

CONFIDENTIAL

ST ①



United States Department of State

Washington, D. C. 20520

June 9, 1987

**CONFIDENTIAL**  
**BRIEFING MEMORANDUM**  
**S/S**

RELEASED IN FULL

**TO:** The Deputy Secretary  
**FROM:** OES - Richard E. Benedick, Acting *REB*  
**SUBJECT:** Domestic Policy Council Meeting on Protocol to Control Ozone-Depleting Chemicals - 11:00 a.m., Thursday, June 11

**I. YOUR OBJECTIVE**

The first DPC Meeting on this subject (May 20 -- Allen Wallis attending) failed to resolve deep agency divisions over the U.S. negotiating position. Following this, the Secretary wrote Ed Meese, outlining his concern and concisely summarizing the Department's position and rationale (see Tab B). Your objective is to obtain DPC agreement that we continue to negotiate for a strong international accord to control ozone-depleting chemicals or, failing agreement, to put the matter to the President without further delay. The talking points emphasize the risks of loss of international credibility, domestic political backlash, and undesirable unilateral regulation if we fail to continue the heretofore successful U.S. leadership role in these negotiations. I am scheduled to brief you at 9:30 a.m. on June 11 and, as the head U.S. negotiator, I have been asked orally to frame the negotiating issues for the Council.

**II. BACKGROUND**

**The Issue**

Through three tough, and well-publicized, negotiating rounds under United Nations Environment Programme (UNEP) auspices since last December, participating countries have moved toward consensus on a schedule for reducing emissions of ozone-depleting chemicals. The issues are complex and interrelated (see May 18 DPC Memorandum at Tab E), but the central point of division is the extent of reductions which the

**CONFIDENTIAL**  
**DECL:OADR**

REVIEW AUTHORITY: Adolph Eisner, Senior Reviewer

*none*  
*July 5*  
*57-96-1262*

~~CONFIDENTIAL~~CONFIDENTIAL

- 2 -

U.S. should support, and whether the reductions should be scheduled as "semi-automatic" (i.e., reversible by vote of parties) or only implemented upon a future reaffirmation by parties -- in both cases preceded by a scientific, economic, and technological assessment.

The debate centers on whether the U.S. should support the "Chairman's draft" protocol text, which was developed at the April international negotiation, and which provides for:

- o a freeze on production/consumption of the chemicals within two years after entry into force (EIF);
- o a 20% reduction four years after EIF; and
- o a further 30% reduction six years after EIF, subject to reaffirmation; or eight years after EIF, "semi-automatic."

The UNEP Executive Director has asked for government comments on this draft by June 19. Informal but crucial negotiations in the "Chairman's Group" of selected delegation heads (I will represent the U.S.) will occur June 28-30 in Brussels. A Conference of Plenipotentiaries to approve the protocol is formally scheduled for September 14-16 in Montreal, following a full negotiating round September 8-11.

Other relevant factors include:

- o a Senate resolution on ozone protection passed last Friday by 80-2, calling for the U.S. to negotiate "a prompt automatic reduction of not less than 50% .... and the virtual elimination of such chemicals" (see Tab C);
- o pending legislation in both Senate and House call for unilateral U.S. reductions of up to 95 percent;
- o a pending court case could force EPA to regulate unilaterally if the international negotiations fail to come up with a strong protocol;
- o several countries have recently expressed concern over whether the U.S. is changing its strong position, including the FRG and Japan, who noted that previous high-level U.S. representations have influenced them to rethink their own positions.

CONFIDENTIAL

CONFIDENTIAL

- 3 -

Agency Views

Lee Thomas (EPA) will open the DPC meeting by presenting information requested on May 20 on health and climatic effects of ozone depletion and on the legal/legislative situation; Beryl Sprinkel will follow with a cost-benefit analysis.

Thomas strongly believes the international agreement should include substantial, firmly scheduled reductions, subject to reversal only following new information, in order to provide a powerful market incentive for development of safer substitutes.

Most agencies (and most nations participating in the negotiations) agree on a freeze and a "semi-automatic" 20% reduction (all protocol provisions are subject to change by 2/3 vote). OSTP and Interior want the 20% reduction to depend on a majority positive vote of parties following a scheduled 1990 scientific assessment; they strongly oppose any further cuts.

