



United Nations
Environment
Programme



Distr.
GENERAL

UNEP/OzL.WG.Data.2/3/Rev.1
26 October 1988

ORIGINAL: ENGLISH

Ad Hoc Working Group of Legal and Technical Experts
for the Harmonization of Data on Production, Imports
and Exports of Substances that Deplete the Ozone
Layer

Second session
The Hague, 24-26 October 1988

REPORT OF THE AD HOC WORKING GROUP
ON THE WORK OF ITS SECOND SESSION

I. INTRODUCTION

1. The second session of the Ad Hoc Working Group of Legal and Technical Experts for the Harmonization of Data on Production, Imports and Exports of Substances that Deplete the Ozone Layer was held in The Hague from 24 to 26 October 1988 in accordance with paragraph 16 of the Report of the Ad Hoc Working Group on the work of its first session (UNEP/WG.185/5/Rev.1).

II. ORGANIZATIONAL MATTERS

A. Opening of the Session

2. The first meeting was opened by Mr. J.W. Kakabeke, the Minister of Physical Planning, Housing and the Environment. The Deputy Executive Director of UNEP, Mr. W. Mansfield III, welcomed the participants to The Hague on behalf of Dr. M.K. Tolba and referred briefly to the series of meetings held in The Hague, 17-21 October 1988. Mr. P. Usher (UNEP) presented the findings of the Science meeting (UNEP/OzL.WG.Data.2/Inf.1) and the rapporteur of the Workshop on substitutes, Mr. V. Buxton (Canada) presented the findings of the Workshop (UNEP/OzL.WG.Data.2/Inf.2). The timetable and structure of the assessment of the control measures of the Montreal Protocol was presented by Mr. Buxton.

Ms. I. Rummel-Bulska (UNEP) Secretary to the meeting, reported on the status of ratification of the Vienna Convention and the Montreal Protocol and proposed the schedule for the first meeting of the Conference of the Contracting Parties. In relation to the agenda of this meeting and the meeting of the sub-group of Legal Experts, she proposed to hold the meeting of

/...

Legal Experts for the Entry Into Force of the Protocol simultaneously with the Ad Hoc Working Group meeting. This was agreed by the Working Group.

Ms. I. Rummel-Bulska also reported on the latest data on countries' production, imports, exports and consumption. To date 66 countries and the EEC had reported on their data or estimates. The estimated global consumption of the controlled substances in 1986 amounted to approximately 1,149,000 metric tonnes.

The Secretary announced that the first meeting of the Contracting Parties to the Vienna Convention was tentatively scheduled for 5-7 April 1989, to be followed by the first meeting of the Contracting Parties to the Montreal Protocol tentatively scheduled for 10-14 April 1989.

B. Attendance

3. The meeting was attended by experts from: Argentina, Australia, Austria, Belgium, Brazil, Burkina Faso, Canada, Chile, China, Costa Rica, Denmark, Egypt, El Salvador, Finland, France, Federal Republic of Germany, India, Italy, Japan, Kenya, Liberia, Maldives, Mexico, Netherlands, Norway, New Zealand, Republic of Korea, Spain, Switzerland, Sweden, Thailand, USSR, United Kingdom, United States, Venezuela, Yugoslavia and the EEC. Representatives of International Chamber of Commerce (ICC), European Confederation of Chemical Industries (CEFIC), Environmental Liaison Centre (ELC), International Institute of Refrigeration (IIR), Environmental Fluoro Carbon Technical Committee (EFCTC), Association Fluoro Carbon Consumers and Manufacturers' (AFCAM), European Isocyanate Producers Association (ISOPA), Friends of the Earth International, Natural Resources Defense Council (NRDC) and European Environment Bureau (EEB) also attended.

C. Election of Officers

4. The Working Group agreed to continue with the same bureau as at its first meeting, 9-11 March 1988 in Nairobi, namely Mr. William A. Nitze (United States) as Chairman, Mr. A. Resk (Egypt) and Mr. V. Zakharov (USSR) as Vice-Chairmen and Mr. Per Bakken (Norway) as Rapporteur.

D. Adoption of the agenda and programme of work

5. The Working Group adopted the following agenda:

Monday, 24 October

Opening of the session

Report on the UNEP Meeting: Scientific Review of the Depletion of the Ozone Layer (The Hague, 17-18 October 1988).

Report on the UNEP Workshop on Substitutes and Alternatives to CFCs and Halons (The Hague, 19-21 October 1988).

Report on ratification and entry into force of the Vienna Convention and the Montreal Protocol.
Collection of data for entry into force.

