. The President directed the negotiators to seek an agreement that involves many countries, that covers many ozone-depleting chemicals, and that commits participating countries to a near-term freeze on emissions of ozone-depleting chemicals and a long-term scheduled reduction of these chemicals. The President stressed the importance of future reviews of scientific, technological, economic and environmental information in the implementation of long-term reductions.

By instructing the delegation to seek a strong international agreement, the President re-affirmed the U.S. commitment to protecting the ozone layer. The U.S. objective in an international agreement is to eliminate threats to the ozone layer from man-made chemicals.

The President also praised the United Nations Environment Program's approach to the ozone issue noting that it is important for all nations that produce or use ozone-depleting chemicals to participate in efforts to address this problem.

OZONE PROTOCOL
Report of the Interagency Group on
Legal and Institutional Issues
July 1, 1987

Interagency meetings were held on June 17, 19 and 30 to discuss legal and institutional aspects of the proposed protocol to control ozone-depleting substances. This memorandum reflects the conclusions and recommendations that resulted from those discussions. The following summary is intended to guide the U.S. delegation to the upcoming meeting in the Hague to address outstanding legal and institutional issues and to prepare the seventh revised draft protocol.

Adoption and Amendment of Annexes

1. The group unanimously agreed that the current procedures outlined in the Convention for adoption and amendment of annexes to protocols should be maintained, as long as the protocol includes a system of voting that gives due weight to the significant producing/consuming countries (i.e., "major producers/consumers" clause). See discussion, infra at 4.

2. A suggestion was made to modify these procedures to require a simple majority for decisions implemented by positive triggers (i.e., cases where the measures would go into effect only upon the affirmative vote of the requisite number of Parties), but a two-thirds majority for actions subject to negative triggers (i.e., cases where the actions are taken unless reversed by the required number of Parties). This suggestion was rejected for the following reasons:

Most representatives felt that this procedure would be overly complicated and unlikely to gain acceptance from other countries. Furthermore, U.S. interests would be significantly protected by the inclusion of a voting provision that gives due weight to the Parties' relative proportion of production/consumption. It was also pointed out that the draft control article already specifies procedures which would control adjustment of both reduction steps and chemicals subject to the reduction schedule. The generic amendment procedures for the protocol and its annexes would not apply in these instances.

3. The group concluded that it was not desirable to eliminate or shorten the six-month advance notice requirement for adoption and amendment of annexes. It was felt that this requirement was needed to ensure that Parties had sufficient

time to consider proposed new annexes and amendments and to complete any internal consultations/coordination necessary to formulate a position with respect to them.

4. Regarding the inclusion of a tacit consent procedure, the group noted that the Convention already contains a simpler amendment process for annexes. See Article 10.2(c). Although not as streamlined as some tacit consent procedures, the present procedure did not appear to the group to be unduly cumbersome.

Entry into Force of Annexes

1. The group recommends no change in the current rules applicable to the entry into force and applicability of new annexes and annex amendments if a major producers/consumers clause is inserted. This clause should be identical to the major producers/consumers clause added for entry into force of the protocol itself -- i.e., 75% of protocol consumption. See discussion, *infra* at 6.

2. Provisions that would allow amendments and additional annexes adopted by a sufficient majority to bind all Parties could be problematical. President Reagan proclaimed such provisions (included in the deep seabed mining sections of the U.N. Convention on the Law of the Sea) as "incompatible with the U.S. approach to such treaties."

Dispute Settlement

1. The group felt that the current dispute settlement procedures should be supplemented with specific provisions relating to enforcement and sanctions. See discussion on "consequences of noncompliance", *infra* at 3. As a matter of form, such provisions may be included in a separate article.

2. The group considers compulsory and binding dispute settlement procedures both undesirable and unnecessary if an article on enforcement/sanctions for noncompliance is added.

Verification of Compliance

1. It was unanimously agreed that the delegation should emphasize the importance of strong reporting and monitoring provisions to securing the best possible compliance with the protocol.

2. Although there was some question regarding its efficacy, there was no opposition to the possibility of supplementing the protocol's reporting requirements with a provision that authorizes the Parties to appoint a group of experts to conduct an investigation of any Party suspected of noncompliance or falsifying reports required under the protocol. The South Pacific Nuclear Free Zone Treaty provides a precedent.