While several agencies at staff level have questioned scheduling a "semi-automatic" 30% cut (OMB, Commerce, Energy and possibly the Council of Economic Advisors) the intensity of their feeling is uncertain. USTR, NSC, the Vice-President's Office, Justice and possibly Defense appear leaning toward the State-EPA original negotiating position.

As part of their effort to prevent agreement on this treaty, some agencies (Interior, OSTP) have raised other issues, such as mandatory requirements for "verification" of compliance, weighted voting, and adherence by most or all potential CFC producers (i.e., developing countries). While these are all desirable (and part of our negotiating position), the overall benefits of an international accord are sufficiently significant that we should not make these points absolute conditions for U.S. adherence.

State Position

State should firmly support the text which has emerged from the negotiations (freeze + 20% + 30%) and EPA's position favoring "semi-automatic" reductions. Ideal and flexible guidance to the U.S. negotiators would be the points in the enclosure to the Secretary's June 1 letter to Ed Meese (Tab A), which is fully consistent with the original Circular 175 negotiating authority (Tab D). If this cannot be agreed, State should insist that the issue go to the President in accord with the Secretary's letter.

CONFIDENTIAL

CONFIDENTIAL

- 4 -

III. TALKING POINTS

- International agreement is within reach, largely on U.S. terms.
- Lee Thomas is charged, by the President and by legislative mandate, with environmental protection. He has concluded that the existing U.S. position is a prudent approach to risk management in the face of current scientific knowledge.
- To modify our negotiating position now would pose substantial risks of:
  - o a loss of international credibility, in view of the leadership role we have played;
  - o domestic political backlash on an issue which has brought great credit to the Administration; and
  - o unilateral controls -- the worst possible outcome for U.S. industry and consumers -- forced by the Clean Air Act, court order or new legislation.
- In order not to further jeopardize the progress we have made in this major international negotiation, Secretary Shultz and I propose that we instruct the U.S. representative to continue to negotiate in conformance with the existing Circular 175.
- Our objective is to conclude a strong and effective agreement by September, containing provisions summarized as follows: (see next page, which is the enclosure to the Secretary's letter).
- If any agency has compelling objections to this, we should take the matter to the President without further delay.

Drafted: OES: SButcher: REBenedick: st  
6/9/87

CONFIDENTIAL

CONFIDENTIAL

Enclosures:

- Tab A - Evening Reading, June 5
- Tab B - Shultz-Meese Exchange of Letters
- Tab C - Senate Resolution
- Tab D - Circular 175 Excerpt
- Tab E - May 18 DPC Memorandum

CONFIDENTIAL

NO CLASSIFICATION MARKED

Evening Reading

RELEASED IN FULL

This is to alert you that the Domestic Policy Council (DPC) meets next week to consider U.S. policy in ongoing international negotiations on protection of the stratospheric ozone layer. John Whitehead will represent me. Until now the U.S. has played a strong and widely acclaimed leadership role in these talks. I have written Ed Meese of my strong belief that a weakening of the U.S. negotiating position, as advocated by some agencies, would generate adverse political reactions at home and abroad. Strong feelings in Congress could lead to stringent unilateral U.S. regulations, which would be far less desirable for U.S. industry and consumers than a global accord. A retreat could also undermine our credibility in the area of international environmental protection when in fact this negotiation presents an excellent opportunity for the Administration to score a significant success in this field.

*JN/for*  
 Drafted: OES/E:REK *phedick:st*  
 W0851y 6/5/87

Clearance: OES:JDN *proponte*  
*OES:BUSwith*

REVIEW AUTHORITY: Adolph Eisner, Senior Reviewer

NO CLASSIFICATION MARKED

OES

COPY GIVEN TO SCOTT THAYER,  
6/1, 10:30 a.m. by S/S. THE SECRETARY OF STATE

87 JUN -1 P2:09

WASHINGTON

8715382

DIST:

June 1, 1987

S

D

P

E

S/S

S/S-S

TMA

TMB

EB

L

OES

RF:rw

CONFIDENTIAL

RELEASED IN FULL

Dear Ed:

I wanted you to know of my strong personal interest in the early and successful completion of an effective international treaty to protect the stratospheric ozone layer through reducing use of certain chlorofluorocarbons (CFCs) and halons. This is a subject which has attracted intense Congressional and media interest, and which many regard as the highest priority environmental issue on the global agenda.