Collection of data for the purpose of control measures

Tuesday, 25 October

Confidentiality of data.

Destruction by approved technologies and technology transfer.

Definitions or clarifications to be recommended to the Conference of the Parties at its first meeting:

- (a) "Controlled substance in bulk";
- (b) "Basic domestic needs";
- (c) "Developing countries";
- (d) "Recycling";
- (e) "Transformation";
- (f) "Industrial rationalization";
- (g) Article 2, paragraph 6, of the Montreal Protocol;
- (h) Standardization of coding.

Wednesday, 26 October

Preparation for the first meeting of the Conference of the Parties to the Vienna Convention and to the Montreal Protocol.

Any other matters relating to data collection.

Adoption of the report.

Simultaneously with the Ad Hoc Working Group the meeting of the sub-group of Legal Experts for the Entry into Force of the Protocol should meet to prepare a draft note to the Depository (the Secretary-General of the United Nations) regarding the entry into force of the Protocol and to consider other legal subjects in particular those related to the organization of the first meeting of the Contracting Parties to the Vienna Convention and the Montreal Protocol.

The report of this sub-group, together with a draft letter to the Depository, is attached as Annex II to this report.

The Ad Hoc Working Group decided after a general discussion on all items on the agenda to call for additional ad hoc sub-working groups, whose reports, attached to this report as answers, were considered and adopted by the Ad Hoc Working Group.

/...

III. REVIEW OF HARMONIZATION OF DATA ON PRODUCTION,
IMPORTS, AND EXPORTS OF SUBSTANCES CONTROLLED UNDER
THE MONTREAL PROTOCOL AND OF OTHER ISSUES ARISING
UNDER THE RESOLUTIONS OF THE FINAL ACT AND
UNDER THE MONTREAL PROTOCOL

A. Ozone Depleting Potential (ODP) for Halon 2402

6. The meeting was informed that the UNEP Meeting on the Scientific Review of the Depletion of the Ozone Layer, 17-18 October 1988 recommended the use of the ODP of 6.0 for Halon 2402.

7. Some delegates drew the attention of the meeting to the intent of the negotiations in Montreal that due to the way Annex A was structured, the ODP for Halon 2402 should replace the words "to be determined" as a simple fulfilment. Once the ODP was decided upon by the scientific community this information would be conveyed to the signatories of the Protocol by the Depositary. The negotiations in Montreal emphasised this point since an ODP for Halon 2402 was necessary to be able to complete the obligations for halon on the intended basket approach. The delegates underlined that a notification to the signatories of the decided ODP figure was the only necessary step.

8. The legal sub group examined the problem and its proposals regarding the possible increase of ozone depleting potential for Halon 2402 in Annex A of the Montreal Protocol are presented in its report (Annex II to this report).

9. One delegation, however, reserved its right to come back to this subject pending further scientific consultations in its country regarding the ODP for Halon 2402. That delegation stated that it would be advisable to consider the inclusion of ODP for Halon 2402 into Annex A of the Montreal Protocol at the same time as consideration of the inclusion of the new figures for ODP for CFC 114 and 115 as indicated in the summary report of the UNEP ozone science meeting (UNEP/OzL.WG.Data.2/Inf.1).

B. "Basic Domestic Needs"

10. It was a widespread opinion among the experts of the Ad Hoc Working Group that "Basic Domestic Needs" should be understood as not to allow production of products containing controlled substances to expand for the purpose of supplying other countries. However, certain delegates' understanding was that domestic needs could be understood more widely and include the exports and imports of developing countries. It was decided that this subject should be transferred to the first meeting of the Contracting Parties to the Montreal Protocol.

C. Developing countries

11. The Ad Hoc Working Group decided that the following four countries: Albania, People's Republic of China, Mongolia and Namibia should be added to the list of countries members of the Group of 77 attached as Annex II to the Note by the Executive Director of UNEP (UNEP/OzL.WG.Data.2/2).

12. This list should be submitted to the first meeting of the Contracting Parties to the Protocol to be used as the basis for further discussions. It will however be used on an interim basis for determining applicability of

/...

Article 5 and should be revised subsequently by the Parties based on economic criteria.

13. It was stressed that Article 5 of the Montreal Protocol applies only to the developing countries whose annual calculated level of consumption of controlled substances is less than 0.3 kg per capita as clearly stated in paragraph 1 of that Article.

