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Ad Hoc Working Group of Legal and Technical
Experts for the Elaboration of a Global
Framework Convention for the Protection
of the Ozone Layer
Third session

Geneva, 17 - 21 October 1983

DRAFT ANNEX CONCERNING MEASURES TO CONTROL, LIMIT AND REDUCE THE USE
AND EMISSIONS OF FULLY HALOGENATED CHLOROFLUOROCARBONS (CFCs)
FOR THE PROTECTION OF THE OZONE LAYER, SUBMITTED BY
FINLAND, NORWAY AND SWEDEN

Summary of comments by Governments

1. In response to the letter of 14 July 1983 from the Executive Director of UNEP to Governments, soliciting comments on the proposed annex, the following substantive replies were received.

AUSTRALIA

[Original: English]
[10 August 1983]

We have no particular comments to make at this stage on the proposed annex concerning regulation and control of CFCs submitted by Finland, Norway and Sweden in the context of work being done on the Ozone Layer Convention. In advising this we would note that it was the Australian delegation's understanding from the April 1983 session of the Ad Hoc Working Group of Legal and Technical Experts that the group felt that the relevant issues would be better covered in a protocol than an annex.

BELGIUM

[Original: French]
[8 September 1983]

The draft text of article 1, in proposing termination of the use of CFC 11 and CFC 12 for non-essential uses, goes too far. We fear that the definition of essential uses will differ from country to country, which may cause distortions in trade between the various countries. In our view, moreover, given the current status of the scientific conclusion, a limitation of use is in conformity with the provisions in force in the member countries of the European Communities. - In the light of the results of work undertaken in this field by the Commission of the European Communities, we indicate our agreement with article 2 of the draft annex. - Draft article 3 (d): Information on the target date for a general limitation of use.

CANADA

[Original: English]
[16 September 1983]

Draft article 1: As now worded Canada could not comply with the proposed annex unless a few minor uses of CFCs, such as propellant for cooking oil, are classified as "essential". The Canadian regulatory approach - banning the use of CFCs in selected aerosol products - has achieved substantial reductions in use with a minimum of inconvenience and administrative burden. An annex or protocol could be worded to allow countries some flexibility in their approach to regulation. For instance countries could be permitted to choose between banning non-essential uses or, alternatively, banning all but essential uses. This would meet the general objectives of the Nordic annex and be consistent with regulatory approaches taken in other countries including Canada.

Draft article 2: In general, Canada is of the view that controlling such non-aerosol uses of CFCs is premature but could be subject of a future annex or protocol. Canada could not sign an annex or protocol with such an article since it would require significant changes in domestic regulations which in Canada's view are not justifiable at present.

Draft article 3: Canada and other countries would have difficulty in revealing production and use figures due to industrial confidentiality of such data, which is protected under domestic legislation. However, release of such information to an independent third party for global aggregation could be provided for in a manner that would protect confidentiality and thus be acceptable to Canada.

DENMARK

[Original: English]
[14 September 1983]

The Danish Government considers the proposal to be a very good one, having the proper balance of precautionary measures and putting limitations only on non-essential aerosol uses and unnecessary emissions in other sectors. Denmark would thus be in favour of the proposed annex.

ITALY

[Original: English]

[18 August 1983]

I would like to bring to your attention that during the above-mentioned session, various delegations present, amongst which the Italian, underlined the necessity that any regulation concerning chlorofluorocarbons should be adopted exclusively through legal means to be eventually stipulated after the signing of the convention.

JAPAN

[Original: English]

[12 August 1983]

The Government of Japan is of the opinion that, at present, the fact of change in the ozone layer, identification of the substances causing such change, and the mechanism of destruction of the ozone layer have not yet been scientifically established. It is, therefore, not appropriate to impose on nations any legal obligation by this annex constituting an integral part of the convention.

MADAGASCAR

[Original: French]

[25 August 1983]

The Malagasy authorities concerned have no objection to the draft proposed by Finland, Norway and Sweden.

NETHERLANDS

[Original: English]

[22 August 1983]

The following modifications are suggested: In draft article 1, in the second line, "end" should be replaced by "gradually reduce"; in the third line, "target date" should be replaced by "time schedule"; and in the fourth line, "terminating" should be replaced by "that reduction in". In draft article 2, in the first line, "agree on" should be deleted, and the words "such as a code of conduct" should be inserted after "measures"; in the second line, "limit and reduce" should be deleted; in the third line, "and" should be replaced by "and/or", 'paracticable' should be replaced by "practicable". In draft article 3, sub-paragraph (d), "target data" should be replaced by "time schedule"; and this draft article should be brought in line with the obligations to provide information in other annexes, such as Annex 2.

NEW ZEALAND

[Original: English]
[18 August 1983]

Draft article 1 is generally in accord with New Zealand Government policy, although it may be difficult to fix a target date because of the unreasonable hardship this might impose on a few small users of CFCs. Draft article 2 is considered to be of doubtful value as we are unaware of any practicable technologies, existing or foreseeable, which could be used to limit emissions from foam plastic or refrigerators (at the end of their useful lifetimes). Article 3 is regarded as feasible.

