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Department of State

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FROM USEC

E.O. 12956: DECL: OADR
TAGS: SEMV, ETRO, UNEP, EEC
SUBJECT: OZONE NEGOTIATIONS

REF: STATE 199107

1. (C-ENTIRE TEXT).

2. SUMMARY: MEETINGS ON UNEP-SPONSORED OZONE PROTECTION PROTOCOL WERE HELD JUNE 29-30 IN BRUSSELS TO DISCUSS AND FURTHER REFINE TEXTS ON CONTROL MEASURES (CHAIRMAN'S GROUP) AND ON EMISSIONS FORMULA, TRADE WITH NON-PARTIES AND TREATMENT OF DEVELOPING COUNTRIES (TRADE GROUP). AD HOC WORKING GROUP ON CONTROL MEASURES WAS CHAIRED BY UNEP EXECUTIVE DIRECTOR MOSTAFA TOLBA, AND COMPRISED HEADS OF DELEGATIONS OF UNITED STATES, JAPAN, CANADA, NORWAY (REPRESENTING NORDICS), NEW ZEALAND (REPRESENTING ALSO AUSTRALIA), USSR, AND EUROPEAN COMMISSION (PLUS PAST, PRESENT AND FUTURE EC PRESIDENCY COUNTRIES, UK, BELGIUM AND DENMARK). PARAGRAPHS 3-5 SUMMARIZE ESSENTIAL ELEMENTS OF NEW EXECUTIVE DIRECTOR'S TEXT, TO BE CONSIDERED BY ALL GOVERNMENTS IN PREPARATION FOR SEPTEMBER 8-16 NEGOTIATION AND PLENIPOTENTIARIES' CONFERENCE IN MONTREAL. WORKING GROUP ON TRADE WAS AGAIN CHAIRED BY ESSAM HAWAS (EGYPT) AND INCLUDED U.S., EC, UK, DENMARK, CANADA, SWEDEN, JAPAN, GHANA, ARGENTINA AND BRAZIL. PARAGRAPHS 9-12 DISCUSS MAIN POINTS COVERED IN TRADE MEETINGS. END SUMMARY.

3. ENTRY INTO FORCE (EIF) WILL OCCUR ON RATIFICATION BY AT LEAST NINE COUNTRIES WHICH COMPRISE AT LEAST 60 PCT OF GLOBAL 1986 PRODUCTION/CONSUMPTION OF CFC'S 11, 12, 113, 114 AND 115. DECISIONS TO MODIFY REDUCTIONS AND ADD OR SUBTRACT CHEMICALS REQUIRE TWO-THIRDS OF PARTIES WHICH COMPRISE AT LEAST 50 PCT OF GLOBAL 1986 PRODUCTION/ CONSUMPTION OF THE FIVE CFC'S.

4. TIME CHART:

YEAR	ACTION
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A. EIF PLUS ONE	A) FREEZE AT 1986 LEVELS OF THE WEIGHTED BASKET OF 5 CFC'S.
-	-
-	B) MEETING OF CONTRACTING PARTIES.
-	-

B. EIF PLUS TWO (1990) SCIENTIFIC/ECONOMIC ASSESSMENT.

C. EIF PLUS THREE (1991) A) FREEZE OF HALONS 1211 AND 1301 AT 1986 LEVELS.

- B) MEETING OF CONTRACTING PARTIES.

D. EIF PLUS FOUR A) 20 PCT REDUCTION OF THE 5 CFC'S.

- B) MEETING OF CONTRACTING PARTIES: CAN REVERSE STEP F BY TWO-THIRDS OF PARTIES COMPRISING 50 PCT OF GLOBAL 1986 PRODUCTION/CONSUMPTION.

E. EIF PLUS SIX A) SCIENTIFIC/ECONOMIC ASSESSMENT.

- B) MEETING OF CONTRACTING PARTIES.

F. EIF PLUS EIGHT OR TEN A) 30 PCT REDUCTION OF THE 5 CFC'S.

- B) SCIENTIFIC/ECONOMIC ASSESSMENT.

5. PARAGRAPH ON ULTIMATE OBJECTIVE: PARTIES WILL DECIDE, BY TWO-THIRDS MAJORITY COMPRISING AT LEAST 50 PCT OF GLOBAL 1986 PRODUCTION/CONSUMPTION, "WHETHER FURTHER REDUCTION FROM 1986 LEVELS SHOULD BE UNDERTAKEN, WITH THE OBJECTIVE OF EVENTUAL ELIMINATION OF THESE SUB-

STANCES, EXCEPT FOR USES FOR WHICH NO SUBSTITUTES ARE COMMERCIALY AVAILABLE AT THE TIME".

6. ARTICLE ON MONITORING/REPORTING/ENFORCEMENT WILL BE DRAFTED AT JULY 6-10 MEETING IN THE HAGUE.

7. ATMOSPHERICS: IT WAS CLEAR THAT WHILE INDIVIDUAL EC MEMBER COUNTRIES (WITH EXCEPTION OF UK) BASICALLY SUPPORTED U.S. POSITION, NEGOTIATION WAS SLOWED BY EC COMMISSION (DIRECTOR-GENERAL BRINKHORST) HARD LINE. CANADA, NORWAY AND NEW ZEALAND JOINED U.S. ON NEARLY ALL ELEMENTS, WITH EXCEPTION OF DOUBTS BY NORWAY AND NEW ZEALAND OVER WEIGHTED VOTING; THEY BETTER UNDERSTAND OUR NEEDS ON THIS POINT, HOWEVER, AND WILL MOST LIKELY BE SYMPATHETIC. EC, USSR AND JAPAN WERE STILL TENTATIVE OVER SCHEDULING A FREEZE ON HALONS AND OVER SEMI-AUTOMATIC REDUCTION BEYOND 20 PCT, BUT DID NOT OBJECT TO EXECUTIVE DIRECTOR'S TEXT. EC SIMILARLY RESERVED ON "ULTIMATE OBJECTIVE" CLAUSE BUT DID NOT DEMAND ITS REMOVAL. INDIVIDUAL EC DELEGATES AND REPRESENTATIVES OF INDIVIDUAL MEMBER COUNTRIES WERE SANGUINE THAT THE EC WOULD, BY SEPTEMBER, SUPPORT CHAIRMAN'S TEXT, BUT BRINKHORST'S CONSISTENT HARD LINE DID NOT EVIDENCE THIS.

8. MOST PARTIES EXPRESSED NEED FOR TRENDS DATA ON HALONS PRODUCTION AND TRADE, IN ORDER TO ENSURE FEASIBILITY OF FUTURE FREEZE, AND ALSO NEED FOR TECHNICAL INFORMATION ON POSSIBILITIES FOR SUBSTITUTION FOR ESSENTIAL FIRE-FIGHTING USES OF HALONS 1211 AND 1301.

9. IN GENERAL, MOST U.S. OBJECTIVES WERE MET WITH REGARD TO LANGUAGE ON EMISSIONS FORMULA, DEVELOPING (LOW-CONSUMING) COUNTRIES AND TRADE WITH NON-PARTIES,

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BUT SOME OF THE MORE CONTENTIOUS ISSUES REMAIN.

10. FORMULA: U.S. MADE A STRONG INTERVENTION ON THE MERITS OF A STRAIGHT APPARENT CONSUMPTION (ADJUSTED PRODUCTION) APPROACH, BUT MET WITH STRONG EC INSISTENCE THAT PRODUCTION LIMITS ALONE WERE ALL THAT WAS REQUIRED FOR CONTROLLING EMISSIONS. HAVING RECONFIRMED THAT NEITHER SIDE HAD FUNDAMENTALLY CHANGED ITS POSITION, DISCUSSION THEN TURNED TO THE COMPROMISE FORMULA WORKED OUT AT THE APRIL NEGOTIATING SESSION, WHICH COMBINED BOTH PRODUCTION AND CONSUMPTION. EC RESISTED COUNTING ONLY EXPORTS TO PARTIES IN THE CONSUMPTION DEFINITION, AND REFUSED TO CONCEDE THE MERITS OF CHOOSING A HISTORIC BASE-YEAR (SO BOTH 1986 AND 1990 REMAIN THE BRACKETED OPTIONS). EC ALSO REFUSED TO AMEND FORMULA SO THAT PRODUCTION AND CONSUMPTION WOULD BE CONTROLLED FOR ALL PHASES, RATHER THAN PRODUCTION AND IMPORTS FOR FIRST PHASE. U.S. WAS SUCCESSFUL IN GETTING REFERENCE TO CFC CONTENT OF PRODUCTS ELIMINATED FROM CONSUMPTION DEFINITION, THUS FOCUSSED FORMULA DISCUSSION ON BULK CHEMICALS ONLY (ON WHICH U.S. OFFERED DEFINITION TO INCLUDE PRODUCTS CONTAINING 20 PCT BY EITHER WEIGHT OR VOLUME).

11. DEVELOPING COUNTRY ISSUE: QUESTIONS OF PER CAPITA CONSUMPTION LIMIT AND LENGTH OF GRACE PERIOD WERE LEFT OPEN UNTIL DATA/ESTIMATES COULD BE OBTAINED TO PROVIDE SOME GUIDANCE ON THE LIKELY EFFECTS OF THE PROPOSED GRACE PERIOD. U.S. AND EC JOINTLY OFFERED LANGUAGE TO CLARIFY "PARALLEL MANNER" IN WHICH DEVELOPING COUNTRIES WOULD BE SUBJECT TO CONTROL PROVISIONS FOLLOWING THIS PERIOD. U.S. RAISED QUESTION OF WHERE SUPPLY WOULD BE PRODUCED TO MEET THE INCREASED DEMAND BY LOW-CONSUMING COUNTRIES (LCC) DURING THE GRACE PERIOD AND SUGGESTED OPTION OF USING UNDERUTILIZED CAPACITY IN DEVELOPED COUNTRIES, WITH LIMITS ON BULK RE-EXPORT FROM THE LCC. ALL COUNTRIES CAME TO APPRECIATION OF PROBLEM WITHOUT REACHING AGREEMENT ON SOLUTION. SPECIFIC CONCERNS CENTERED ON CERTIFICATION OF DESTINATION BY EXPORTING DEVELOPED COUNTRIES (ESPECIALLY WHERE EXPORTER MIGHT NOT BE PRODUCER) AND CREATION OF "CFC HAVENS" IN DEVELOPING COUNTRIES FOR RE-EXPORT OF BULK OR PRODUCTS CONTAINING CFC'S TO DEVELOPED COUNTRY MARKETS.