D. Clarification of Article 2, paragraph 6 of the Montreal Protocol

14. The clarification of Article 2, paragraph 6 of the Montreal Protocol as indicated in the note by the Executive Director (UNEP/OzL.WG.Data.2/2) was considered as being correct. It was emphasized that only the countries that prove to the Secretariat that the facilities were under construction or contracted for prior to 16 September 1987, provided for in national legislation prior to 1 January 1987 and completed by 31 December 1990 are allowed to operate under this paragraph.

E. Clarification of the definition of controlled substances in bulk

15. The Ad Hoc Working Group agreed that the following clarification should be presented at the first meeting of the Contracting Parties for its adoption as a resolution clarifying further the definition of controlled substances in bulk.

- (i) Article 1 of the Montreal Protocol excludes from consideration as a "controlled substance" any listed substance, whether alone or in a mixture, which is in a manufactured product other than a container used for transportation or storage.
- (ii) Any amount of a controlled substance or a mixture of controlled substances which is not part of a use system containing the substance is a controlled substance for the purpose of the Protocol (i.e. a bulk chemical).
- (iii) If a substance or mixture must first be transferred from a bulk container to another container, vessel or piece of equipment in order to realise its intended use, the first container is in fact utilized only for storage and/or transport, and the substance or mixture so packaged is covered by Article 1, paragraph 4, of the Protocol.
- (iv) If, on the other hand, the mere dispensing of the product from a container constitutes the intended use of the substance, then that container is itself part of a use system and the substance contained in it is therefore excluded from the definition.
- (v) Examples of use systems to be considered as products for the purposes of Article 4, paragraph 3, are:
 - (a) An aerosol can;
 - (b) A refrigerator or refrigerating plant, air conditioner or air conditioning plant, heat pump, etc.;

- (c) A polyurethane prepolymer or any foam containing, or manufactured with, a controlled substance;
 - (d) A fire extinguisher (wheeled or hand-operated) or an installed container incorporating a release device (automatic or hand-operated).
- (vi) Bulk containers for shipment of controlled substances and mixtures containing controlled substances to users include (numbers being illustrative):
- (a) Tanks installed on board ships;
 - (b) Rail tank cars (10-40 metric tons);
 - (c) Road tankers (up to 20 metric tons);
 - (d) Cylinders from 0.4 kg to one metric ton;
 - (e) Drums (5-300 kg).
- (vii) Because containers of all sizes are used for either bulk or manufactured products, distinguishing on the basis of size is not consistent with the definition in the Protocol. Similarly, since containers for bulk or manufactured products can be designed to be rechargeable or not rechargeable, rechargeability is not sufficient for a consistent definition.
- (viii) If the purpose of the container is used as the distinguishing characteristic as in the Protocol definition, such CFC or Halon-containing products as aerosol spray cans and fire extinguishers, whether of the portable or flooding type, would therefore be excluded, because it is the mere release from such containers which constitute the intended use.

F. "Industrial rationalization"

16. Several delegations were of the opinion that according to their interpretation of the definition on industrial rationalization, it is not possible for one country to increase its production without a corresponding reduction of production in another country.

17. Some countries were of the view that parties could meet their industrial rationalization requirements without formal and burdensome production transfer mechanisms provided that parties do not defeat the purpose of the Protocol by increasing exports to non-parties during the period prior to 1 January 1993. These countries considered that a more rigid approach could discourage more economically efficient compliance responses.

/...

18. It was suggested that the meeting of the Parties might benefit from legal advice on a number of points raised in the report and in particular the issue of what the term "industrial rationalization" means.

G. Assessment of control measures

19. On the basis of the note by the Executive Director of UNEP to the meeting of the Ad Hoc Working Group (dated 24 October 1988) reflecting the outcome of the UNEP meeting: Scientific Review of the Depletion of the Ozone Layer, 17-18 October 1988 and the UNEP Workshop on Substitutes and Alternatives to CFCs and Halons, 19-21 October 1988 the workplan and timetable for the assessment of the control measures attached to this report as Annex I, was endorsed by the Ad Hoc Working Group.

H. Submission of data

20. The report of the sub-working group on submission of data to the UNEP Secretariat, adopted by the plenary, is attached to this report as Annex III.

I. Information and technology transfer

21. The report of the sub-working group on information and technology transfer, adopted by the plenary, is attached to this report as Annex IV..

J. Transformation, destruction and recycling

22. The report of the sub-working group on transformation destruction and recycling adopted by the plenary, is attached as Annex V to this report.

K. Standardization of the coding system

The proposal on standardization of the coding system attached to this report as Annex VI was not discussed by the Ad Hoc Working Group.

