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U.S. POSITION PAPER  
UNEP OZONE LAYER PROTOCOL NEGOTIATIONS  
THIRD SESSION: APRIL 27 - 30, 1987  
GENEVA, SWITZERLAND

RELEASED IN FULL

I. Background:

This is the third round of resumed negotiations under UNEP auspices on a protocol to control chemicals which deplete stratospheric ozone.

In the first session (December 1986) there was general agreement on the need for international measures to control emissions of ozone-depleting chemicals. However, differences remained over the scope, stringency, and timing of the controls, and other key issues (e.g., what to control, how to allocate national limits). The U.S. assumed a leadership role at this session, maintaining that the risk to the ozone layer warranted a scheduled phase-down of emissions of the major ozone-depleting chemicals. We also emphasized that the protocol should provide for periodic assessment and possible adjustment of the control measures, based on a periodic review of advances in scientific/technical knowledge.

In the second session (February 1987), and in discussions with the EC and other key participants since then, substantial progress has been made toward acceptance of the U.S. freeze-reduction approach. Other proposals which would seriously disadvantage the U.S. (e.g., proposals to allocate emissions limits on the basis of population and GNP) have been deflected. In addition, the EC, Japan, and possibly the USSR appear to be moving toward broadening coverage beyond CFCs 11 and 12, and have accepted the need for further reduction steps beyond the freeze. U.S. proposals for trade provisions and review mechanisms have also met with general agreement.

The third session is intended by the UNEP organizers and most other participants to resolve remaining issues, particularly the reduction process and schedule.

I. Overall Position:

The general objectives for the USG continue to be as delineated in the Circular 175 of November 28, 1986:

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

REVIEW AUTHORITY: Adolph Eisner, Senior Reviewer

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- C. 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.

III. Objectives for this Session:

- A. Keep the negotiations focused on elaborating a protocol based on the U.S. freeze-reduction approach (now included in the Chairman's text), and resist efforts to resurrect other options (e.g., Canadian, Soviet).
- B. Continue to press for as broad a coverage as possible of potentially major ozone-depleters (CFC 11, 12, 113, 114, 115, Halons 1211 and 1301).
- C. Focus attention on defining a meaningful initial reduction step beyond a freeze.
- D. Try to narrow stringency and timing ranges in the Chair's control article text.
- E. Maintain U.S. position on need for longer-term phasedown, consistent with overall negotiating goals (section II above).
- F. Elaborate earlier U.S. positions on trade and scientific assessment, which have received strong support.
- G. Strive for progress on the LDC issue, emphasizing an approach that will encourage LDCs to join but does not undercut our long-range environmental objectives.
- H. Work toward a mix of protocol elements which encourages as many producer and user countries as possible to become Parties (including Eastern Bloc countries).

IV. Positions on Specific Topics:

- A. Scope of Chemical Coverage: The delegation should strive to have all the major potential ozone depleters (i.e., CFC 11, 12, 113, 114, 115, halon 1211 and 1301) subject to the control article reduction schedule. However, after the freeze, the delegation may consider putting 114, 115, and/or the halons under a different control regime, as a means of encouraging broader country participation or achieving other key U.S. objectives.

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**B. Stringency and Timing:**

1. Freeze: Virtually all delegations have accepted that the first step should be a freeze at 1986 levels, and the delegation should continue to support this. The delegation should also strongly support a timing of one year after entry into force for the freeze (the EC proposal calls for a timing of 2 years after entry into force). The delegation could also explore the possibility of having the freeze, and a ban on non-essential aerosols, take effect prior to entry into force of the protocol via, e.g., a voluntary commitment in a Diplomatic Conference resolution.

2. Reduction Schedule: The Chair's text calls for a 10-50% reduction (in brackets) for the second phase, in an unspecified period of time. The EC's opening position is for a 20% reduction within six years after entry into force, with an "automatic" trigger -- i.e., it would go into effect unless amended by a two-thirds vote of the Parties.

Within the context of the Circular 175 authority, the delegation should continue to explore various combinations of reduction schedules, ranging between the EC proposal and the U.S. proposed protocol text. The delegation should not at this meeting definitively agree to specific terms, but rather aim for a bracketed text, consistent with the Circular 175 authority, for further review in Washington.