International agreement is now within reach, largely on U.S. terms. The U.S. position was developed through intensive interagency deliberations leading up to, and following, the authority to negotiate (Circular 175) which was approved on my behalf by Under Secretary Allen Wallis last November. Implementing that authority, the U.S. delegation has succeeded through three difficult negotiating rounds in turning aside control proposals which would have been disadvantageous to the United States, and in gaining wide acceptance of the U.S. position.

I am now concerned, however, that within the Domestic Policy Council process, a few agencies are advocating positions which would, in effect, reopen the entire international negotiation, which is scheduled for completion in September at a Conference of Plenipotentiaries in Montreal.

I understand, and sympathize with, concerns over both scientific uncertainties and the possible economic impact of controls. However, Lee Thomas, who is charged with environmental protection by the President as well as by legislative mandate, has concluded, after over two years of analysis, that the U.S. position is a prudent approach to risk management. I agree with him. Although scientific certitude is probably unattainable, I am impressed by the growing international consensus on the threat to the ozone layer, largely due to research by our own NASA and NOAA. This consensus is manifest in the changed positions of both

The Honorable  
Edwin Meese III,  
Attorney General.

REVIEW AUTHORITY: Adolph Eisner, Senior Reviewer

CONFIDENTIAL  
DECL:OADR

CONFIDENTIAL

- 2 -

U.S. industry, which now officially advocates at least a global freeze on production of CFCs, and the European Community, which has proposed a freeze followed by a 20 percent automatic reduction, and which last month agreed to consider a further 30 percent reduction.

Based on contacts with industry, it appears that the 20 percent reduction (which would not come into effect until 1992-94) could be absorbed by U.S. industry utilizing existing alternative products and processes. While the additional 30 percent cut would require substitute products, the additional time frame for such reduction (8 to 12 years from now) would be within the "comfort zone" for the market system to provide incentives for the needed R & D.

I believe it would be inadvisable for us to delay the negotiations, or to appear now less concerned over protecting the ozone layer than the European Community and others who have followed our leadership. John Whitehead, Lee Thomas and I, American Ambassadors abroad, and senior officials on my staff, have all advocated the U.S. position in contacts with senior foreign officials. This has contributed to the evolution of policy in many countries. A perceived reversal by the U.S. risks an embarrassing loss of international credibility, as well as domestic political backlash. Moreover, it would risk the worst possible outcome from the standpoint of U.S. industry and consumers: namely, unilateral U.S. controls (added to our 1978 ban on CFCs for aerosol use) forced by the Clean Air Act, by court order, or by new legislation. There are already growing rumors in Congress and among public interest groups that the Administration is "backsliding" from its previously much-praised commitment to protect the ozone layer.

In order not to jeopardize the progress we have made in this major international negotiation, and following consultation with Lee Thomas, I propose to instruct the U.S. Representative to continue to negotiate in conformance with the existing Circular 175 authority. The objective is a strong and effective international agreement by September, containing provisions as summarized in the enclosure, which is consistent with the interagency position developed prior to the most recent negotiating round, in April.

I hope you will agree that this is a reasonable position. Only a protocol which provides for significant reductions in CFC's can prudently address the environmental risks, avert needless

CONFIDENTIAL



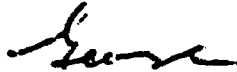
CONFIDENTIAL

- 3 -

criticism of the Administration and probable unilateral domestic controls, and provide the needed stimulus for industrial research into alternative products over a reasonable time period. The Administration will have the opportunity to review the negotiated protocol text before signature by our Government. If you have any questions concerning these provisions, I would be pleased to ask Assistant Secretary Negroponte to provide further details.

I propose to proceed on this basis unless you feel that this course of action is not feasible because of compelling objections from some members of the Domestic Policy Council. In that case, I propose that we, together with Lee Thomas, take this matter to the President without further delay.

Sincerely yours,



George P. Shultz

Enclosure:  
Protocol Summary

Drafted: OES/E:SBUTCHER/REBenedick:st *RES*  
W0847y 5/29/87

Clearances: D: Mr. Timbie  
E: Mr. Bailey  
L: Ms. Verville } *h RES*  
EB: Mr. Cundiff  
EPA:Mr. Thomas  
NSC:Mr. Pugliaresi (subs)

CONFIDENTIAL

**CONFIDENTIAL**

**RELEASED IN FULL**

**Protocol Summary**

1. A freeze, at 1986 levels, on production/consumption of CFCs 11, 12, 113, 114 and 115, and Halons 1211 and 1301, to take effect one or two years after the protocol enters into force (EIF).