3. There was considerable discussion of inspection/verification procedures. The improbability that noncompliance could be discovered through on-site (plant) inspections was noted. Also, EPA's discussions with NASA and NOAA revealed that it is unlikely that a particular country's compliance/noncompliance could be detected through ground or satellite monitoring, using existing technology. NOAA reported that total global emissions can be determined using satellite monitors; thus, an increase in global emissions could be detected. However, one could not determine what State was responsible for the increase.

4. CAVEAT: The specific viewpoints of interested agencies on the establishment/design of inspection and monitoring systems -- as well as institutional arrangements to determine compliance (see discussion below) -- are still being formulated. Further internal discussions and examination of these issues need to take place before a well articulated U.S. position can be presented internationally. Accordingly, the group believes that the delegation should explore options with other delegations without committing the U.S. to a particular approach.

Consequences of Noncompliance

1. The group felt that there should be penalties specified at least for noncompliance with the control provisions, the article on trade with nonparties, and the reporting requirements. The group recommends that such penalties include treatment of noncompliers as a nonparty. The penalties, of course, would be appropriately limited in duration.

2. The group emphasized the need for the protocol to include an institutional mechanism for evaluating compliance by a Party suspected of being in breach of its obligation. One option discussed was the establishment of an infractions council composed of representatives of the Parties which could be assigned responsibility for assessing whether a violation of the protocol has occurred and recommending appropriate action. See, e.g., Treaty of Tlatelolco and South Pacific Nuclear Free Zone Treaty. The group believes that while the delegation should discuss various institutional arrangements, the delegation should not commit to any particular one at this time.

3. Although the protocol should include strong enforcement provisions, it must not preclude the possibility of Parties invoking unilaterally trade sanctions against noncompliers. It was noted that under section 301 of the Trade Act, the U.S. (if it desires) may be able to impose unilaterally a variety of trade sanctions and remedies -- increased tariffs, quotas, etc. -- against Parties not in compliance if their noncompliance constitutes a burden on U.S. commerce.

Voting: The "Major Producers/Consumers" Clause

1. For the protocol measures to be effective, they must be endorsed by a significant portion of producers or consumers. The group thus supports including in the protocol a system of voting for protocol decisions that gives due weight to Parties that are currently high producers/consumers of the controlled substances.

2. The percentage should be based on total protocol production/consumption -- not global production/consumption. (For discussion purposes, however, the group relied upon global production/consumption figures as a surrogate for protocol production/consumption).

3. The group discussed whether the major producers/consumers clause should be expressed as a percentage of production; consumption (defined as production + imports - exports - quantities destroyed by techniques agreed upon by the Parties); or an average of production plus consumption. Although the U.S. percentage of production and of consumption is the same (roughly 30%), the group had a slight preference for using consumption for the following reason: If production were used and only a 50% minimum required, the EC (whose production is 45%) could essentially determine the outcome of the decision. (See table below.) Using consumption would give the Nordics and New Zealand -- nonproducers and potential U.S. allies in future adjustment decisions -- more weight.

	<u>Production</u> (approx. % of world total)	<u>Consumption</u>
U.S.	30	30
EC	45	30
Japan	10	8
USSR/Eastern Bloc	10	10
Rest of the World	5	22

4. Assuming consumption is the criterion used, the group feels that for voting purposes, the major producers/consumers clause's requisite minimum percentage should be between 66% and 75%.

5. Consideration was given to using production as the criterion, if (and only if) the minimum percentage required is increased to 75%. The group concluded, however, that the U.S. should remain firm on using consumption at this meeting. If necessary we can always agree to a different measure (e.g., production) at the working group meeting in September. (In support of the U.S. preference for consumption and to deflect opposition from "production" advocates, the delegation should point out that the definition of the term "consumption" includes production as a component.)

5. The group also agreed that it would be better to have a stationary base year rather than base the percentage of the Parties' relative proportion of production/consumption at the time the decision is made. Ideally, the Parties' proportion of production/consumption would remain constant over time since each Party would be subject to the same reduction requirements. However, because of the grace period for low-consuming countries (LCC's), their relative proportion of consumption/production actually is likely to increase over time. For this reason (and to avoid repeated recalculations each time a decision must be made), the base year should remain stationary. The group recommends using 1986 as the base year (or whatever base year is selected for the control article).

Withdrawal Procedure

The group recommends that the withdrawal period be increased for countries qualifying for the proposed LCC-exemption; otherwise, the current withdrawal provisions seem sufficiently stringent.