L. Non-compliance with the Montreal Protocol

24. The proposal on non-compliance with the Montreal Protocol, attached to this report as Annex VI was not discussed by the Ad Hoc Working Group. It is expected that this will be presented and considered by the first meeting of the Contracting Parties as requested by Article 11 of the Montreal Protocol.

IV. CLOSURE OF THE MEETING

25. The experts adopted the draft report and included the reports from the sub-groups established during the meeting as Annexes to this report. The Chairman, Mr. William A. Nitze, thanked the participants for their hard work and concluded by wishing all delegates a safe journey home. He closed the meeting at 4.40 p.m. on Wednesday, 26 October 1988.

/...

Annex I

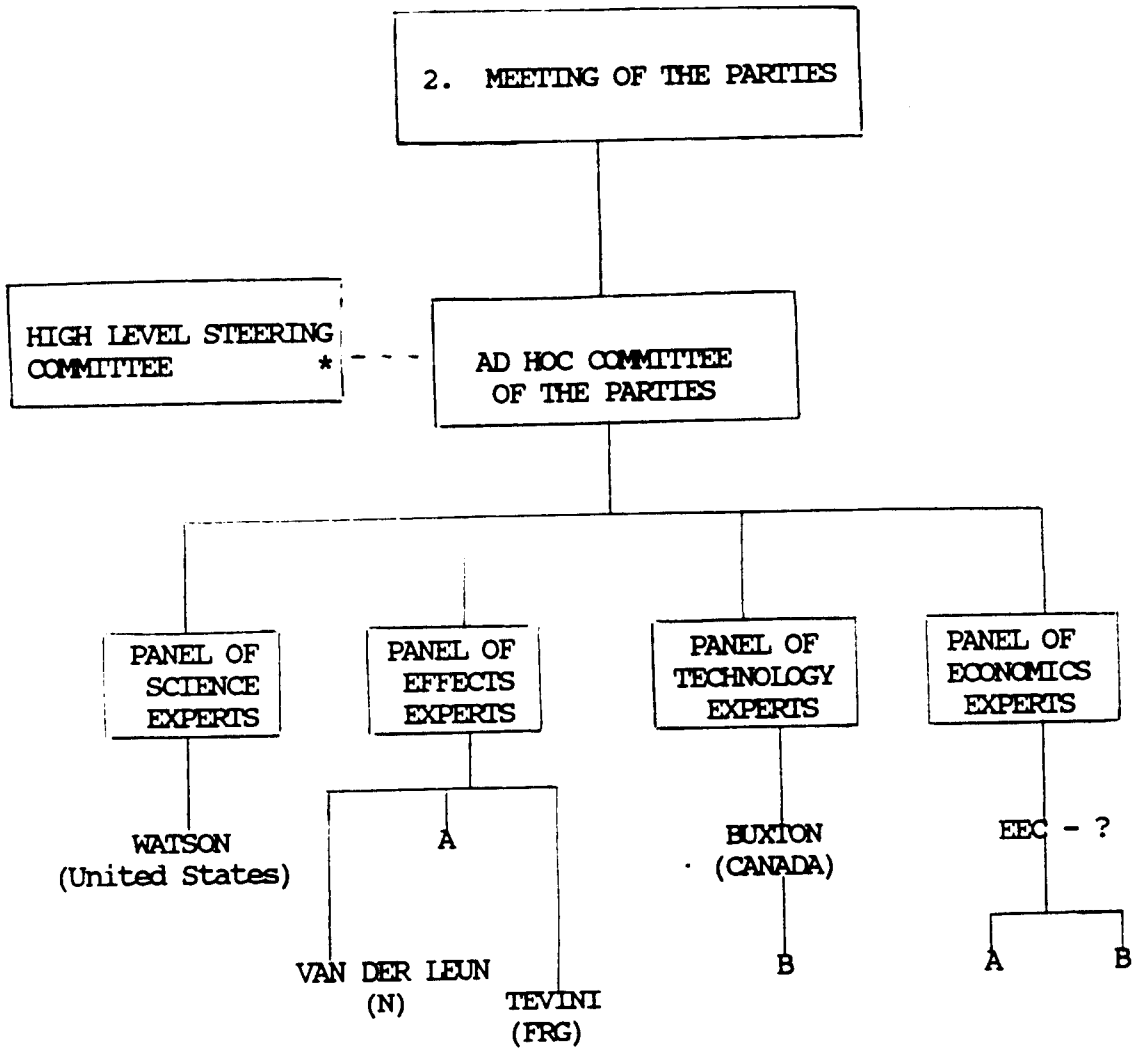
Recommendations for the Assessment
of the Control Measures