2. Periodically scheduled reductions of CFCs 11, 12, 113, 114 and 115, from 1986 levels, beginning with 20 percent two to four years after EIF, followed by an additional 30 percent approximately eight years after EIF, with the possibility of further steps as determined by the parties.

3. Regularly scheduled assessments of scientific, economic and technological factors, prior to any reductions, to enable the parties to adjust the reduction schedule and add or subtract chemicals.

4. An ultimate objective, subject to the assessments mentioned above, to eliminate substantially all potential threats to the stratospheric ozone layer from anthropogenic chemicals.

5. Strong trade, monitoring and reporting provisions to make the protocol as effective as possible.

6. An attempt to negotiate some system of voting which would give due weight to the currently significant producing and consuming countries.

REVIEW AUTHORITY: Adolph Eisner, Senior  
Reviewer

**CONFIDENTIAL**

NO CLASSIFICATION MARKED

8636775

OES  
KO 1/21



WAY 11:25-EN

United States Department of State

Washington, D. C. 20520

86 NOV 28 P9:03

86 NOV 28 P1:21

November 28, 1986

**ACTION MEMORANDUM**

S/SN 1/4

orig to FAIM

list to:

/S  
/S-S  
MA  
MB  
MC  
B  
O

**TO:** E - Mr. Wallis  
**FROM:** OES - John D. Negroponte  
**SUBJECT:** Circular 175: Request for Authority to Negotiate a Protocol to the Convention for the Protection of the Ozone Layer

RELEASED IN FULL

/COMP  
/MO  
OES  
UF/pb

**ISSUE FOR DECISION:**

Whether to authorize negotiation of a protocol to the Vienna Convention for the Protection of the Ozone Layer which would control emissions of ozone-depleting substances.

**ESSENTIAL FACTORS:**

**The Problem**

There is general scientific agreement that human activities are substantially altering the chemistry of the atmosphere in ways which threaten both the quantity and the vertical distribution of ozone. Certain chlorine and bromine substances, when emitted into the atmosphere, act as catalysts in a series of chemical reactions resulting in a depletion of ozone. Ozone depletion, by permitting greater quantities of harmful ultra-violet radiation to reach the earth's surface, will pose significant, even if currently difficult to quantify, risks for health and ecosystems. Given the complex chemistry and dynamics of the atmosphere, scientific uncertainties currently prevent a conclusive determination of safe levels of emissions. Because of the long atmospheric lifetime of these molecules, emissions affect the ozone layer for decades. The nature of the ozone layer requires international action if protective measures are to be effective.

The chemicals at issue for this protocol -- chlorofluorocarbons ("CFCs") and some bromine compounds -- have substantial economic and social value, being widely used in refrigeration, foam-blowing, fire-extinguishers, as solvents, and in most countries as aerosols. (Their use in non-essential aerosols was banned in the United States in 1978.) The U.S., Japan and EC countries currently account for about 90% of world production and consumption.

REVIEW AUTHORITY: Adolph Eisner, Senior Reviewer

-2-

### The International Process

The Vienna Convention for the Protection of the Ozone Layer, adopted under auspices of the U.N. Environment Program (UNEP) on March 22, 1985 and ratified by the United States on August 14, 1986, provides for cooperation in research, monitoring and information exchange. The Convention obliges the Parties to cooperate in taking 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. The Diplomatic Conference which adopted the Convention did not reach agreement, however, on a protocol to control emissions of ozone-depleting substances. The final act of the Diplomatic Conference called for a series of scientific and economic workshops on the atmospheric science, effects of ozone depletion, and alternative control measures, followed by resumption of negotiations, looking toward adoption of a control protocol in 1987 if possible. Negotiations are to resume December 1, 1986, with a diplomatic conference to conclude the protocol tentatively scheduled for April 1987.