SWITZERLAND

[Original: French]
[15 September 1983]

At the second part of the second session of the Ad Hoc Working Group, Switzerland had already maintained that work on an annex/protocol on CFCs should be undertaken in parallel with the study of the text of the convention. In our view, the convention should contain in addition to general provisions specific regulations relating to CFCs. This view was moreover broadly endorsed by the Working Group.

The draft submitted by Finland, Norway and Sweden constitutes a good basis for discussion. The main elements which we consider it necessary to include in such an annex or protocol are reflected in the draft. Our remarks relate essentially to the formulation of articles 1 and 2.

Article 1

The article seems to us to be too strictly formulated. For our part, we do not envisage resorting to the use of fully halogenated CFCs in aerosol cans except in cases where no other possibility exists. It is for each of the contracting parties to decide the field in which the use of fully halogenated CFCs is justified. Moreover, the reference to a target date for the implementation of national programmes seems to us difficult of attainment; we should prefer a formulation which leaves each contracting party some room for manoeuvre. We therefore propose the following text:

"Each contracting party shall take all appropriate measures and draw up a programme to restrict the use of fully halogenated CFCs in aerosol cans only to those uses for which, in the absence of other solutions, resort to CFCs is justified. It shall inform the secretariat of the uses for which resort to CFCs seems to it justifiable.

"In the two years following ratification, each contracting party shall communicate to the secretariat the time limits for the conduct of its programme".

Article 2

The contracting parties must in exercise of their sovereignty be able to decide on the measures they intend to take and on their programme for reducing the use of fully halogenated CFCs in aerosol cans. The convention must determine the framework within which the contracting parties shall co-operate to attain the objectives they have set themselves. It seems important that the least technically developed countries should be supported in their efforts. The following text seems to us to reflect these ideas better.

"The contracting parties shall co-operate and take all measures they deem appropriate to limit, reduce and avoid emissions of fully halogenated CFCs. They undertake to promote in particular the application of the best available technologies to limit, reduce and avoid CFC emissions in the foam plastics, refrigeration and solvents and other product sectors.

"The contracting parties shall co-operate with a view to facilitating the application of these actions by developing countries".

Article 3

Subparagraph (d) becomes superfluous in the light of our proposal for article 1.

Regarding the nature of these CFC-specific regulatory provisions, we should like to recall that in our view they should be dealt with in an additional protocol to the convention which would be binding on all parties to the convention itself, and would be distinguished from the annexes to the convention which should remain more technical in nature.

• THAILAND

[Original: English]
[18 August 1983]

The office of the National Environment Board informed UNEP of its agreement with the draft annex, but requested additional comments from the Ministry of Public Works and the Ministry of Industry, as the agencies responsible for implementation. The Office of the National Environment Board further informed UNEP that by Notification of the Ministry of Public Health No.26 (B.E. 2524) effective 5 October 1981, chlorofluorocarbons (CFCs) as used in aerosol products were included in the list of poisonous substances which are banned from import, manufacture and sale in Thailand.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

[Original: English]
[15 August 1983]

1. During negotiations in the Ad Hoc Group the United Kingdom Government has placed a general reserve in regard to all possible annexes and protocols on the grounds that they are premature until a framework convention has been elaborated.

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2. The United Kingdom Government believes the Nordic proposal is unnecessary and unsound. This view is reinforced by the further reduction in the estimate of the Co-ordinating Committee on the Ozone Layer.
3. Without prejudice to the first two points an annex would be inappropriate even if an agreement could be reached on regulating or controlling CFC. Such matters would require a protocol.
4. Any eventual protocol should go no further than the position of the European Community which has agreed on a temporary reduction of production subject to review. The Community has recently confirmed that there is at present no need for further action.
5. There are also points of approach and detail which the United Kingdom Government finds undesirable or nonsensical.
6. The United Kingdom Government hopes, in the light of the above, that the proposers of the draft annex will be persuaded to withdraw. It is the United Kingdom Government's view that the next negotiating meeting in October should concentrate on the elaboration of the basic framework convention without being distracted by discussion of what it considers to be premature annexes or protocols.

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2. In addition, UNEP received the following telex comments from the United Nations Economic Commission for Latin America (ECLA):

Second paragraph of draft article 2 is not sufficiently explicit on types of co-operation expected and obligations involved on the part of contracting parties who will develop and apply the new technologies that are required. Would propose therefore that this paragraph make explicit reference to Principle 20 of the United Nations Declaration on the Human Environment, and in particular its last sentence which states that "Environmental technologies should be made available to developing countries on terms which would encourage their wide dissemination without constituting an economic burden on the developing countries." In this context, and in order to facilitate diffusion and application of such technologies, some type of an international mechanism might be contemplated.