TIME LINE FOR PROCESS

- 4 Ad Hoc review panels created by the Ad Hoc Working Groups of Legal and Technical Experts for the Harmonization of Data on Production, Imports and Exports of Substances that Deplete the Ozone Layer October 1988
- High Level Steering Committee (Dr. Tolba, 6-8 ministers, 4 chairmen) November 1988
- Montreal Protocol enters into force January 1989
- Advisory Group for the preparation of documents for the first meeting of the Contracting Parties February 1989
- First meeting of the Contracting Parties (establishing the Committee of Parties and the Article 6 Panels of experts) April 1989
- Finalization of draft reports from the four expert panels July/August 1989
- Committee of Parties integrates report of four expert panels and makes recommendations September 1989
- Integrated report and recommendations circulated to the Parties by the Secretariat October 1989
- Second meeting of the Contracting Parties to assess the control measures in Article 2 and decide on any adjustments to Article 2 or amendments of other provisions of the Montreal Protocol April 1990
- Adjustments under Article 2, paragraph 9 enter into force automatically October 1990

/...

Annex I



A - ?

B - ANDERSEN
(United States)

* Dr. Tolba, 6-8 ministers, 4 chairmen of the expert panels High Level Steering Committee to meet as scheduled by Dr. Tolba

Annex II

Report of the Legal Group

The Legal Group chaired by Mr. Lammers (Netherlands) met on Tuesday, 25 October 1988 at 3 p.m. and discussed the following issues:

1. Draft text of a note on entry into force of the Protocol

A draft text of a note by the Executive Director of UNEP, Dr. M.K. Tolba, to the Secretary General of the United Nations in his capacity as Depositary of the Vienna Convention and the Montreal Protocol concerning the entry into force of the Montreal Protocol on 1 January 1989 was discussed by the Group (Appendix A). The Legal Group agreed that the conditions formulated in Article 16 of the Protocol with regard to its entry into force on 1 January 1989 would in all probability be met having regard to the existing and expected ratifications of the Protocol reflected in UNEP/OzL.WG.Data.2/Inf.3 and the assurances given by Dr. L. J. Brinkhorst (EEC) in a letter dated 25 October 1988 to Dr. Tolba.

2. Clarification of the definition of controlled substances

The Legal Group agreed that a consensus agreement by the Parties to the Protocol during their first meeting on a clarification of the definition of controlled substances as formulated in UNEP/WG.185/5/Rev.1, paragraph 5 could be effected in the form of a (declaratory) statement inserted in the report of the first meeting. If this procedure - which, according to the Legal Group is in itself adequate - meets with resistance during the first meeting of the Parties to the Protocol, the Parties may alternatively decide to adopt a resolution stating their acceptance of the above-mentioned clarification.

3. Developing countries

The Legal Group held the same view with regard to the clarification of the notion of "developing country" for the purposes of Article 5 of the Protocol. A consensus agreement by the Parties to the Protocol during their meeting on this point could be included in the report of that meeting, or if this procedure meets with resistance during the first meeting, in a resolution to be adopted by the Parties. As to the content of the notion of developing countries for the purpose of Article 5 of the Protocol, use could be made of the updated list of the Group of 77, supplemented by Albania, China, Mongolia and Namibia and with a formula providing for a review mechanism enabling future amendments of the list (as supplemented) thereby also taking into account economic criteria.

/...

4. Terms of reference for panels referred to in Article 11, paragraph (c) of the Protocol

The Legal Group was of the opinion that proposals for these terms of reference could be drafted by the UNEP Secretariat, possibly with the help of certain experts, but did not need to be discussed and formulated by the Legal Group.

5. Non-compliance

The Legal Group was of the opinion that agreement reached by the Parties at their first meeting on procedures and institutional mechanisms for determining non-compliance with the provisions of the Protocol and for treatment of Parties found to be in non-compliance were likely to be of such a nature that they could only become effective if formalized in the form of an amendment to the Protocol (for instance in the form of a new annex in accordance with the procedure prescribed for amendments).

6. ODP figure for Halon 2402

The Legal Group was of the opinion that the filling in of the figure 6 for Halon 2402 in Annex A to the Protocol as recommended by the scientists could be accomplished by a variety of means including: (a) an amendment of the Annex adopted in accordance with the amendment procedure provided for in the Protocol; (b) consensus agreement by the Parties at their first meeting to accept the Halon 2402 figure, thereby implementing the Annex by making the determination called for, so that the depository can fill in the Halon 2402 figure by interpreting the text.