### The Domestic Setting

The Environmental Protection Agency, under terms of a court order approving a settlement reached in a lawsuit against the EPA Administrator by the Natural Resources Defense Council, must publish in the Federal Register by May 1, 1987 a proposed decision on the need for further domestic regulation of CFCs under Sec. 157 of the Clean Air Act. Compared to other environmental laws, the Act sets a low threshold for required action by EPA: "the Administrator shall propose regulations for the control of any substance, practice, process, or activity...which in his judgment may reasonably be anticipated to affect the stratosphere, especially ozone in the stratosphere, if such effect in the stratosphere may reasonably be anticipated to endanger public health or welfare." In this connection, EPA is going through an extensive risk assessment process. A final EPA decision is required by the court order by November 1, 1987.

An important goal in seeking an early and effective international agreement (in addition to the goal of more effectively protecting the ozone layer) is to avoid disadvantage to U.S. industry as a result of unilateral U.S. regulatory action required by the Clean Air Act. Unilateral U.S. action in advance of international agreement could undercut the global control effort.

-3-

The principal producer- and user-industry group, the "Alliance for Responsible CFC Policy," has reversed its previous total opposition to controls, issuing a statement September 16, 1986 that "responsible policy dictates, given the scientific uncertainties, that the U.S. government work in cooperation with the world community...to consider establishing a reasonable global limit on the future rate of growth of fully halogenated CFC production capacity."

#### Proposed Position

Our approach in the international negotiations is intended to influence those negotiations to achieve the most effective international agreement possible. It does not prejudge the EPA Administrator's decision on domestic regulation.

Although considerable evidence exists linking certain chlorine and bromine substances to depletion of ozone, remaining scientific uncertainties prevent any conclusive statement concerning safe levels of emissions. As a result, the Administrator of EPA recommends an international risk management strategy which would give a strong incentive for rapid development and employment of emission controls, recycling practices and safer substitute chemicals. We should therefore seek a protocol that explicitly or in effect provides for:

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

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

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

These elements would provide a desirable margin of safety against harm to the ozone layer while scientific research continues. At the same time, this approach would provide as

-4-

such certainty as possible for industrial planning in order to minimize the costs of reducing reliance on these chemicals, while allowing adequate time for adjustment.

The timing, stringency and scope of the phased reductions will have to be negotiated. We would promote a scheme which allows flexibility for each nation to determine how it will implement domestically its international obligation. In response to UNEP's invitation, we have prepared for discussion purposes the attached draft text for the operative paragraphs of a protocol.

We would favor setting national limits at or near current levels, in order to avoid increases in emissions from any Party. Elimination of most emissions would obviate the difficult question of equity -- the view that developing countries have a right to a fair share of world markets if a global limit on emissions is set: developing countries will have less reason to seek to expand use of products which will be obsolete in the foreseeable future and they will benefit from the development of substitutes and of recycling and containment techniques.

We will seek to include in the protocol measures to regulate relevant trade between parties and non-parties in order to create incentives for nations to adhere to the protocol's emissions limits. These measures will have an ancillary effect of protecting U.S. industry from unfair competition. We will assure that any trade provisions included in the protocol are consistent with the General Agreement on Tariffs and Trade (GATT) and other aspects of U.S. trade policy.

We have undertaken extensive consultations with industry and environmental groups and will continue to do so as the negotiations progress.

NOTE: REST OF DOCUMENT OMITTED. NONESSENTIAL FOR THIS PURPOSE.

Document is as received from storage

✓ 11

## THE WHITE HOUSE

WASHINGTON

May 18, 1987

RELEASED IN FULL

## MEMORANDUM FOR THE DOMESTIC POLICY COUNCIL

FROM: THE ENERGY, NATURAL RESOURCES & ENVIRONMENT  
WORKING GROUP

SUBJECT: Stratospheric Ozone Protocol Negotiations

Issue - What should the U.S. negotiating position be for elements of the protocol to protect the stratospheric ozone layer by controlling emissions of ozone-depleting substances [chlorofluorocarbons (CFC) and halons]?

Background - The Environmental Protection Agency, under terms of a court order resulting from a lawsuit by the National Resources Defense Council against the EPA Administrator, must publish in the Federal Register by December 1, 1987, a proposed decision on whether there is a need for further domestic regulations, under the Clean Air Act, of chemicals which deplete the stratospheric ozone layer. These chemicals [certain chlorofluorocarbons (CFCs) and halons] are used for solvents, refrigerants, foam blowing, fire extinguishing agents, sterilants, aerosol propellants, and other miscellaneous uses.