12. TRADE ARTICLE: U.S. WAS SUCCESSFUL IN GETTING ARTICLE SPECIFICALLY LIMITED TO TRADE WITH NON-PARTIES AND IN TIGHTENING LANGUAGE TO MAXIMIZE INCENTIVES FOR COUNTRIES TO JOIN THE PROTOCOL. DISCUSSION OF RESTRICTIONS ON IMPORTS OF PRODUCTS CONTAINING CFC'S (PARA 2 IN ARTICLE) REVEALED CONTINUING WIDE DIFFERENCES WITH EC ON THIS ISSUE. RETURN TO PARA 2 LANGUAGE PROPOSED BY U.S. IN FEBRUARY WAS SUGGESTED AS ONE POSSIBLE MEANS OF RESOLVING DIFFERENCES (EC INDICATED THAT THEY COULD NOT PROPOSE, BUT MIGHT BE ABLE TO ACCEPT, THIS LANGUAGE). EC OFFERED LANGUAGE TO GRANDFATHER EXISTING AID PACKAGES REGARDING BAN ON ANY AID INVOLVING CFC'S AND TO LIMIT THE BAN TO AID FOR PRODUCTION (BUT NOT USE) OF CFC'S, AND THIS SATISFIED DEVELOPING COUNTRIES WHICH HAD BRACKETED THIS PARAGRAPH IN GENEVA. U.S. OFFERED LANGUAGE TO CLARIFY AND LIMIT EXCEPTION FOR NON-PARTIES IN COMPLIANCE WITH THE CONTROL PROVISIONS OF THE PROTOCOL.

13. PRINCIPAL ISSUES FOR RESOLUTION BEFORE OR IN MONTREAL ON TRADE ASPECTS OF THE PROTOCOL ARE NOW THE FOLLOWING:

-- BASE YEAR: WE NEED TO DEVELOP THE DATA AND ESTIMATES TO RESPOND TO EC CLAIM THAT 1986 CANNOT BE USED AS BASE YEAR FOR CONSUMPTION. THIS MEANS GETTING

U.S. INDUSTRY COOPERATION IN DISAGGREGATING TRADE DATA WORLDWIDE FOR 1986 AND INDICATING PRODUCT FLOWS NECESSARY FOR CALCULATING APPARENT CONSUMPTION.

-- EXPORTS TO NON-PARTIES: EC WILL NOT AGREE TO EITHER BAN OR COUNT AGAINST DOMESTIC CONSUMPTION UNLESS/UNTIL THEY ARE ASSURED THEIR MAJOR EXPORT MARKETS ARE INCLUDED IN THE PROTOCOL. BECAUSE THIS IS A VITAL ECONOMIC INTEREST IN THE EC, WE MAY HAVE TO ACCEPT DEFERRAL OF RESOLUTION OF THIS QUESTION UNTIL THE MEMBERSHIP IN THE PROTOCOL BECOMES CLEARER.

-- DEVELOPING COUNTRY ISSUE: HERE THERE ARE A SERIES OF INTERRELATED QUESTIONS CENTERING AROUND HOW TO SUPPLY INCREASED CONSUMPTION BY THESE COUNTRIES DURING THE GRACE PERIOD. ONE SOLUTION (SUGGESTED BY GHANA) MAY BE TO SCALE THIS TREATMENT BACK TO LEAST DEVELOPED COUNTRIES (BY LOWERING THE PER CAPITA LIMIT) TO MINIMIZE THE "CFC HAVEN" PROBLEM.

-- NON-PARTIES/PRODUCTS CONTAINING CFC'S: WE NEED TO REEXAMINE THE FEBRUARY LANGUAGE TO SEE IF IT RESPONDS TO OUR NEEDS FOR A STRONG SIGNAL THAT STILL CONTAINS SUFFICIENT FLEXIBILITY.

-- NON-PARTIES/COMPLIANCE: SINCE THERE APPEARS TO BE STRONG SUPPORT BY OTHER COUNTRIES FOR AN EXCEPTION FOR NON-PARTIES IN COMPLIANCE WITH THE PROTOCOL, WE NEED TO DEVELOP OUR CASE FOR TIGHTENING THIS PROVISION TO AVOID THE OBVIOUS LOOPHOLE IT COULD CREATE IF NOT PROPERLY LIMITED AND ADMINISTERED.

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THE WHITE HOUSE

WASHINGTON

July 13, 1987

MEMORANDUM FOR WALKER ROBERTS

FROM:

VICKI MASTERMAN *VM*

SUBJECT:

Ozone -- Congressional Responses

As requested, we have prepared and attached proposed responses to two Congressional letters on stratospheric ozone. Please call me at x6640 if you have any questions.

Attachment

THE WHITE HOUSE

WASHINGTON

July 13, 1987

Dear Congressman _____:

Thank you for the recent letter from you and 28 of your colleagues asking the Administration to seek an international stratospheric ozone protection protocol providing for significant reductions of ozone-depleting gases in the ongoing United Nations Environment Program negotiations.

As you may know by now, an intensive inter-agency review has resulted in the President recently affirming U.S. support of an effective international protocol to control ozone-depleting chemicals. The U.S. delegation to the international ozone negotiations is pursuing this objective. We expect an acceptable agreement to be signed and made ready for the ratification process this September. Throughout the negotiations process, Administration officials have coordinated with members of Congress through testimony before Congressional Committees and in meetings with Congressional staff observers. Consistent with the concern of members of Congress expressed prior to the last round of negotiations that we not jeopardize the U.S. position in the negotiations, the U.S. delegation will brief the interested members of Congress on the status of the negotiations.

As your letter notes, the U.S. has led the international efforts to protect the ozone layer. At President Reagan's direction, the U.S. Government has ratified the Vienna Convention for the Protection of the Ozone Layer and is continuing to lead the ongoing international negotiations toward a protocol on the control of ozone-depleting chemicals.

Again, thank you for expressing your views on this important issue. We look forward to working with you in our efforts to protect the stratospheric ozone layer.

Sincerely,

William L. Ball, III
Assistant to the President

LEE M HAMILTON, INDIANA
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WAYNE OWENS, UTAH
FOFO I F SUNIA, AMERICAN SAMOA

JOHN J BRADY, JR
CHIEF OF STAFF

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

We appreciate that under your Administration the U.S. has led global efforts to address the threat to the Ozone layer, and as a result, a major international agreement significantly reducing certain Ozone-depleting compounds is within reach. We recognize that while the current proposal seeking to achieve a 50% reduction may not be sufficient to arrest Ozone depletion and falls considerably short of the U.S. position, it nevertheless represents a significant step forward.

We were greatly dismayed, therefore, at reports that the Administration is considering alternatives to its strong Ozone policy. Cosmetic public relations campaigns for wearing sunglasses, hats, and skin lotion is no substitute for an effective international Protocol reducing the production of CFCs. Further, it could undermine the negotiations and cast doubts on the U.S. commitment to moving forward to conclude an agreement this year.

We respectfully request that you publicly reaffirm the Administration's previous support to conclude the Protocol for achieving significant reductions of Ozone-depleting gases.


Dante B. Fascell
Chairman
Committee on Foreign Affairs

Sincerely,

Gus Yatron
Chairman
Subcommittee on Human Rights
and International Organizations

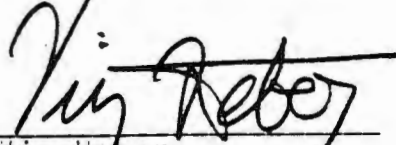
One Hundredth Congress
Congress of the United States
Committee on Foreign Affairs
House of Representatives
Washington, DC 20515

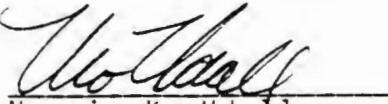
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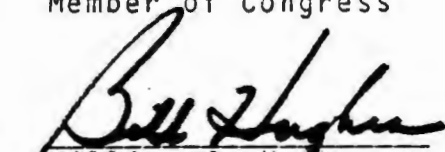
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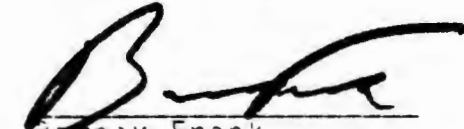
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MINORITY CHIEF OF STAFF

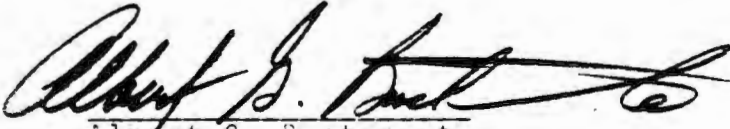
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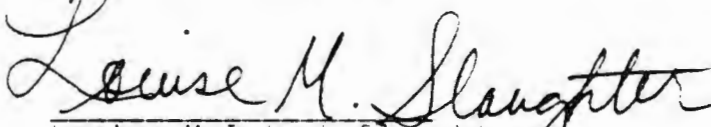

Vin Weber
Member of Congress

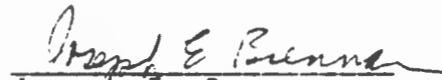

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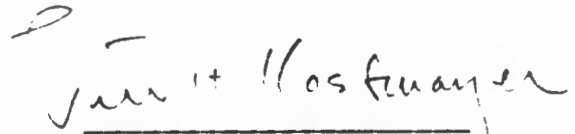

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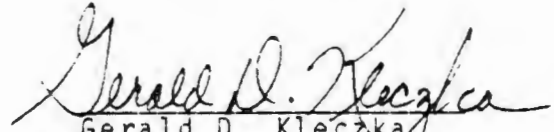

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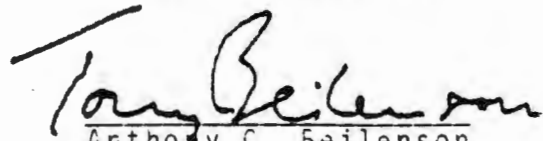

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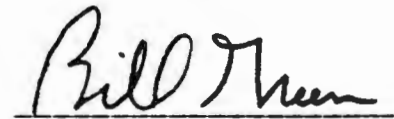

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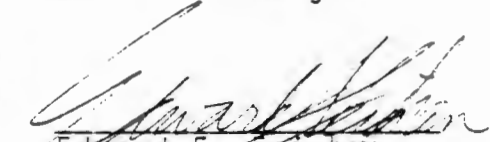

Joseph E. Brennan
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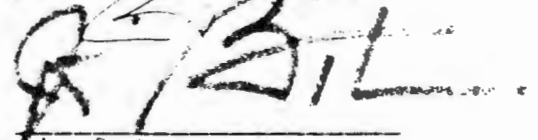

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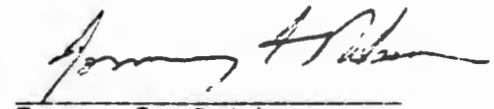

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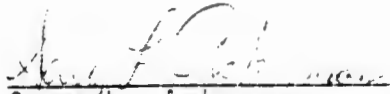

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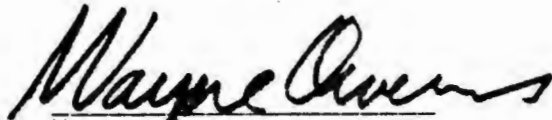