If the amendment procedure had to be followed, the UNEP Secretariat and the Parties could use the Halon 2402 figure on a provisional basis without prejudice to the position of the Parties pending the completion of the amendment procedure.

Appendix A

Draft letter from the Executive Director of UNEP to the Secretary General of the United Nations in his capacity as depositary of the Vienna Convention for the Protection of the Ozone Layer concluded in Vienna on 22 March 1985 and the Montreal Protocol on Substances that Deplete the Ozone Layer concluded at Montreal on 16 September 1987

According to Article 16 of the Montreal Protocol on Substances that Deplete the Ozone Layer the Protocol will enter into force on 1 January 1989 provided:

- (a) at least eleven instruments of ratification, acceptance, approval of the Protocol accession thereto have been deposited by States or regional economic integration organizations;
- (b) those instruments represent at least two-thirds of the 1986 estimated global consumption of the controlled substances; and
- (c) the provisions of paragraph 1 of Article 17 of the Vienna Convention for the Protection of the Ozone Layer have been fulfilled.

I should like to inform you that:

- (a) by [date] [number] of instruments of ratification, acceptance, approval or accession to the Protocol as indicated in the Annex to this letter have been deposited.
- (b) those instruments represent in excess of two-thirds of the 1986 estimated global consumption of the controlled substances as assessed by the UNEP Secretariat in the light of data provided to it by States and regional economic integration organizations; and
- (c) on 22 September 1988 the Vienna Convention entered into force as indicated in the Annex to this letter.

Accordingly since the conditions in (a)-(c) above have been fulfilled, the Protocol will enter into force on 1 January 1989.

Sincerely yours,

/...

ANNEX

List of States and/or regional economic integration organizations which by [date] had ratified, accepted, approved or acceded to the Protocol and had ratified, accepted, approved or acceded to the Convention prior to 30 September 1988.

Name	Convention		Protocol	
	Signature	Ratif.	Signature	Ratif.
Country				
EEC				

/...

Annex III

Submission of data

In introducing the discussion the Chairman noted that several participants in the consultations in Nairobi had indicated that they had difficulty with the notion that the production, export and import data required to be submitted annually under Article 7 (2), should be reported on a chemical by chemical basis. This, they felt, was unnecessary since the control mechanism was based on an aggregate figure, group by group, and to report chemical by chemical could involve a breach of commercial confidentiality. Others in Nairobi had considered, however, that detailed statistics on each country's production and use of each separate chemical would be needed to enable Parties to determine whether another Party was complying with the Protocol or not. Moreover, Article 7 (1) clearly demanded that detailed data substance by substance would be provided, and Article 7 (2) implied the same.

A number of participants suggested that a compromise solution to the problem identified in Nairobi would be for Parties to provide data, chemical by chemical to the Secretariat on the understanding that this would not be released in that form to other Parties but would be kept confidential. (To ensure this confidentiality, they noted that it might be necessary for Parties at their first meeting to waive any right to seek the raw production/consumption data of individual countries, contemplated by paragraph (b) of Article 12). The Secretariat would aggregate the chemical-by-chemical figures of each country and only these aggregate figures would be released to other Parties. It would also, if the Parties so decided, aggregate global figures for each substance for release to the Parties, which information would assist them to assess particular reduction strategies for particular chemicals. The Secretariat would not have any mandate to question the figures provided by individual countries and if the aggregation indicated a country was not in compliance with the Protocol, any action would have to be taken up by the Parties themselves under arrangements contemplated in Article 8.

One delegation stated that since the obligations of the Protocol related specifically to the aggregate figure of a Party's production or consumption, there appeared to be no necessity for data on separate chemicals to be provided and they need only report on a "basket" of chemicals, group by group. Such information would not be relevant to the central purpose of the Protocol, notably to protect the ozone layer.

Another delegation stated that particularly after 1992, there would no longer be available separate import and export statistics for EC States. A majority of European Community member States therefore, were intending to fulfil their reporting responsibilities through an aggregate EC production and consumption figure, which, if necessary, would be certified by an independent firm of

/...

auditors. Moreover, for confidentiality reasons and because the obligations in the Protocol were so framed, these countries would prefer the EC not to report chemical by chemical but on the basis of an aggregation of its calculated level of production and consumption.

Several delegations, in response to the above statement, pointed out that Article 7 specified a responsibility for all Parties to report their data and commented that so long as member States of the EC maintained a separate status as Parties, they appeared to be required to report national data separately.