C. Calculation of emissions: The delegation should continue to seek a formula to use as the basis for control which: does not undercut the control measures, encourages innovative practices and technologies in support of those measures, maximizes trade freedom among parties, does not put the U.S. at a competitive disadvantage vis a vis other parties, and encourages the broadest participation possible.

Thus, the delegation should continue to pursue for this session the "adjusted production" formula ( $P + I - E - D$ ). However, if agreement on this is not possible, and there appears to be no movement (by the EC in particular) the delegation may explore other formulas, on an ad referendum basis, which meet the above criteria.

If there is significant opposition to including "-D" (amount destroyed) in the initial base year calculation, the delegation may discuss letting  $D = 0$  for the first 1-3 years after entry into force of the protocol. The delegation should reserve its position on whether "permanently encapsulated" should be counted in this term.

D. Trade between Parties and Non-Parties: The delegation should actively support trade provisions which: (a) protect countries party to the protocol from being put at a competitive disadvantage vis a vis non-parties; (b) create an incentive for non-parties to join the protocol; and (c) discourage the movement of production to non-parties.

Therefore, the delegation should continue to support the trade article developed at the last session, and resist attempts to weaken it. The delegation should seek the drafting improvements recommended by the interagency trade issues group (see attached paper).

- E. Developing Countries: The delegation should continue to be open to an "LDC" provision, in order to encourage broader membership in the protocol. However, the delegation should stress that any form of exemption must not significantly undermine the environmental goals of the protocol.
- F. Scientific Assessment: The delegation should insist that scientific assessment be an integral part of the protocol. The delegation should support having a legal drafting group take the various texts for assessment mechanisms now on the table, and draft a composite text which provides for possible adjustment of the controls based on regular and emergency review of scientific, technical, and economic information. The report of the scientific sub-group from the last session, and the text of Article IV of the U.S. proposed text (tabled at first session, and largely accepted by the EC), should be used as a focus for this exercise.

Regarding timing of the reviews, the delegation should support having regular CCOL-level reviews at least every two years, a major review (like the NASA/NOAA/WMO/UNEP et al assessment) at least every four years, and emergency reviews when called for by the Parties.

- G. Entry into Force provisions: The draft protocol text (Article XII) calls for entry into force thirty days after deposit of nine instruments of ratification (etc.). At the first session, the USSR opposed the 9/30 format in favor of an 11/90 requirement. If this continues to be a major obstacle to Soviet concurrence on this article, the delegation may accept a 10/60 or 11/90 format.

The delegation should also seek to amend this article so as to ensure that the protocol enters into force only when a sufficient number of the major producer/user countries have deposited instruments of ratification (etc.). Thus, the delegation should propose that this article specify that of the number of instruments required for entry into force:

(a) 50% of total world consumption or production is represented; or

(b) a substantial majority (e.g. 75%) be from countries with an adjusted production (or whatever formula is agreed to) greater than a certain level (the delegation would agree to propose a specific value for this at a subsequent session).

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The delegation should also seek to amend this article so as to avoid creating an incentive for some countries to delay entry into the protocol, while reaping the global environmental benefits of reductions by countries which became Parties at the outset. To this end, the delegation should seek to add the following at the end of paragraph 3 of this article:

"Any such Party shall assume all applicable obligations then in effect for all other Parties."

H. Other Legal/Institutional issues: The delegation should seek drafting improvements consistent with the substantive elements of U.S. position.

V. Other Issues:

- A. Future Session: In the event that it is not possible to complete work on the protocol at this session (which is likely) the delegation should support UNEP convening a fourth session in early July.
- B. Tactics: No members of the delegation shall advocate or indicate support for substantial negotiating element not in this position paper. All members of the delegation are required to obtain approval from the head of delegation before discussing with any person outside the delegation any fall-back position in this position paper.
- C. Press: All press inquiries shall be referred to the head or alternate head of delegation, or their designee.
- D. Budgetary Commitments: The delegation should not commit the USG to any activity which cannot be funded out of current appropriations.

Drafted by:

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