Bill Green
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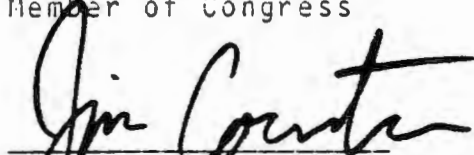

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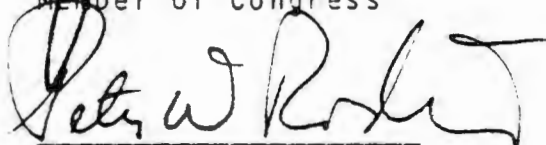

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Tommy F. Robinson
Member of Congress

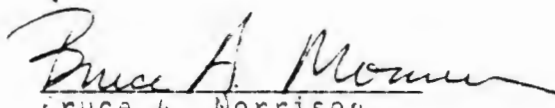

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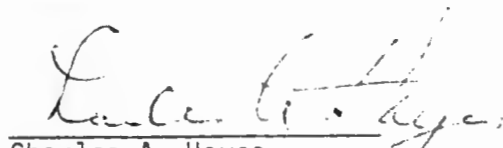

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Jim Courter
Member of Congress

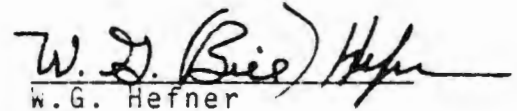

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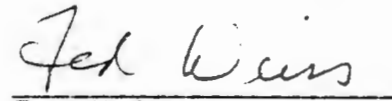

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Member of Congress

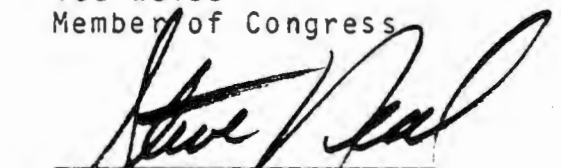

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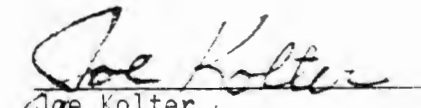

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Member of Congress


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Member of Congress


Stephen L. Neal
Member of Congress


Les Aucoin
Member of Congress


Joe Kolter
Member of Congress

THE WHITE HOUSE

WASHINGTON

July 13, 1987

Dear Congressman _____:

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As you may know by now, an intensive inter-agency review has resulted in the President recently affirming U.S. support of an effective international protocol to control ozone-depleting chemicals. The U.S. delegation to the international ozone negotiations is pursuing this objective. We expect an acceptable agreement to be signed and made ready for the ratification process this September. Throughout the negotiations process, Administration officials have coordinated with members of Congress through testimony before Congressional Committees and in meetings with Congressional staff observers. Consistent with the concern of members of Congress expressed prior to the last round of negotiations that we not jeopardize the U.S. position in the negotiations, the U.S. delegation will brief the interested members of Congress on the status of the negotiations.

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Again, thank you for expressing your views on this important issue. We look forward to working with you in our efforts to protect the stratospheric ozone layer.

Sincerely,

William L. Ball, III
Assistant to the President

JIM BATES
44TH DISTRICT, CALIFORNIA

Congress of the United States
House of Representatives
Washington, D.C. 20515



Ralph Ableson
6640

May 29, 1987 - EPA

Vicky Winterman
NH Fellow

The Honorable Ronald R. Reagan
The President
The White House
Washington, D.C. 20500

Dear Mr. President:

We note with great concern recent reports that the Domestic Policy Council is reconsidering the Administration's current position in the international negotiations for a protocol to the Vienna Convention for the Protection of the Ozone Layer. We find especially disturbing Secretary of the Interior Hodel's suggestion that our only response should be sunglasses, hats, and sunscreens.

As you know, the current position of the Administration is a freeze on emissions of ozone-depleting substances followed by a 95% phase-out within 10-14 years. This is a responsible stance based on the scientific understanding of the depletion of the ozone layer. We commend Lee Thomas, the Administrator of the Environmental Protection Agency, and Richard Benedick, chief U.S. negotiator, for their aggressive pursuit of this goal in the protocol negotiations in Geneva and Vienna. Their commitment and leadership has contributed greatly to the progress made at these negotiations.

The United States has been at the forefront of protection of the ozone layer, first banning chloroflourocarbons (CFCs) in aerosol propellants in 1978, and then pushing for stringent international controls on CFCs. The other CFC-producing nations have been very reluctant to address this problem. To abandon or weaken the Administration position at this time would jeopardize the progress made towards achieving an international solution. More importantly, if we do not act now and push for a 95% phase-out of ozone-depleting substances, we will jeopardize the sustainability of life on this planet.

CFC

The Honorable Ronald R. Reagan
May 29, 1987
Page Two

We strongly urge the Domestic Policy Council to give its unwavering support to Administrator Thomas and Ambassador Bendick and their responsible approach in dealing with this grave matter. And we urge a swift rejection of such irresponsible approaches as sunglasses, hats, and sunscreen.

Sincerely,

Don Edwards

DON EDWARDS

Jim Bates

JIM BATES

Edward R. Roybal

EDWARD R. ROYBAL

Jim Jeffords

JIM JEFFORDS

Henry A. Waxman

HENRY A. WAXMAN

JAMES A. TRAFICANT, JR.

Frank McCloskey

FRANK McCLOSKEY

Joe Moakley

JOE MOAKLEY

Tony Beilenson

TONY BEILENSEN

Bruce F. Vento

BRUCE F. VENTO

John J. LaFalce

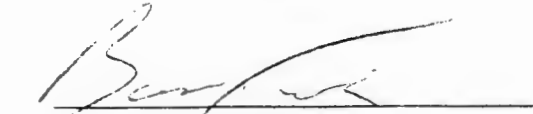
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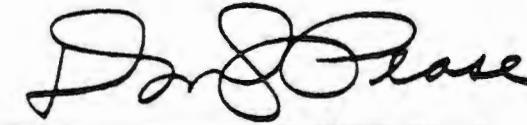
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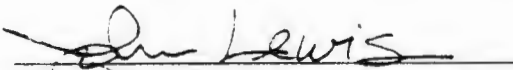
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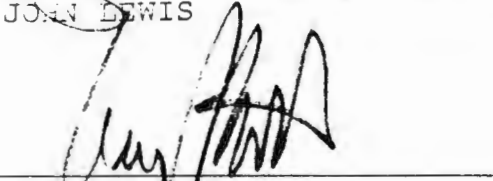

CHESTER ATKINS


BARNEY FRANK



DONALD J. PEASE



JOHN LEWIS


THOMAS M. FOGLIETTA

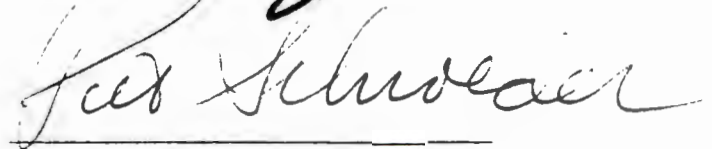

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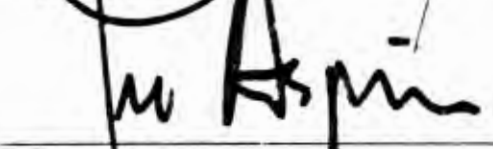

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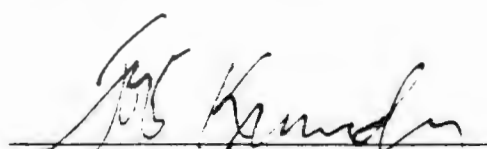

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EDWARD FEIGHAN

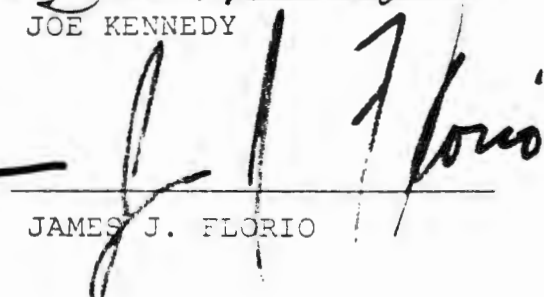

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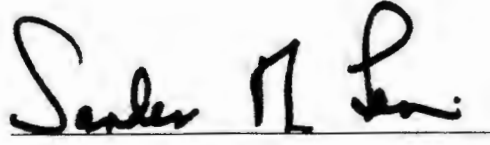

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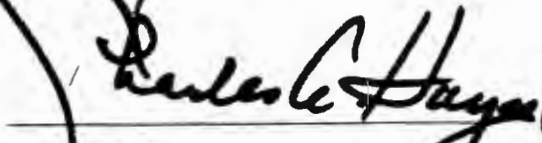

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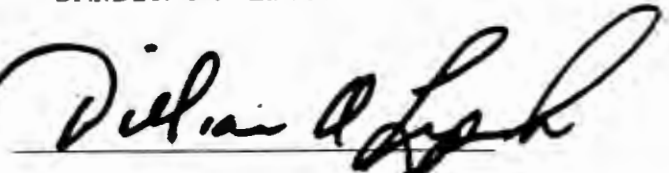

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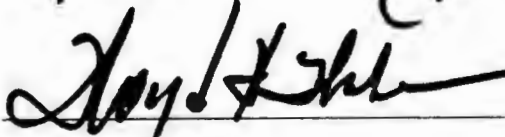

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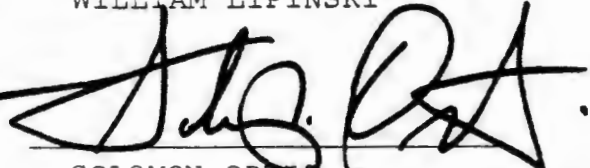

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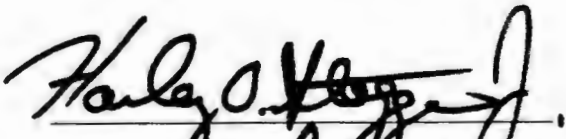

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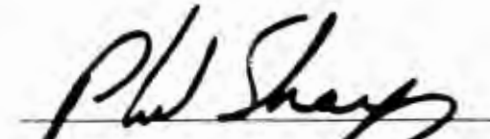

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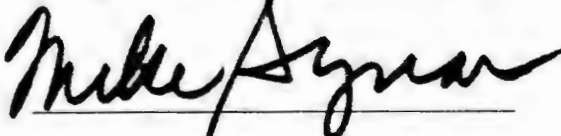