A working party comprising representatives of industry, government and the European Community was formed to discuss the problem. Some participants considered that Article 7 clearly required Parties to report on a chemical by chemical basis; others were of the view that Article 7 only required reporting on the basis of a basket of chemicals. This legal issue aside, it was accepted by all that Article 2 control procedures operated on and therefore required only aggregate data. At the same time the Working Party identified a number of additional objectives, consistent with the purpose of the Protocol, which would be advanced by a more detailed reporting of data by parties. These included:

- stimulation of competition to cut back the use of certain substances;
- assistance in the development of replacement technology and control strategies;
- assistance to scientists in modelling changes in the ozone layer;
- reassurance of the parties that other parties were complying with their obligations.

Balanced against these benefits however was the issue of confidentiality of information. Several mechanisms, in addition to the compromise proposal involving UNEP's aggregation of the raw national data, identified above, were considered. These included:

- the use of a private firm of auditors to carry out the responsibilities assigned to UNEP in the compromise proposal;
- the use of national audit certificates;
- provision for parties to choose whether to report in detail or in aggregate, but in the latter case, to open themselves to the possibility of external audit.

A number of participants felt that the original compromise involving UNEP as the recipient of detailed data appeared to balance appropriately the need for confidentiality against the wider objectives of the Protocol; others considered that even under this option the requirements for confidentiality were not sufficiently protected and they preferred therefore that reporting be on the basis of a basket of chemicals. Participants agreed to reflect further on this issue in the lead up to the first meeting of the parties.

/...

Annex IV

REPORT OF THE WORKING GROUP ON INFORMATION AND TECHNOLOGY TRANSFER

The Working Group met to consider the measures which would be taken to provide information and transfer of technology as referred to in Article 9 of the Montreal Protocol on Research, Development, Public Awareness and Exchange of Information and Article 10 on Technical Assistance.

Basic Needs of Developing Countries

The Working Group identified three main areas where implementation of the Protocol was expected to present problems to them:

1. Acquiring retrofit technology: Developing countries would have to acquire either themselves or through joint ventures the technology necessary to enable existing plants and facilities to make the needed transition in CFC and halon production and use;
2. Obtaining financial help: Funds would be needed:
 - (a) to establish new plants and installations as substitutes for old ones;
 - (b) to purchase new substances which can be expected to be more expensive; and
 - (c) as compensation for changing equipment, facilities and appliances.
3. Organization needs: Mechanisms would be required for creating viable mechanisms for information exchange and technology transfer.

Information Needs of Developing Countries

The Working Group outlined some of the main information requirements of developing countries to help them formulate their approaches and plans for converting to alternate CFCs and halons.

General Needs: Among the general information and other needs identified were those to:

- provide estimates on national CFC use for the next ten years by type and industry;
- obtain national estimates of CFC supply and possible sources for ten-year needs;
- determine the country's own technology modifications to meet its unique specific purposes;

/...

- develop a specific liaison with UNEP, normal CFC suppliers and normal equipment suppliers to assure that there is a reliable source of information exchange;
- obtain industry standards and changes to them to deal with new alternative technologies, e.g. Society of Automotive Engineers (SAE); the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE); Military Specifications (MILSPECS); International Standards Organization (ISO); Underwriter Laboratories (UL); building codes, environmental, safety and health guidelines, and information of possible side effects of alternatives; and
- help stop CFC and halon waste and loss.

Refrigeration Uses/Insulating Foams: Information needs by country include:

- types of systems in use and main applications;
- names of major suppliers of refrigeration systems;
- names of local manufacturers for refrigeration and who they are associated with (joint venture partners);
- updated information on alternate uses for refrigeration and air-conditioning systems the country will employ with information on (a) the outlook for refrigeration supply, (b) equipment to use refrigerants, and (c) equipment and refrigerant price estimates for future supplies.
- energy efficiency estimates for equipment using alternates; main design elements to achieve this efficiency; and
- options to cope with any projected low energy efficiencies and opportunities to take advantage of energy efficiencies.

Cleaning Agents: Information required would include;

- an inventory of uses by CFC type;
- an inventory of cleaning installations and their CFC uses; and
- updated information on alternates and not-in-kind technologies, including a breakdown by type of cleaning tasks and new techniques that avoid solvent cleaning.

Halons: Information should include:

- an inventory of halon uses with priority based on their interests;

/...

- technical data on ways to save and prevent waste of halons obtained from proper technical sources; and
- regularly updated material from producers on any future developments relating to alternatives to halons.