Compared to other environmental laws, the Act sets a low threshold for required action by EPA. Because of the global nature of the problem of ozone depletion, however, unilateral U.S. regulatory action would not be effective in protecting the ozone layer. An important U.S. objective in attaining an early and effective international agreement on ozone is also to avoid disadvantages to U.S. industry resulting from unilateral U.S. action required by the Clean Air Act.

The U.S. has been participating in international negotiations since 1983 on this subject, leading to the 1985 Vienna Convention on Protection of the Ozone Layer. Negotiations on a protocol to this Convention resumed in December, 1986, following intensive international scientific and economic assessments. Since December, there have been two further sessions, in February and April, 1987, and the protocol is scheduled for signing in September, 1987 in Montreal.

The objectives for the U.S. Government are in State Department Circular 175 of November 28, 1986. These objectives include:

- (a) a near-term freeze on the combined emissions of the most ozone-depleting CFC and halon substances;

REVIEW AUTHORITY: Adolph Eisner, Senior  
Reviewer

-2-

- (b) long-term scheduled reduction of emissions of these chemicals down to the point of eliminating emissions from all but limited uses for which no substitutes are commercially available (could be as much as 95%), subject to (c); and
- (c) periodic review of the protocol provisions based upon regular assessment of science, technology, environmental and economic (STEE) elements, which could remove or add chemicals, or change the schedule or the emission reduction target.

The Working Group on Energy, Natural Resources and the Environment has considered the issue of stratospheric ozone depletion over the past several months. Attached is a paper prepared by OMB that summarizes the available scientific, environmental, economic, and international data.

Discussion - Since the negotiations are now reaching a stage where final positions are being proposed, and due to the broad economic impact of these positions, several Cabinet agencies have asked that the Domestic Policy Council review the U.S. position and give guidance to the U.S. negotiating team on several elements of our position prior to the next negotiations.

Representatives of key countries, including the U.S., will meet on June 29 and at subsequent sessions to discuss a suggested text (attached) for a control schedule prepared by the Chairman of the April negotiation sessions (referred to as the Chairman's text). At that time they will address the chemicals to be covered, the timing and stringency of the controls, and the relationship of scientific assessments to this process. Following these meetings, the Council will be informed, and asked for further guidance on the U.S. final position prior to the formal negotiating meeting on September 8, 1987, and a ministerial endorsement meeting September 16-20, 1987.

DPC Guidance - General DPC guidance is sought on the following issues:

1. Chemical Coverage

- The U.S. objective is to achieve the broadest coverage of major ozone depleters on a weighted basis, including fully halogenated CFCs and halons.
- The European Community, Japan, and the USSR wanted only CFC 11 and 12 covered; but now may agree that CFC 113, 114, 115 and halons could be included if UNEP, in its June meeting, agrees that the Convention can include them.
- Options include seeking differential coverage, i.e. reducing some and only freezing others. There is support



-3-

for freezing but not reducing halons, given its defense uses.

- There is general interagency agreement on chemical coverage. The negotiating team will press for the broadest attainable coverage in the freeze, subject to DPC guidance.

## 2. Stringency and Timing of Controls; Relationship to Periodic Assessments

-- Key issues are:

- o **Stringency:** Should there be an initial freeze and subsequent reductions? What should the reduction levels be, and in what timing and increments? What would be the probable effect on the ozone layer?
- o **Timing:** There are environmental benefits for early action to reduce CFC's; further, it would encourage industry to develop CFC substitutes. Given that a required reduction is likely, there is a need to provide time for industrial product development adjustment. Some in industry prefer a definite decision and advance notice. This conflicts with those who prefer to delay positive action as long as possible.
- o **Relationship to periodic reassessments of scientific, technological, environmental and economic (STEE) factors scheduled in the protocol:** Should we go for (1) planned reductions subject to reversal by vote of parties after reassessment, or (2) target levels to be implemented only by positive vote after reassessment, or (3) no targeted reductions?