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FLOYD FLAKE


SOLOMON ORTIZ

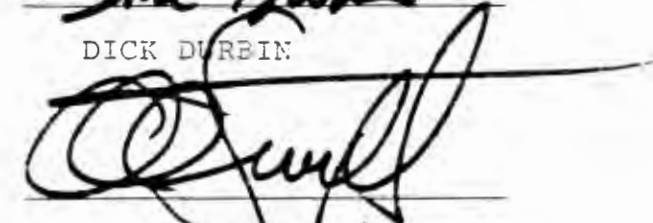

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PHIL SHARP


MIKE SYNAR



DICK DURBIN

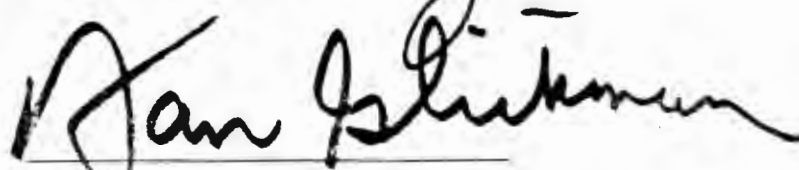

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AL SWIFT


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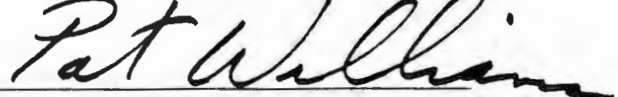



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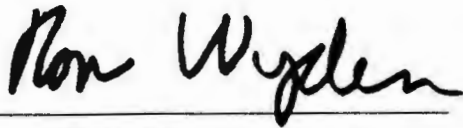

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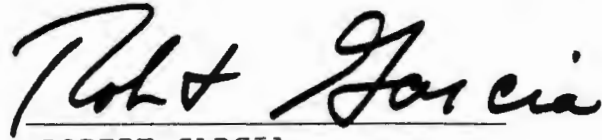
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PAT WILLIAMS



RON WYDEN



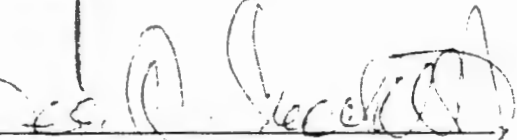
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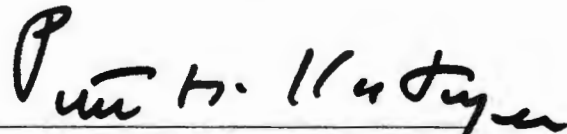
JAMES SCHEUER



RICHARD LEHMAN



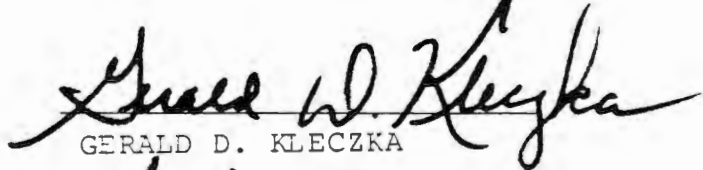
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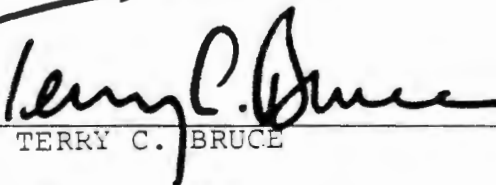
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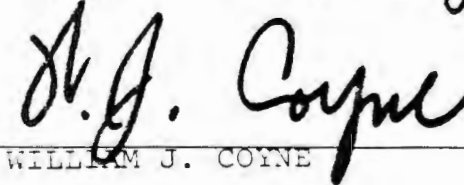
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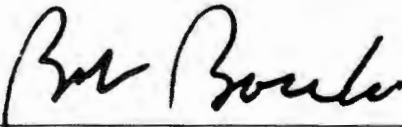
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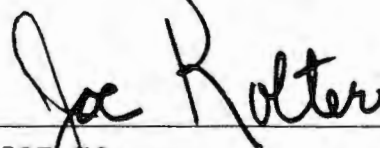
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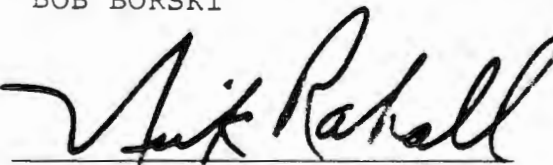
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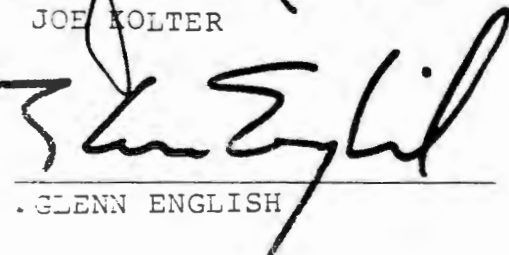
BOB BORSKI



JOE KOLTER



NICK RAHALL



GLENN ENGLISH

The Honorable Ronald R. Reagan
May 29, 1987
Page Six

Joseph Caples

MAJOR R. OWENS

Jim Oberstar

JIM OBERSTAR

Jim Chapman

JIM CHAPMAN

George E. Brown, Jr.

GEORGE E. BROWN, JR.

Leon Panetta

LEON PANETTA

Jimmy Hayes

JIMMY HAYES

Barbara Bonder

BARBARA BONDER

Ted Weiss

TED WEISS

Bob Traxler

BOB TRAXLER

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Bart Gordon

BART GORDON

Bill Boner

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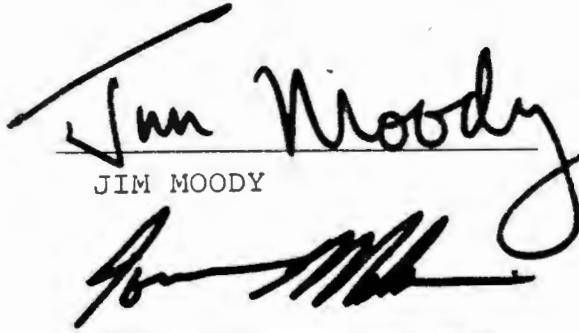
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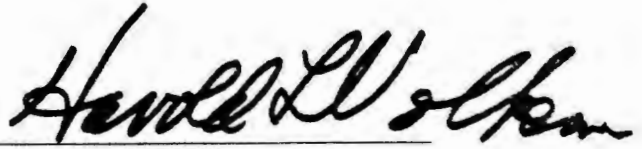
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TOM LANTOS

The Honorable Ronald R. Reagan
May 29, 1987
Page Seven



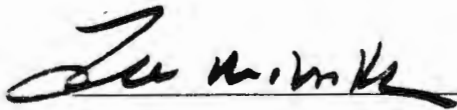
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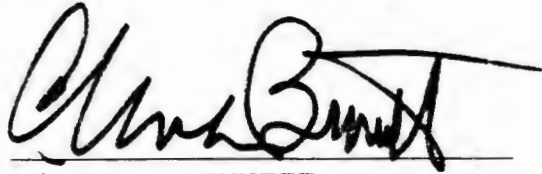


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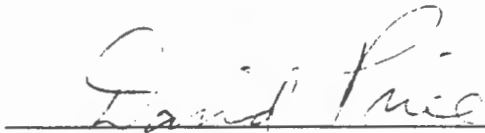


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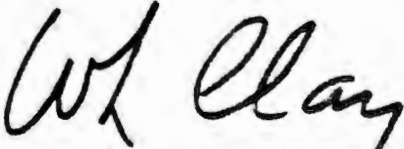




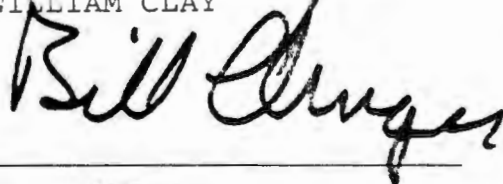
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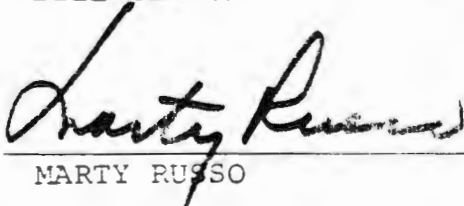
DAVID PRICE



WILLIAM CLAY



BILL CLINGER



MARTY RUSSO

THE WHITE HOUSE
WASHINGTON

July 13, 1987

MEMORANDUM FOR NANCY J. RISQUE

FROM: VICKI MASTERMAN *VM*

SUBJECT: Ozone Report and Statement

*Relayed these
to Suzanne Butcher
she said
OK, but
may need
more for Cong'l
briefings.*

Attached is a State Department re-draft of the public statement on the status of the ozone negotiations. Richard Benedick intends to use the statement in his congressional briefing tomorrow afternoon and in two "Worldnet" television shows this week (one is scheduled for tomorrow morning).

The State Department is still working on their detailed report to the President on the last round of negotiations.

Ralph, Hanns and I have discussed this draft and propose to relay the following comments to State:

1. The U.S. delegation report to the President should precede public statements. Since it does not appear that State will provide a report to the President before making public statements, then the public statements should not contain any reaction or commentary on what is likely to appear in the Chairman's Text.
2. We should not comment on the Chairman's Text before we have seen it. The State Department has drafted an anticipated version of the Chairman's Text based upon discussions with Chairman Tolba; however, Chairman Tolba's text has not been completed.
3. Additional comments are marked on the attached draft statement.

Attachment

cc: Ralph Bledsoe
Hanns Kuttner

DRAFT

STATEMENT ON STATUS OF OZONE NEGOTIATIONS

Progress continues to be made in efforts to negotiate, and to conclude in mid-September, an international agreement to protect the stratosphere from ozone-depleting chemicals by regulating the production and use of certain chlorofluorocarbons (CFCs) and halons. The United Nations Environment Programme (UNEP), under the leadership of Dr. Mostafa Tolba, is playing the central role in bringing together governments from around the world to address this global concern, including all nations which are major producers and consumers of CFCs and halons, as well as developing countries.

The negotiations were resumed last year following a stalemate in 1985. At that time, the United States, Canada and the Nordic nations believed that further significant actions were needed to protect the ozone layer, while others, notably the European Community, Japan and the Soviet Union, were hesitant to undertake additional measures because of economic considerations and scientific uncertainties.

Since 1985, comprehensive international reviews of the scientific knowledge, of technical alternatives for addressing the problem, and of the economic impacts of various regulatory options, have been undertaken. The public both here and abroad has gained increased understanding of the threat to the ozone layer, and to the health and well-being of future generations, posed by these chemicals.

Although it would not be appropriate to discuss details of the negotiations at this stage, the U.S. Government believes that the key points of the draft protocol text produced by Dr. Tolba following international negotiations in Brussels last month represent a balanced and reasonable approach to these complex issues. We believe Dr. Tolba's approach is fully consistent with the state of scientific knowledge and reflects a balance of the economic and social benefits, risks and costs involved.

The essential

~~Dr. Tolba's text contains~~ elements of an international accord which ~~the United States considers absolutely essential.~~ These include: ratification by the major producers and consumers of CFCs before the protocol enters into force; a near-term freeze at 1986 levels of production and consumption of the principal ozone-depleting CFCs and halons; ~~periodic assessments of scientific, technical, and economic~~ *and environmental* considerations to ensure that the control measures are soundly grounded or are revised to take account of evolving understanding; substantial, phased reductions of the CFCs in subsequent years, both to protect the atmosphere and to encourage development of alternative chemicals; and a stated ultimate goal of eventually eliminating realistic threats to the ozone layer from man-made chemicals, as determined by the regularly scheduled scientific assessments.