Reservations

In principle the group supports a "no reservations" clause for the protocol. Nevertheless, it is suggested that this article remain in brackets until the final terms of the protocol are clear.

Meetings of the Parties

1. The group concluded that the functions of the meetings of the Parties outlined in Article VII of the Sixth Revised Protocol Text could be supported as long as the obligation to provide information regarding substitute technologies and products (and related research and development activities) is explicitly subject to national laws, regulations, and governmental policies on patents, trade secrets, and the protection of confidential and proprietary information.

2. Parties must not be allowed, however, to withhold information on implementation (e.g., data on production, imports, exports, destruction) by asserting a claim of confidentiality. See discussion infra, at 7.

Entry into Force of the Protocol

1. The group believes that this article should be amended to specify that the number of instruments required for entry into force must include 75% of consumption of the controlled substances. This amendment will ensure that the protocol enters into force only when the major producer/user countries have signed the protocol and submitted their instruments of ratification, acceptance, etc.

2. It is recommended that the U.S. continue to support a 9 instruments/30 days requirement. A 10 instruments/60 days or 11 instruments/90 days entry into force provision could be accepted, however, if necessary to reach agreement.

3. It now is superfluous to add a paragraph stating that any State or regional economic integration organization (reio) becoming a Party shall assume all applicable obligations then in effect for all other Parties. In the most recent draft protocol text, the obligations are stated in terms of entry into force of the protocol -- not entry into force of the protocol for a Party.

Interim (Provisional) Application of Controls

1. While strongly endorsing the proposal of a voluntary commitment to interim compliance with the control measures, the group believed that it would be premature to raise this subject at the meeting in the Hague except in informal discussions with "like-minded" countries. The U.S. should press for this commitment during the September meeting in Montreal, after agreement has been reached on the control article.

2. Some agencies strongly felt that this voluntary commitment would have a greater impact if it were included as an article in the protocol, rather than in a Diplomatic Conference Resolution. Resolution of this issue was deferred in light of the recommendation not to raise formally the subject of interim application at this time.

Information Exchange

The United States' obligation to provide the information outlined in Article V: Research, Development, Exchange of Information must be carried out in accordance with its national laws pertaining to protection of trade secrets, confidential, proprietary and patented information, the group concluded. Paragraph 1 of this article thus should be revised to read, "Consistent with their national laws, regulations, and policies regarding patents, trade secrets, and the protection of confidential and proprietary information, the Parties shall..."

Reporting of Emissions Data

1. The group determined that a separate article must be added which requires the Parties to report annually their emissions data (i.e., their production, imports, exports, destruction of the controlled substances). The provision in the Convention on the submission and exchange of such data simply states that the Parties "shall facilitate and encourage" the exchange of this information. See Article 4 and Annex II, para. 5. The group recognizes that some single-industry countries may be reluctant to provide production and trade data for distribution to other Parties. Therefore, the delegation may consider including in the article on emissions reporting a provision requiring recipient States to maintain the confidentiality of production/trade information.

The new article could read as follows:

Article ____: Reporting of Emissions Data

1. Each Party shall submit to the Secretariat data on annual production, imports, exports and destruction of the controlled substances in areas under its jurisdiction.

2. The Secretariat shall:

a. within 30 days of entry into force of this protocol, develop and distribute to all Parties a standard format for reporting the data identified in paragraph 1; and

b. distribute annually to all Parties data reported pursuant to paragraph 1, [indicating whether any Party has requested that the confidentiality of the data it supplied be maintained by recipient Parties.]

[3. The Parties shall preserve the confidentiality of data it receives pursuant to paragraph 2 if the Party supplying such information has submitted a written request to the Secretariat asking that the confidentiality of the information be maintained by recipients. The obligation to maintain the confidentiality of the data shall cease if the confidential information loses its character as such in the State reporting the information to the Secretariat, pursuant to paragraph 1.]

2. It was felt by some that the article should also provide a recourse against recipients that wrongfully disclose such information -- e.g., a Party disclosing confidential data in contravention of a written request by a reporting State shall no longer be entitled to receive information designated by any reporting State as confidential. The need to tighten the confidentiality requirements to take care of States with government-owned companies was also noted.

Relationship of the Protocol to the Convention

Article X of the Sixth Revised Draft seems unnecessary and should be deleted to avoid confusion.