-- The Chairman's text, released after the last negotiating session in April 1987, represents a possible emerging international consensus and is a convenient vehicle for review. It includes:

- o Freeze at 1986 levels of production/consumption of CFC 11, 12, 113, [114, 115] within two years after entry into force (EIF) of the protocol. This could happen in 1988, but the most likely EIF date is 1990.
- o An automatic 20% reduction 4 years after EIF. Likely date 1994.
- o Additional 30% reduction, to be implemented after scheduled STEE reassessment, with two options:
  - (1) 6 years after EIF (likely date 1996), if positively confirmed by majority vote of parties, or

-4-

- (2) 8 years after EIF (likely date 1998), unless reversed by two-thirds vote of parties.
- o Additional steps down to possible eventual elimination of these chemicals for all but limited uses would be decided subsequently by parties based on periodic reassessments.

**Questions for**

**Decision:** Should U.S. delegation seek agreement along lines of chairman's text, work for greater stringency/earlier impact, or propose some relaxation in terms?

- (a) Freeze. Interagency accord, within 1-2 years of EIF. Some prefer an earlier freeze.
- (b) 20% reduction. Some agencies feel implementation should require positive vote of parties following a STEE reassessment in 1990.
- (c) Additional 30% reduction. There is interagency disagreement here on several elements.
  - Should a set level of reduction beyond the first 20% be scheduled; if so, at what level?
  - Should a second reduction be 6 years after EIF and be subject to a positive vote, or be 8 years after EIF and be subject to a reversal vote, or some other variant?
- (d) Additional reduction steps. Should the delegation press for further reductions as contained in the Chairman's text and Circular 175? If so, at what levels and time frame? Should they require a positive vote or be implemented unless there is a vote for reversal? Alternatively, should the process for setting reductions and timing be specified? Anything beyond the Chairman's text may not be achievable.

**3. Control Formula and Trade Provisions:****(A) Trade Among Parties.**

Significant differences remain among governments over a formula for regulating controlled chemicals.

- o Options include national ceilings on: (a) production; (b) production plus imports, combined or separately; (c) consumption; or, (d) production plus imports, less exports to parties, less amounts destroyed.

-5-

- o There is general interagency agreement favoring a ceiling on consumption, or "adjusted production," but compromise may be needed.
- o U.S. objectives include effective control of emissions with accountability, fewest restriction on the flow of trade and captial among parties, and most favorable formula for U.S. industry. Verification remains an issue.
- o Subject to DPC guidance, the delegation will pursue these objectives and seek DPC approval of specific recommendations at a later time.

**(B) Trade With Non-Parties.**

**-- Key elements:**

- o General international consensus on:
  - Ban on imports of controlled chemicals in bulk from non-parties.
- o No international consensus on:
  - Restrictions on exports of bulk chemicals.
  - Restrictions on imports of products containing controlled chemicals.
  - Consideration of restrictions on products made with controlled chemicals.
  - Consideration of restrictions on export of technology and equipment.
- U.S. objectives: to regulate trade in order to encourage adherence to protocol and avoid benefits to non-parties at expense of parties. Proposals consistent with GATT.
- Interagency consensus in favor of strong trade article, including trade in bulk chemicals and products that could be uniformly enforced. Transfer of technology and equipment remains an issue.
- Subject to DPC guidance, delegation will pursue these objectives and seek DPC approval of specific recommendations at a later time.

**4. Participation.**

- U.S. objective: To encourage effective global control through widest possible participation by other countries.

NO CLASSIFICATION MARKED

-6-

- **Problem:** The less developed countries (LDCs) need concessions for essential domestic uses to encourage adherence; but exemptions must remain limited to avoid undercutting global control levels. Concessions being considered in the Chairman's text could double global production ceiling if fully used within the period allowed.
- One option entails exemption from controls for a limited period for LDCs followed by adherence to the protocol. Controls will be needed to restrict production in the LDCs by existing producers.
- **Related problem:** Majority LDC membership could control protocol voting to U.S. disadvantage. Should U.S. press for weighted voting based on historic use and production levels? Should elements be put into the protocol?
- This issue needs more work. Subject to DPC guidance, we will refine our objectives for subsequent negotiations and later seek DPC approval of specific recommendations.

NO CLASSIFICATION MARKED



National Security Archive,  
Suite 701, Gelman Library, The George Washington University,  
2130 H Street, NW, Washington, D.C., 20037,  
Phone: 202/994-7000, Fax: 202/994-7005, [nsarchiv@gwu.edu](mailto:nsarchiv@gwu.edu)