The U.S. further believes that the protocol must contain trade restrictions applied to CFC-related imports from countries which do not join or comply with the protocol, in order to ensure that nations not accepting their share of this global responsibility do not profit by such a decision. The U.S. also favors some limited grace period for developing countries, in recognition of their special circumstances and to encourage their participation.

Finally, the U.S. believes that the protocol should contain strong provisions for reporting, monitoring and enforcement, and that future decisions under the protocol should be made under a system of voting that gives appropriate weight to the significant producing and consuming countries.

The negotiations continue to be difficult, and much work remains to be done. Nevertheless, the United States believes that it is essential that ^{all} the other principal producer and consumer countries, notably ~~the European Community, Japan, and the Soviet Union,~~ join with us in an effective international control regime. We are working hard to achieve agreement on a meaningful international accord which can be signed in Montreal in September as currently scheduled.

THE WHITE HOUSE

WASHINGTON

July 13, 1987

MEMORANDUM FOR NANCY J. RISQUE

FROM: VICKI MASTERMAN *VM*

SUBJECT: Ozone Statement Update

I provided our comments on the draft ozone public statement to the State Department. In particular, I explained that the President should receive a detailed report on the last round of negotiations before the members of Congress receive a briefing.

Benedick's staff said they could delay the congressional briefing; apparently they were having scheduling problems with tomorrow's meeting anyway.

They anticipate having a draft report from the delegation for the President ready within the next two days. I explained that we wish to review the draft not for clearance but for coverage.

They also agreed with our proposed changes to the draft public statement. They hoped, however, that the public statement could be revised after transmittal of the report to the President to include enough information to brief the interested members of Congress.

cc: Ralph Bledsoe
Hanns Kuttner

THE WHITE HOUSE

WASHINGTON

July 17, 1987

MEMORANDUM FOR SENATOR BAKER

FROM: NANCY J. RISQUE *Nancy*

RE: Attached

This looks okay and no follow up by you is necessary at this time. I am preparing a briefing memo to the President and to DPC that brings everyone up to date. Materials should be ready by Tuesday.

United States Department of State

Deputy Secretary of State

Washington, D.C. 20520

July 16, 1987

CONFIDENTIAL

Dear Howard:

Thank you for your support in the preparations for the international negotiations on measures to protect the ozone layer. The objectives the President has established allow the United States to play a leadership role in dealing with this problem. We are now well on our way to achieving an international agreement which would represent a major victory for the President.

The following comments describe progress in the recent international meetings toward the objectives set out in the President's instructions. You may wish to draw on them in briefing the President.

An informal group of key delegation heads, chaired by U.N. Environment Program (UNEP) Executive Director Mostafa Tolba, met in Brussels, June 29-30. Dr. Tolba's group comprised representatives of the U.S., Canada, Norway (representing the Nordics), New Zealand (representing also Australia), the European Commission, Japan and the USSR. Subsequently, a group of legal experts met in the Hague, July 6-9, to refine the draft protocol text, drawing on the results of the Brussels meetings. UNEP will now circulate a composite text to participating governments in late July or early August, for review prior to the September 8-11 negotiating round and September 14-16 Diplomatic Conference, at which we expect a protocol to be adopted.

Progress in Dr. Tolba's group proved difficult, with the European Commission spokesman resisting compromise toward the U.S. position. The EC's stance unfortunately encouraged Japan and the USSR to continue to resist significant reductions in chlorofluorocarbons, despite earlier informal indications that there might be some movement from them.

The Honorable
Howard Baker,
Chief of Staff,
The White House.

CONFIDENTIAL
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CONFIDENTIAL

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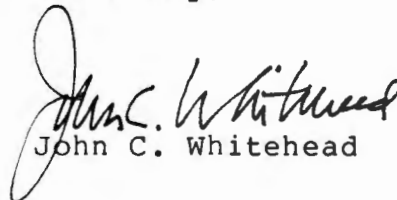
Most U.S. proposals received open endorsement from Canada, Norway, and New Zealand, and behind-the-scenes support from Belgium and Denmark (which were represented within the EC delegation). The main elements of the resulting UNEP text will be either very close to the U.S. position or substantially closer than in earlier drafts. Based on notes of our representatives at the meetings, we anticipate that the UNEP text will include the provisions outlined in the enclosure (which are listed in the same order as in the President's June 25 memorandum).

It is important to note, however, that although the forthcoming UNEP text will undoubtedly be publicized as representing broad informal consensus, it does not have legal status and can be modified (by us or others) in Montreal. For example, the EC, Japan and the USSR did not endorse the thirty percent reduction, inclusion of halons, the 1986 base year, some trade provisions, and the "ultimate objective" clause. Several participants questioned our proposal for a voting mechanism giving weight to significant producing and consuming countries. The legal group did not have time to consider all articles and proposals, and will convene again September 7.

Notwithstanding the difficult negotiations ahead, the inclusion of nearly all our principles in the UNEP text does put us in a good position as we approach the September Diplomatic Conference. I believe there will be mounting political pressure on the other major producing countries to accept an international agreement along the lines of this text. The U.S. will continue to emphasize that, in order for the protocol to be effective, it is essential that the major producing and consuming countries become parties.

We will be working with other governments in the weeks ahead in pursuit of the President's objectives. I will continue to keep you and your staff informed of progress.

Sincerely,



John C. Whitehead

Enclosure:
As stated.

CONFIDENTIAL

PROVISIONS EXPECTED TO BE INCLUDED
IN SEVENTH UNEP DRAFT PROTOCOL TEXT

- o The concept of entry into force only when a substantial proportion of producing/consuming countries have signed and ratified. (The UNEP draft will suggest that sixty percent of global production/consumption be required, but we will seek in the next round to raise this to more than 80 percent.)
- o A grace period for developing countries.
- o A voting mechanism for adjusting reduction steps and chemical coverage that requires agreement by parties representing at least fifty percent of global consumption. (The delegation proposed that such a mechanism be extended to all protocol decisions. This was footnoted and will be discussed further in the next session.)
- o A freeze at 1986 levels on production and imports of chlorofluorocarbons (CFCs) 11, 12, 113, 114, and 115 within one year of entry into force.
- o A freeze at 1986 levels on production and imports of Halons 1211 and 1301 within three years of entry into force. (This provision remains bracketed. If we are unable to reach agreement on including the Halons, a Diplomatic Conference resolution may provide for a decision on Halons to be taken at the first meeting of Parties following the first scientific review.)
- o A requirement that Parties provide data annually on production, imports, exports and destruction of the controlled substances. A requirement that a meeting of the Parties establish procedures for reporting of data. (Further work by the legal group on monitoring and enforcement will be required.)
- o Reassessment of control measures by the Parties in 1990 and every four years thereafter. Convening of a scientific review panel at least one year before each of these assessments.
- o A twenty percent reduction in production and consumption of the controlled CFCs within four years of entry into force.
- o A further thirty percent reduction within eight to ten years of entry into force, unless the Parties decide otherwise by a two-thirds majority representing at least fifty percent of the Parties' consumption.

- o A ban on bulk imports of the controlled substances from non-Parties within one year of entry into force.
- o A ban or restrictions on imports from non-Parties of certain products containing the controlled substances, within four years of entry into force.
- o Provision for the Parties to determine within four to six years of entry into force the feasibility of banning or restricting imports from non-Parties of certain products made with the controlled substances.
- o A prohibition on new agreements to provide to non-Parties subsidies, aid, credits, guarantees or insurance programs for producing the controlled substances.
- o Provision for the Parties to decide whether further reductions from 1986 levels should be undertaken with the objective of eventual elimination of production and consumption of the controlled substances except for uses for which no substitutes are commercially available.



United States Department of State

Washington, D.C. 20520

July 17, 1987

MEMORANDUM

TO: OES/E - Richard Benedick

FROM: L/OES - Debbie Kennedy *DK*

SUBJECT: Ozone Protocol

Attached is a copy of the seventh revised draft protocol to the Ozone Convention which reflects changes recommended by the Legal Drafting Group. This copy was faxed by UNEP Secretariat to me this morning. I have not yet compared it with my notes on the agreed changes. I have noticed, nevertheless, one obvious omission: although Article 11 refers to the preparation and distribution of a report based on information received pursuant to Article 7 and 8, the Secretariat has omitted the complementary subparagraph agreed upon by the group on distribution of data received pursuant to Article 7. I should also point out that Articles 8 through 14 were only briefly dealt with by the Legal Drafting Group because of the time limitations it faced.

cc: OES/ENH - John Rouse
OES/ENH - Suzanne Butcher ✓
EPA/OIA - Bill Long

#21850

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United Nations
Environment
Programme



Distr.
GENERAL



UNEP/IG.79/3
15 July 1987

Original: ENGLISH

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

Montreal, 14-16 September 1987

Seventh Revised Draft Protocol on [Chlorofluorocarbons]
[and Other Ozone Depleting Substances]

SEVENTH REVISED DRAFT PROTOCOL ON [CHLOROFLUOROCARBONS]
[AND OTHER OZONE DEPLETING SUBSTANCES]*

PREAMBLE

Being Parties to the Vienna Convention for the Protection of the Ozone Layer, adopted at Vienna on 22nd March 1985,

Mindful of their obligation under that Convention to take appropriate measures to protect human health and the environment against adverse effects resulting or likely to result from human activities which modify or are likely to modify the ozone layer,

Recognizing the possibility that world-wide emissions of fully halogenated chlorofluorocarbons can significantly deplete and otherwise modify the ozone layer, which is likely to result in adverse effects on human health and the environment,

Recognizing also the potential climatic effects of chlorofluorocarbons emissions,

Determined to protect the ozone layer by taking precautionary measures to control total global emissions of chlorofluorocarbons,

Mindful of the precautionary measures for controlling emissions of chlorofluorocarbons that have already been taken at the national and regional levels,

Aware that measures taken to protect the ozone layer from modifications due to the use of chlorofluorocarbons should be based on relevant scientific and technical considerations,

Mindful that special provision needs to be made in regard to the production and use of chlorofluorocarbons for the needs of developing countries and low-consuming countries,

* Draft prepared by the Legal Drafting Group during its meeting in The Hague 6-9 July 1987 on the basis of the Sixth Revised Draft Protocol on Chlorofluorocarbons, Vienna, 27 February 1987 (UNEP/WG.167/2, Annex 1), together with Articles proposed at the Third Session of the Ad hoc Working Group of Legal and Technical Experts for the Preparation of a Protocol on Chlorofluorocarbons to the Vienna Convention for the Protection of the Ozone Layer (Vienna Group), Geneva 27-30 April 1987 (UNEP/WG.172/2) and taking into account the results of Brussels, 29-30 June 1987, and Geneva, 1-4 July 1987 Informal consultations.