EC as Single Producing Unit

1. At previous negotiations, the EC has asserted that it should be treated as single producing unit. The group recognized that such treatment would be a major concession to the EC. If the EC can average its member States' emissions, it will have a "cushion" against the impact of the control measures not possessed by any other Party. Theoretically, some States could exceed the protocol limits, if other States were below the limit. On the other hand, in terms of protection of the ozone layer, the group concluded that it doesn't matter significantly whether the EC complies with the control measures individually or as a unit.

2. The group noted the complexity of this issue, which implicates (1) EC competence (the group felt that if competence is "mixed", the EC should not be treated as a single unit); (2) the status of the EC and its member States for purpose of the protocol (treatment of the EC as a single unit would support argument that the EC and its member States should be considered a single Party and afforded only one vote); (3) possibly similar treatment of other reios -- e.g., COMECON.

3. The group recommends that the delegation press for individual country reporting by EC members -- especially since we have no indication at this time that country-specific data does not or will not exist. In addition, the delegation should (a) seek clarification (i.e., rationale, legal basis) of the EC's request to be treated as a single producing unit, (b) express concerns about the implications of treating the EC as a single unit, and (c) attempt to discern what the EC's competence is in this area. The group feels that this issue should not be conceded at this meeting. The U.S. may wish to withdraw its opposition later, in exchange for some significant concession from the EC.

Miscellaneous

NOAA suggested modifying the control article to require simply 66% of protocol production/consumption (and not additionally a two-thirds majority of the Parties) for adjustment of reduction steps or chemical coverage. The group concluded that this proposal would require further interagency consideration if it is to be raised internationally.

WSJ - 7/3/87

U.S. Negotiators Seek Sharp Reduction In Chemicals That Erode Ozone Layer

By EDWARD SUSSMAN
Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON—President Reagan has authorized U.S. negotiators to seek a steep reduction of chemicals that erode the Earth's natural barrier against cancer-causing rays.

The U.S. presented its position at a meeting this week in Brussels, Belgium, with representatives of other major producers of chlorofluorocarbons. According to officials familiar with the talks, the U.S. joined Canada, New Zealand and Norway in seeking a 50% cutback in production by 1996 from the 1986 level.

But these countries won't go along with any agreement unless it's ratified by at least nine nations, representing a minimum of 60% of the world's chlorofluorocarbon production, according to Victor Buxton, Canada's negotiator at the talks.

At a meeting of the White House Domestic Policy Council last week, President Reagan reviewed and approved the State Department's negotiating stance in Brussels, U.S. officials said. Administration officials declined to comment on the president's instructions.

The silence on the negotiations stems from a sharp dispute among administration officials as to whether the reductions are needed.

In international negotiations, the U.S. has for several months been seeking a steep curtailment of chemicals that damage the ozone layer, an invisible shield against ultraviolet radiation sitting about 12 miles above the planet's surface.

But in May, Interior Secretary Donald Hodel and White House Science Adviser William Graham suggested that advances in medical technology and changes in be-

havior patterns—including the wearing of more hats, sunscreen and sunglasses—might make a costly ban unnecessary.

Mr. Hodel also raised concerns that the U.S. might commit itself to an ineffective international treaty, putting a stranglehold on American production of chemicals. About 70% of ozone-depleting chemicals are produced outside the U.S.

"I am extremely pleased that after he had an opportunity to consider the issues concerning ozone-depleting chemicals, the president issued clear instructions to the U.S. negotiators, directing them to seek an effective international agreement," he said through a spokesman.

Also present at the talks were representatives of Japan, the Soviet Union and the European Community. These nations, which have a substantial economic stake in chemical production, sought a longer time period for phasing down the chlorofluorocarbons, Mr. Buxton said.

Although Mr. Buxton said no firm international agreement was reached, he added that substantial progress had been made and predicted chances were excellent for a treaty ratification at a United Nations-sponsored conference in September in Montreal.

The U.S., Canada, New Zealand and Norway pushed for a freeze of chlorofluorocarbons at 1986 production levels by 1989, followed by a 20% reduction by 1992 and an additional 30% reduction by 1996. The nations propose a freeze at 1986 levels for the production of halons, another group of chemicals that damage the ozone layer. Trade sanctions are proposed for non-complying nations.

Because the amount of chlorofluorocarbon production has risen, the overall reduction would actually be greater than 50%. Geoff Webb, Director of International

Affairs for Friends of the Earth, estimated the overall reduction at between 60% and 65% of 1987 production levels. He said such a cutback would encourage the development of alternatives to the ozone-depleting chemicals.