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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)

Second Session  
Vienna, 23-27 February 1987

Text of a letter received by UNEP from the United States of America clarifying at the request of UNEP, certain aspects of document UNEP/WG.151/L2 Revised draft protocol on chlorofluorocarbons submitted by the USA to the Vienna Group.

Thank you for your letter of January 8, 1987 regarding the Protocol on the control of chlorofluorocarbons to the Vienna Convention for the Protection of the Ozone Layer. On January 29, we held informal consultations in Washington with Canadian Government officials to review our respective positions set forth during the negotiating session held in Geneva, December 1-5, and with particular reference to the questions posed in your separate letters to our two Governments.

Given the fact that none of the various protocol texts submitted before, or during, the Geneva meeting were discussed in any detail, both the U.S. and Canada would prefer not to introduce an amalgamated text at this time. Nevertheless, our discussions were useful in confirming that U.S. and Canadian views are quite congruent on the broad objectives of a protocol as well as on essential components.

First and foremost, both our Governments believe that the protocol should provide for: (1) early action to freeze emissions of the major ozone-depleting chemicals; and (2) a strategy and methodology for emission reduction in the longer term. The second, long-term aspect lies at the heart of any meaningful approach to protecting the ozone layer. Unfortunately, this component has received virtually no debate at the international level to date, a deficiency we hope will be overcome in Vienna.

Regarding specific elements, we and our Canadian colleagues share the same views on most of those which we believe are essential for an effective protocol.

1. Calculation of emissions: There is considerable merit in adopting "Adjusted Production" (I.E., production, plus bulk imports, minus bulk exports to parties, minus amount destroyed) as the measure of emissions for each party to the protocol. Such a formulation would: (A) allow for free trade among the parties; (B) give countries which use but do not produce the controlled

chemicals some responsibility for protecting the ozone layer; and (C) provide a more equitable allocation than control measures based strictly on production. Furthermore, we believe that using "Adjusted Production" as the surrogate for actual national emissions would make the controls administratively quite easy to implement. Under this approach, each party would submit annually to the Secretariat just four figures:

1. Aggregate annual production
2. Aggregate annual bulk imports
3. Aggregate annual bulk exports to parties
4. Aggregate annual amount destroyed or permanently encapsulated.

This data would then be combined according to the above arithmetic formula, so as to yield a party's aggregate annual emissions for the purposes of the protocol. This figure would then be compared to that party's N.E.L. (Under the Canadian approach) or to the relevant phase on its reduction schedule (Under the U.S. approach). Since the four data elements listed above are now readily obtainable by most countries (or, in the case of the fourth datum, potentially available) we believe that the adjusted production formulation presents minimal implementation difficulties and some major advantages.

2. Scope of control: the protocol should cover all major potential ozone depleters, with the degree of control based on their relative depletion potential. The protocol should also incorporate a mechanism for moving chemicals on or off a control schedule if deemed necessary by advances in scientific understanding. This would obviate the need to develop a new protocol each time another chemical becomes suspect.

3. Scientific assessment: The protocol should incorporate a strong mechanism for periodic assessment and possible adjustment by the parties of the timing, stringency, and scope of control, based upon a review by an ad hoc panel of scientific and technical experts of the state of scientific/technical knowledge.

4. Trade Aspects: The international trade aspects of any control strategy also should be addressed. This includes the matter of trade restrictions to ensure that non-joining countries would not enjoy a trade advantage over protocol members.

Each of these elements deserves discussion in Vienna, and we hope that the Agenda can be structured to accomplish this. The establishment of ad hoc subgroups for these issues -- as well as the issue of the longer-term process -- should, we believe, be considered by the meeting organizers and bureau.

After noting the many points of congruence between the U.S. and Canadian positions, we should also point out that some differences remain. One involves the Canadian concept of a Global Emissions Limit (GEL). The U.S. concern is that the difficulty of achieving agreement on a precise GEL every few years would preclude needed long-term reductions. The U.S. approach acknowledges that enough is already known scientifically to conclude that certain chemicals pose unacceptable risks, our proposal therefore calls for a long-term scheduled phase-down of these chemicals. This minimizes regulatory

uncertainty and provides clear signals to governments and industry: All parties will know from the outset what they are expected to do and in what timeframe.

Secondly, the U.S. does not support the concept of allocating emission "Rights" among nations based on formulas involving GNP and population factors, such as the Canadians (and the USSR) have proposed. Not only does this introduce unnecessary complexity, but achieving agreement on a formula appears unlikely. We believe that the better approach is to place the burden directly on the producers and emitters, rather than to allocate "Rights to Pollute".

I hope you find this information responsive to your request, and also helpful in determining how to structure the discussions in Vienna so that we can maximise progress.