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

HAVE AGREED AS FOLLOWS:

ARTICLE I: DEFINITIONS

For the purposes of this Protocol:

1. "Convention" means the Vienna Convention for the Protection of the Ozone Layer, adopted at Vienna on 22nd March 1985;
2. "Parties" means, unless the text otherwise indicates, Parties to this Protocol;
3. "Secretariat" means the secretariat of the Convention;
- [4. "Chlorofluorocarbon" or "CFC" means any fully halogenated chlorofluoroalkane.]
5. "Controlled substance" means a substance listed in Annex A to this Protocol, whether existing alone or together with any other substance, but does not include a product or a mixture where the substance listed in Annex A constitutes less than [20] percent, by weight or volume, of the product or mixture.
6. "Production" means the amount of controlled substances produced minus the amount destroyed by techniques approved by the Parties.
7. "Consumption" means production plus imports minus exports of controlled substances.

ARTICLE 2: CONTROL MEASURES^{1/}

1. Each party shall ensure that within one year of the entry into force of this Protocol, production in and imports into its jurisdiction of the controlled substances do not exceed the level of production and the level of imports respectively in 1986. This paragraph shall remain in effect until four years after the entry into force of this Protocol^{2/}.

CFCs
Freeze
P+I '86

[2. Each party shall ensure that within three years of the entry into force this Protocol, production in and imports into its jurisdiction of Halons 1211 and 1301 do not exceed the level of production and the level of imports respectively in 1986]^{3/}.

Brackets
Freeze
Halons

1/ All of the figures in this Article, whether or not in square brackets, were inserted by the Executive Director after his informal consultations in Brussels, 29-30 June. The structure of the draft text was prepared by the Legal Drafting Group, which was mandated to deal with "outstanding legal and institutional matters".

2/ In the opinion of the Legal Drafting Group, the formulation of paragraph 1, 2 and 3 does not make it sufficiently clear how the control measures are to apply to States which became Parties to the Protocol after its entry into force. This question could be dealt with by adding a paragraph, at an appropriate place in the Protocol, along the following lines: "Any State or regional economic integration organization which becomes a Party to this Protocol after its entry into force, shall fulfil forthwith the sum of the obligations under Article 2, subject to Article 5, that apply at the date to the States and regional economic integration organization that became Parties on the date the Protocol entered into force".

3/ The Legal Drafting Group did not attempt to revise the formulation of Article 2 paragraph 2. Questions remain regarding whether and, if so, how Halons should be dealt with the Protocol. For example should the control measures which apply to CFCs apply to Halons also? An alternative to this paragraph in the form of a resolution of the Montreal Conference has been proposed as follows:

Recognizing that there is serious concern about the likely adverse effects on the ozone layer of Halons 1211 and 1301, and that there is a need for more data and information regarding their use, emission rates and ozone depleting potential,

Alternative 1

[Decides that these compounds shall be frozen at their 1986 production levels within the scope of the Protocol, at the first meeting of the Parties following the first scientific review in 1990].

Alternative 2

[Decides that a decision on the freeze of these compounds at their 1986 production levels, within the scope of the Protocol, shall be made at the first meeting of the Parties to be held after the first scientific review in 1990.]

A question is also raised regarding whether the reference to the year 1990 in the first and second alternatives...

3. Each party shall ensure that within four years of the entry into force of this Protocol, production and consumption in its jurisdiction of the controlled substances do not exceed eighty percent of the level of production and the level of consumption respectively in 1986.^{4/}

20% ↓
4 yrs

4. Each Party shall ensure that within [eight] [ten] years of the entry into force of this Protocol, production and consumption in its jurisdiction of the controlled substances do not exceed fifty percent of the level of production and the level of consumption respectively in 1986, unless the Parties decide otherwise by a two-thirds majority representing at least fifty percent of global consumption^{5/} of those substances in the light of the assessments referred to in Article 6. Such decision shall be taken not later than four years after entry into force of the Protocol.

8/10 yrs

30%
2/3 maj of
50% of consump

5. Based on assessments made pursuant to Article 6, Parties shall decide by [two-thirds majority] [a majority] vote representing at least fifty percent of global consumption:

vote of
50%
consump

- (a) whether substances should be added to or removed from Annex A;
- (b) whether further reduction from 1986 levels should be undertaken with the objective of eventual elimination of production and consumption of the controlled substances except for uses for which no substitutes are commercially available.^{6/}

substs +
further
reduc's (?)

[6. Productions are permitted to transfer from one country to another if these transmissions are certain not to cause an increase of production.]^{7/}

4/ The Legal Drafting Group notes that in paragraph 3 and 4 of Article 2, the year "1986" is used as the base year for calculating production and consumption controls. However, the possibility of using "1990" as the base year for consumption controls was included as an option by the Formula sub-working group. If it is decided in Montreal to use 1990 as the base year for consumption controls, some re-drafting of these paragraphs will be necessary.

5/ The Legal Drafting Group notes that it would be unlikely that global consumption figures would be available since data would not necessarily be available from non-Parties. In Article 2 paragraphs 4 and 5 "total consumption of the Parties" could be substituted for "global consumption". See also Article 5 paragraph 1.

6/ The Legal Drafting Group notes that sub-paragraph (a) does not indicate what control measures should apply to substances to be added to Annex A. It further notes that paragraph 5 does not deal with the question of the entry into force of any changes to Annex A decided by the Parties. It is unclear whether changes adopted by majority vote are intended to bind all Parties, or whether the intent is that such changes would bind only Parties that have agreed to them.

7/ This paragraph, which originally appeared in the revised reduction formula developed by the Trade Group, was only briefly discussed by the Legal Drafting Group as it was realized that the idea behind this provision required further elaboration.

ARTICLE 3: CALCULATION OF CONTROL LEVELS

For the purposes of Articles [] each Party shall calculate its levels of:

- (a) production, imports, and exports of the controlled substances, by:
 - (i) multiplying its annual production, imports and exports of each controlled substance by the ozone depletion potential specified in Annex A; and
 - (ii) adding together the multiplication products from subparagraph (i);
- (b) Consumption of the controlled substances, by adding together its levels of production and imports and subtracting its level of exports.

ARTICLE 4: CONTROL OF TRADE WITH NON-PARTIES^{8/}

1. Within [one] year of the entry into force of this Protocol, each Party shall ban the import [and export] of the controlled substances from [or to] any State not Party to this Protocol.

*1 yr.
ban import*

2. Alternative 1

[Within [four] years of the entry into force of this Protocol, each Party shall ban imports of products identified in Annex B containing controlled substances from any State not Party to this Protocol. The Parties shall periodically review, and if necessary, amend Annex B].^{9/}

*4 yrs
ban
IO'd prod*

^{8/} Incorporates results of consultations of the Trade subgroup in Brussels, 29-30 June 1987. It was agreed by the group that the years in paragraphs 1 and 2 of this Article should be the same as the years used in paragraphs 1 and 3 of Article 2 respectively.

^{9/} There are a number of provisions in the draft text - see Article 2 paragraph 5 and Article 4 - where changes or amendments to Annexes and the adoption of new annexes are envisaged. It was not clear from the draft text what procedures were intended by the drafters for the adoption of such changes. The Convention provides procedures for the amendment and adoption of annexes and for amendments to Protocols. (See Articles 9 and 10 of the Convention). The Legal Drafting Group noted that Article 10 paragraph 1 of the Convention provides that annexes "shall be restricted to scientific, technical and administrative matters", and it would be up to the meeting in Montreal to decide whether the proposed annexes are of that character; or indeed whether these matters could be dealt within the main body of the Protocol or could be considered as part of the normal implementation of the Protocol. There was also discussion among the legal experts as to, inter alia, if the procedures other than those specifically provided for in the Convention are adopted by the Parties, how far they can vary from the Convention provisions on this point. These issues should be addressed in Montreal.

Alternative 2

[Within [four] years of the entry into force of this Protocol, each Party shall ban or restrict imports of products containing controlled substances from any State not Party to this Protocol. At least one year prior to the time such measures take effect the Parties shall elaborate in an annex a list of the products to be banned or restricted and standards for applying such measures uniformly by all Parties].

05
4 yrs
ban products
other

3. Within [four-six] years of the entry into force of this Protocol, the Parties shall determine the feasibility of banning or restricting imports of products produced with controlled substances from any State not Party to this Protocol. If determined feasible, the Parties shall ban or restrict such products and elaborate in an annex a list of the products to be banned or restricted and standards for applying such measures uniformly by the Parties.

4-6
yrs
determine
feasibility
banning
products

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

5. Parties shall not conclude new agreements to provide to States not Party to this Protocol bilateral or multilateral subsidies, aid, credits, guarantees or insurance programmes for the export of products, equipment, plants or technology for producing the controlled substances.

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

7. Notwithstanding the provisions of this Article, imports referred to in paragraphs 1, 2 and 3 may be permitted from any [State not Party] [signatory] to this Protocol for a period not to exceed [two] [three] years from entry into force of the Protocol if that State is in full compliance with Article 2 and this Article and has submitted data to that effect, as specified in Article 7. [Extension of the exemption period beyond 2-3 years shall be granted by Parties only upon a determination at a meeting of the Parties that: (a) all conditions specified in this paragraph have been met and (b) such extension for an additional period not to exceed [two-three] years is fully consistent with the objectives of this Protocol to protect the ozone layer].^{10/}

^{10/} The Legal Drafting Group considered that further work to defined the objectives of this paragraph needs be carried out before satisfactory legal drafting can be done.

ARTICLE 5: LOW CONSUMING COUNTRIES 11/

1. Any Party whose consumption in 1986 of the controlled substances was less than [0.1] [0.2] kg. per capita shall be entitled to delay its compliance with the provisions of paragraphs 1 to 4 of Article 2 by [five] [ten] years after that specified in that Article and to substitute [] in place of 1986 as the base year. 12/
2. The Parties shall make all possible efforts to assist Parties referred to in paragraph 1 to make expeditious use of environmentally safe alternative chemicals and technology.
3. The parties shall encourage^{13/} bilateral and multilateral subsidies, aid, guarantees or insurance programmes to the developing countries for the use of alternative technology and substitute products.

11/ - The Legal Drafting Group, was aware of the importance of the Article on the low consuming countries but noted that the substantive work had not been completed on this Article. The Group, therefore, confined itself to the material available at the time of its meeting and merely introduced necessary drafting improvements. The Group draws attention to the need for this Article to be given a special priority by the preparatory meeting in Montreal and to be addressed at an early stage.

- It was decided during the Brussels consultations to retain in brackets the following provisions, taken from the revised reduction formula developed by the Trade Group, pending completion of the Article on Low Consuming Countries;

[Any [developing] country, or group of [developing] countries, not producing CFCs at the time of the signing of the Protocol shall be permitted to produce or have produced for it by any Party to the Protocol, substances referred to in Article 2, to a level not exceeding its/their controlled level of imports/aggregated level of imports, as the case may be. The level of production and imports at any time will not be permitted to exceed the controlled level of imports.]

12/ The Legal Drafting Group suggested this paragraph to replace the paragraphs 2 and 2 of the draft prepared in Geneva 27-30 April 1987 as a purely drafting improvement.

13/ The meeting in Montreal may wish to consider a more precise expression than the word "encourage".

ARTICLE 6: REVIEW AND ASSESSMENT OF CONTROL MEASURES

Beginning in 1990,^{14/} and every four years therefore, the Parties shall assess the control measures provided for in Article 2, based on available scientific, environmental, technical, and economic information. At least one year before each of these assessment, the Parties shall convene a panel of scientific experts, with composition and terms of reference determined by the Parties, to review advances in scientific understanding of modification of the ozone layer, and the potential health, environmental and climatic effects of such modification.

ARTICLE 7: REPORTING OF DATA

1. Each Party shall provide to the secretariat, within three months of becoming a Party, data on its production, imports and exports of the controlled substances for the year 1986 or estimates of that data where actual data are not available.
2. Each Party shall provide data on its production, exports, imports and destruction of these substances for the calendar^{15/} year during which it becomes a Party and for each year thereafter.

^{14/} The Legal Drafting Group noted that the requirement to hold the first assessment in 1990 is dependent on the Protocol being in force by that date.

^{15/} There was some discussion as to whether the fact that such data would be collected and submitted to the secretariat on a calendar year basis would create an ambiguity for measuring compliance with the control measures which, as currently drafted, would take effect a certain number of years after entry into force of the Protocol. As Article 2 is currently drafted it is not clear whether a Party would measure its compliance to a reduction step by the data for that previous calendar year or data for the year in which the particular obligation takes effect.

**ARTICLE 8: RESEARCH, DEVELOPMENT, EXCHANGE OF INFORMATION
AND PUBLIC AWARENESS**

1. The Parties shall co-operate in promoting, directly and through competent international bodies, bearing in mind the needs of developing countries, research, development and exchange of information on:
 - (a) Best practicable technologies for reducing emissions of the controlled substances;
 - (b) Possible alternatives to the controlled substances;
 - (c) Costs and benefits of relevant control strategies
2. The Parties, individually, jointly or through competent international bodies, shall co-operate in promoting public awareness of the environmental effects of the emissions of CFCs and other ozone modifying substances.
3. Each Party shall submit biennially to the Secretariat a summary of activities conducted pursuant to this Article.

ARTICLE 9: TECHNICAL ASSISTANCE

1. The Parties shall co-operate, taking into account in particular the needs of developing countries, in promoting, in the context of the provisions of article 4 of the Convention, technical assistance to facilitate participation in and implementation of this Protocol.
2. Any Party or Signatory to this Protocol in need of technical assistance in implementing it may submit a request to the Secretariat.
3. At their first meeting, the Parties shall begin deliberations on the ways and means of fulfilling the obligations set out in Article 8 and 9 above, including the preparation of workplans. Such workplans shall pay special attention to the needs and circumstances of the developing countries. Non-Parties to the Protocol should be encouraged to participate in activities outlined in such workplans.

ARTICLE 10: MEETINGS OF THE PARTIES

1. The Parties shall hold meetings at regular intervals. The Secretariat shall convene the first meeting of the Parties not later than one year after entry into force of this Protocol and in conjunction with a meeting of the Conference of the Parties to the Convention, if a meeting of the latter is scheduled within that period.
2. Subsequent ordinary meetings of the Parties shall be held, unless the Parties otherwise decided, in conjunction with meetings of the Conference of the Parties to the Convention. Extraordinary meetings of the Parties shall be held at such other times as may be deemed necessary at a meeting of the Parties, or at the written request of any of them, provided that, within six months of such a request being communicated to them by the Secretariat, it is supported by at least one third of the Parties.

3. At their first meeting the Parties shall:
 - (a) adopt by consensus rules of procedure for their meetings;
 - (b) prepare workplans pursuant to paragraph 3 of Article 9;
 - (c) adopt by consensus such rules as required by paragraph 2 of Article 12.

4. The functions of the meetings of the Parties shall be:
 - (a) to review the implementation of this Protocol;
 - (b) to establish, where necessary, guidelines or procedures for reporting of information as provided for in Article 7 and 8;
 - (c) to review requests for technical assistance provided for in Article 9;
 - (d) to review requests received from the Secretariat pursuant to Article 11;
 - (e) to reassess, pursuant to Article 3, the control measures provided for in Article 2;
 - (f) to consider and adopt proposals for amendment of this Protocol (in conformity with Articles 9 and 10 of the Convention)
 - (g) to consider and adopt the budget for implementation of this Protocol;
 - (h) to consider and undertake any additional action that may be required for the achievement of the purposes of this Protocol.

5. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not Party to this Protocol, may be represented at meetings of the Parties as observers. Any body or agency, whether national or international, governmental or non-governmental, qualified in fields relating to the protection of the ozone layer which has informed the Secretariat of its wish to be represented at a meeting of the Parties as an observer may be admitted unless at least one-third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Parties.

ARTICLE 11: SECRETARIAT

The Secretariat shall:

- (a) Arrange for and service meetings of the Parties provided for in article 10;
- (b) Prepare and distribute to the Parties regularly a report based and information received pursuant to article 7 and 8;
- (c) Notify the Parties of any request for technical assistance

provision of such assistance to the extent possible;

- (d) Perform such other functions for the achievement of the purposes of the Protocol as may be assigned to it by the Parties;
- (e) Where possible, encourage Non-Parties to attend the meetings of the Parties as observers and to act in accordance with the provisions of the Protocol;
- (f) Where possible, provide the information referred to in sub-paragraphs (b), (c) and (d) above to such Non-Party observers.

ARTICLE 12: FINANCIAL PROVISIONS

1. The funds required for the operation of this Protocol, including those for the functioning of the Secretariat related to this Protocol, shall be charged exclusively against contributions from the Parties.

2. The Parties at their first meeting shall adopt by consensus financial rules for the operation of this Protocol, including rules for assessing contributions from the Parties, taking into account the special situation of the developing countries.

ARTICLE 13: RELATIONSHIP OF THIS PROTOCOL TO THE CONVENTION

The provisions of the Convention relating to its protocols shall apply to this Protocol, unless otherwise decided.

ARTICLE 14: SIGNATURE

This Protocol shall be open for signature at Montreal on 16 September 1987, in Ottawa from 17 September 1987 to 16 January 1988, and at U.N. Headquarters in New York from 17 January 1988 to 16 September 1988.

ARTICLE 15: ENTRY INTO FORCE

1. The Protocol shall enter into force on the same date as the Convention enters into force, provided that at least [nine] instruments of ratification, acceptance, approval of or accession to the Protocol have been deposited [by States or regional economic integration organizations representing at least sixty percent of 1986 global production of the controlled substances].^{16/} In the event that [nine] such instruments have not been deposited by the date of entry into force of the Convention, this Protocol shall enter into force on the [ninetieth] ^{17/} day following the date of deposit of the [ninth] instrument of ratification, acceptance, approval of or accession to the Protocol [by States or regional economic integration organizations representing at least sixty percent of 1986 global production of the controlled substances].^{16/}
2. For the purposes of paragraph 1, any instrument deposited by a regional economic integration organization referred to in Article 12 of the Convention shall not be counted as additional to those deposited by member States of such organizations.
3. After the entry into force of this Protocol, any State or regional economic integration organization referred to in Article 12 of the Convention shall become a Party to it on the [ninetieth] ^{17/} day following the date of deposit of its instrument of ratification, acceptance, approval or accession.

^{16/} Resulting from Executive Director's consultations in Brussels on 29-30 June 1987. The Executive Director has requested Governments to submit data regarding their estimated imports. If sufficient data are available for the preliminary session in Montreal, a certain percentage of imports could be added to this provision.

A proposal was made to the Legal Drafting Group that would have the effect of applying similar provisions to the entry into force of amendments, additional annexes, or amendments to annexes to this Protocol. This proposal was not discussed fully because of time constraints and limited country representation. Also, a view was expressed that the proposal raised new substantive issues.

^{17/} The Convention provides that a State or regional economic integration organization may not become a Party to a Protocol unless it is, or becomes at the same time, a Party to the Convention (Article 16). It also provides that the Convention enters into force on the ninetieth day after the deposit of the twentieth instrument of ratification, and (after it has entered into force) for each ratifying State on the ninetieth day after the deposit of that State's instrument of ratification (Article 17). To prevent a situation arising in which a State's (or organization's) ratification of the Protocol might appear to be effective before the State (or organization) had become a Party to the Convention, it was necessary to substitute "thirtieth" for "ninetieth" in the article on entry into force in the Protocol. This might also be desirable in order to avoid the possibility that the Protocol might appear to enter into force before the Convention.

Final footnote

A proposal was made to the Legal Drafting Group for an Article under which, for purposes of certain Protocol articles, the geographic area of a regional economic integration organization shall be treated as a single unit. The proposal was not discussed fully because of time constraints and limited country representation. Also a view was expressed that the proposal raised new substantive issues.

- - - - -

ANNEX A
CONTROLLED SUBSTANCES

Group	Chemical	Calculated Ozone Depleting ^A Potential (ODP)
(a) Fully halogenated Chlorofluorocarbons	CFC-11	1.0
	CFC-12	1.0
	CFC-113	0.8
	CFC-114	1.0**
	CFC-115	0.6**
[(b) Halons	Halon-1301	10**]
	Halon-1211	3**]

* ODP values are preliminary estimates subject to further scientific review.

** The ODP values for Halons 1211 and 1301, CFC-114, and CFC-115 are not as well established as the value for the other chemical compounds in the above table. Hence, the recommended ODP values for these chemical compounds should be considered provisional.

July 20, 1987

MEMORANDUM FOR RALPH C. BLEDSOE

FROM: VICKI MASTERMAN

SUBJECT: Stratospheric Ozone -- Chairman's Text

Attached is the seventh Chairman's draft international ozone protocol. The draft contains 15 articles, an annex listing the controlled substances, and footnotes from the Legal Drafting group with questions and suggested clarifications.

Briefly, the Chairman's text contains the following provisions:

Article 1 -- Definitions.

Article 2 -- Control Measures. The draft protocol provides for the following controls of CFCs 11, 12, 113, 114 and 115: freeze of production and imports at 1986 levels within one to two years of entry into force; 20 percent reduction of production and consumption from 1986 levels within four years of entry into force; 30 percent reduction of production and consumption from 1986 levels within eight or ten years after entry into force unless a two-thirds majority representing at least fifty percent of global consumption decides otherwise.

The draft has a paragraph in brackets which would freeze production and imports of Halons 1211 and 1301 at 1986 levels within three years of entry into force.

The text includes a voting provision for decisionmaking on whether substances should be added to or removed from the controlled substances list, and whether further reductions of controlled chemicals should be required with the objective of eventual elimination. Such decisions would be made by either a two-thirds majority or a majority vote representing at least fifty percent of global consumption.

Article 3 -- Calculation of Control Levels. This article provides formulas for calculating each party's levels of production, imports, exports and consumption of the controlled substances.

Article 4 -- Control of Trade With Non-Parties. This article provides for a ban on imports of controlled substances in bulk within one year of entry into force. The article includes two alternative provisions for import controls of products containing controlled substances within four years of entry into force, and a provision for the future consideration of

restricting imports of products produced with the controlled substances.

Article 5 -- Low Consuming Countries. This article contains a grace period of either five or ten years from a base year to be determined for countries with low consumption of controlled substances.

Article 6 -- Review and Assessment of Control Measures. Provides for assessments of scientific, technological, economic and environmental information every four years, beginning in 1990.

Article 7 -- Reporting of Data. Requires parties to provide production, imports and exports data to UNEP.

Article 8 -- Research, Development, Exchange of Information and Public Awareness.

Article 9 -- Technical Assistance.

Article 10 -- Meetings of the Parties.

Article 11 -- Secretariat.

Article 12 -- Financial Provisions.

Article 13 -- Relationship of this Protocol to the Convention

Article 14 -- Signature.

Article 15 -- Entry Into Force. This article contains a paragraph in brackets providing for entry into force upon the ratification of at least nine States or regional economic integration organizations representing at least sixty percent of 1986 global production of the controlled substances. The protocol cannot, of course, enter into force prior to the entry into force of the Vienna Convention.

THE WHITE HOUSE

WASHINGTON

July 23, 1987

MEMORANDUM FOR THE PRESIDENT

FROM: NANCY J. RISQUE

SUBJECT: Status of Stratospheric Ozone Negotiations

Background: On June 25, 1987, you provided instructions to the U.S. delegation negotiating an international protocol for the control of ozone-depleting chemicals, mainly chlorofluorocarbons (CFCs). The head of the U.S. delegation has since met with heads of delegations from some of the other countries, and is now preparing for the final negotiations in Montreal in September.

From the latest meetings, the Chairman of the United Nations Environment Program has drafted a proposed international protocol. This draft protocol includes many, but not all, of the provisions you directed the delegation to seek.

Status: The Chairman's draft protocol text includes these provisions consistent with your instructions: a grace period for developing countries; a voting mechanism for protocol decisions favoring the major consuming countries; a freeze of CFCs at 1986 levels, within one to two years after entry into force; required reporting procedures; regular scientific assessments; CFCs reduction of 20 percent within four years after entry into force and an additional 30 percent within eight or ten years after entry into force; a trade provision; and a provision for future reduction decisions.

The most important provision requiring additional negotiation is the requisite level of international participation for the protocol to enter into force. You instructed the delegation to seek participation by countries responsible for a "substantial majority" of the production/consumption of ozone-depleting chemicals. Specifically, you noted this proportion should be well above a majority of the major producing/consuming countries. The Chairman's text introduces this concept, but with a tentative requirement of ratification by sixty percent of the producing countries. The U.S. delegation will seek to include a provision requiring more than eighty percent of the producing and consuming countries for entry into force. Also, the Chairman's text does not include Halons 1201 and 1311 in the freeze at 1986 levels.

The U.S. delegation is negotiating with individual countries to ensure that the desired participation provisions and a freeze of Halons are included in the final protocol.

THE WHITE HOUSE

WASHINGTON

July 23, 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
CHAIRMAN, COUNCIL ON ENVIRONMENTAL QUALITY

FROM: NANCY J. RISQUE

SUBJECT: Status of Stratospheric Ozone Negotiations

Attached is an advance copy of the most recent Chairman's draft protocol for the control of ozone-depleting chemicals. This text is the result of the June 29-30, 1987 meeting of the heads of delegations of selected countries participating in the UNEP negotiations.

Briefly, the Chairman's text contains the following provisions: a freeze of CFCs (11, 12, 113, 114 and 115) at 1986 levels within one to two years after entry into force; a 20 percent reduction of these CFCs within four years after entry into force; an additional 30 percent reduction of these CFCs within eight or ten years after entry into force unless a two-thirds majority representing at least fifty percent of global consumption decides otherwise; a grace period for developing countries; a trade provision banning the import of bulk CFCs within one year after entry into force; two alternative trade provisions for import controls of products containing controlled substances within four years of entry into force; a trade provision for future consideration of products produced with CFCs; reporting procedures; a voting mechanism for additional reduction decisions and chemical coverage decisions emphasizing consuming countries; and regular scientific assessments.

An important provision that will require additional consideration is the requisite level of international participation for the protocol to enter into force. The Chairman's text introduces the concept of making entry into force contingent upon a specified level of participation, but with a tentative requirement of ratification by sixty percent of the producing countries. Also, in this version of the Chairman's text, the provision for a freeze of Halons 1201 and 1311 is in brackets.

The U.S. delegation will be working with other countries prior to the final negotiating sessions and Diplomatic Conference, both scheduled for Montreal in September. Any comments you may have on the attached text should be directed to Deputy Secretary John C. Whitehead at the Department of State.

THE WHITE HOUSE

WASHINGTON

July 20, 1987

MEMORANDUM FOR NANCY J. RISQUE

FROM:

RALPH C. BLEDSOE 

SUBJECT:

Status Memo on Stratospheric Ozone

Attached is a proposed memorandum from you to the President on the status of the stratospheric ozone negotiations. Also attached are an advance copy of the Chairman's text and a memorandum from you (or me) to the DPC, circulating the draft protocol.

Attachments

THE WHITE HOUSE

WASHINGTON

July 20, 1987

MEMORANDUM FOR THE PRESIDENT

FROM: NANCY J. RISQUE

SUBJECT: Status of Stratospheric Ozone Negotiations

Background: On June 25, 1987, you provided instructions to the U.S. delegation negotiating an international protocol for the control of ozone-depleting chemicals, mainly chlorofluorocarbons (CFCs). The head of the U.S. delegation has since met with heads of delegations from some of the other countries, and is now preparing for the final negotiations in Montreal in September.

From the latest meetings, the Chairman of the United Nations Environment Program has drafted a proposed international protocol. This draft protocol includes many, but not all, of the provisions you directed the delegation to seek.

Status: The Chairman's draft protocol text includes these provisions consistent with your instructions: a grace period for developing countries; a voting mechanism for protocol decisions favoring the major consuming countries; a freeze of CFCs at 1986 levels, within one to two years after entry into force; required reporting procedures; regular scientific assessments; CFCs reduction of 20 percent within four years after entry into force and an additional 30 percent within eight or ten years after entry into force; a trade provision; and a provision for future reduction decisions.

The most important provision requiring additional negotiation is the requisite level of international participation for the protocol to enter into force. You instructed the delegation to seek participation by countries responsible for a "substantial majority" of the production/consumption of ozone-depleting chemicals. Specifically, you noted this proportion should be well above a majority of the major producing/consuming countries. The Chairman's text introduces this concept, but with a tentative requirement of ratification by sixty percent of the producing countries. The U.S. delegation will seek to include a provision requiring ^{more than} eighty percent of the producing and consuming countries for entry into force. Also, the Chairman's text does not include Halons 1201 and 1311 in the freeze at 1986 levels.

Action: The U.S. delegation is negotiating with individual countries to ensure that the desired participation provisions and a freeze of Halons are included in the final protocol.

THE WHITE HOUSE

WASHINGTON

July 20, 1987

MEMORANDUM FOR THE DOMESTIC POLICY COUNCIL

FROM: RALPH C. BLEDSOE
Executive Secretary

SUBJECT: Status of Stratospheric Ozone Negotiations

Attached is an advance copy of the most recent Chairman's draft protocol for the control of ozone-depleting chemicals. This text is the result of the June 29-30, 1987 meeting of the heads of delegations of selected countries participating in the UNEP negotiations.

Briefly, the Chairman's text contains the following provisions: a freeze of CFCs (11, 12, 113, 114 and 115) at 1986 levels within one to two years after entry into force; a 20 percent reduction of these CFCs within four years after entry into force; an additional 30 percent reduction of these CFCs within eight or ten years after entry into force unless a two-thirds majority representing at least fifty percent of global consumption decides otherwise; a grace period for developing countries; a trade provision banning the import of bulk CFCs within one year after entry into force; two alternative trade provisions for import controls of products containing controlled substances within four years of entry into force; a trade provision for future consideration of products produced with CFCs; reporting procedures; a voting mechanism for additional reduction decisions and chemical coverage decisions emphasizing consuming countries; and regular scientific assessments.

An important provision that may require additional consideration is the requisite level of international participation for the protocol to enter into force. The Chairman's text introduces the concept of making entry into force contingent upon a specified level of participation, but with a tentative requirement of ratification by sixty percent of the producing countries. Also, in this version of the Chairman's text, the provision for a freeze of Halons 1201 and 1311 is in brackets.

The U.S. delegation will be working with other countries prior to the final negotiating sessions and Diplomatic Conference, both scheduled for Montreal in September. Any comments you may have on the attached text should be directed to Deputy Secretary John C. Whitehead at the Department of State.

THE WHITE HOUSE

WASHINGTON

July 20, 1987

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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
CHAIRMAN, COUNCIL ON ENVIRONMENTAL QUALITY

FROM: NANCY J. RISQUE
Cabinet Secretary

SUBJECT: Status of Stratospheric Ozone Negotiations

Attached is an advance copy of the most recent Chairman's draft protocol for the control of ozone-depleting chemicals. This text is the result of the June 29-30, 1987 meeting of the heads of delegations of selected countries participating in the UNEP negotiations.

Briefly, the Chairman's text contains the following provisions: a freeze of CFCs (11, 12, 113, 114 and 115) at 1986 levels within one to two years after entry into force; a 20 percent reduction of these CFCs within four years after entry into force; an additional 30 percent reduction of these CFCs within eight or ten years after entry into force unless a two-thirds majority representing at least fifty percent of global consumption decides otherwise; a grace period for developing countries; a trade provision banning the import of bulk CFCs within one year after entry into force; two alternative trade provisions for import controls of products containing controlled substances within four years of entry into force; a trade provision for future consideration of products produced with CFCs; reporting procedures; a voting mechanism for additional reduction decisions and chemical coverage decisions emphasizing consuming countries; and regular scientific assessments.

An important provision that ^{will} ~~may~~ require additional consideration is the requisite level of international participation for the protocol to enter into force. The Chairman's text introduces the concept of making entry into force contingent upon a specified level of participation, but with a tentative requirement of ratification by sixty percent of the producing countries. Also, in this version of the Chairman's text, the provision for a freeze of Halons 1201 and 1311 is in brackets.

The U.S. delegation will be working with other countries prior to the final negotiating sessions and Diplomatic Conference, both scheduled for Montreal in September. Any comments you may have on the attached text should be directed to Deputy Secretary John C. Whitehead at the Department of State.