Suggested Activities For Providing Required Information

The Working Group recommended that developed countries parties to the Convention and Protocol pursue actively programmes and activities which would assist developing countries to obtain information on new technologies, techniques and practices through such mechanisms as trade fairs, the development and distribution of technical manuals and reports on alternative technologies and demonstrations of alternative technologies by them or their industries. The Parties, UNEP and others should consider general publication on a timely basis of detailed information related to good management practices, new techniques and technologies. They should carry out regular workshops of technical experts on substitutes, CFC and halon alternatives, best technologies for containment, recovery, recycling or destruction of controlled substances, possible alternatives and costs and benefits of appropriate control strategies. They should consider all possible means of information exchange.

Sources of Funding for Developing Countries

The Working Group recommends that environmental agencies of developed countries consult with their government's organizations responsible for grants, loans, aid, guarantees and insurance programmes and cooperate to facilitate the funding of alternative technologies and substitute products.

In addition, the parties should encourage UNEP and the other organizations of the United Nations system to provide assistance for developing countries in their programmes. The international assistance and lending institutions, such as the World Bank, the UNDP, the regional development banks and others should be urged to consider the needs of developing countries in implementing the Protocol and to give priority to the funding requirements of these countries to make a transition from use of controlled substances to other technologies for containment, recovery, recycling and destruction as well as alternatives. The Working Group stated that other sources of funding should be explored.

Continuing Responsibility for the Issue:

Because of the importance of technology and information transfer to the developing countries and for the implementation of the Protocol, the Working Group expressed the view that the Parties should give continuing high priority to developing countries under the Protocol. It recommends that they consider establishing before the first week of the meeting of the Contracting Parties a Working Group that would keep the issue under continuing review and ensure that all possible measures are taken to assist developing countries to obtain financial support in implementing the Protocol.

/...

Annex V

REPORT OF THE WORKING GROUP ON
TRANSFORMATION, DESTRUCTION AND RECYCLING

The Ad Hoc Working Group on Data Harmonization established a Working Group on Transformation, Destruction and Recycling to provide guidance on interpreting and implementing these issues as related to the Montreal Protocol.

Guidance on definition of "controlled substances produced"

The Working Group examined the issues of transformation and recycling in the context of the Protocol's definition of "production" in Article 1, paragraph 5. While this definition is silent on the treatment of controlled substances that are transformed or recycled as part of the the manufacturing process, the Working Group sought to clarify the fact that controlled substances used as a feedstock in the manufacture of other chemicals or recycled from used controlled substances should be excluded from the amount of "controlled substances produced" as defined in Article 1, paragraph 5.

The Working Group developed the following recommendation:

The term "controlled substances produced" as used in Article 1, paragraph 5, is the calculated level of controlled substances manufactured by a Party excludes the calculated level of controlled substances entirely used by that Party as a feedstock in the manufacture of other chemicals. Excluded also from the term "controlled substances produced" is the calculated level of controlled substances derived from used controlled substances through recycling or recovery processes.

The Working Group recommends that each Party establish accounting procedures to implement this definition.

This definition would allow each Party to exclude from its production totals, any controlled substance [it]* manufactured that is "entirely used as feedstocks" or that it produced from "used controlled substances". The recommendation also suggests that each Party should establish procedures for the implementation of this definition.

* There was a disagreement within the Working Group whether the definition agreed upon was intended to allow a manufacturer transforming a controlled substance into another chemical to claim a production credit for this regardless of whether the controlled substance was produced by the same Party or imported.

Definition of destruction

The Working Group also sought to provide recommendations concerning implementation of that aspect of the definition of Article 1, paragraph 5, which states that production is equal to the amount of controlled substance produced "minus the amount destroyed by technologies to be approved by the Parties".

The Working Group first defined a destruction process in the following manner:

A destruction process is one which, when applied to controlled substances, results in the permanent transformation or decomposition of all or a significant portion of such substances.

Furthermore, to implement the requirement that such technologies be approved by the Parties, the Working Group recommends that a standing technical committee be formed to review and recommend for approval by the Parties methods for transformation and decomposition and determine the amount of controlled substances that are transformed or decomposed by each method. A production credit shall be given equal to the net reduction in the calculated level of the controlled substances, as defined in Article 3 of the Montreal Protocol, that is achieved by the transformation or decomposition of controlled substances.

The Working Group recommends that the Technical Committee review transformation and decomposition technologies and make recommendations to the Parties concerning their approval. The Working Group also suggests that the amount of production credit should be equal to the net reduction in the calculated substances (as defined in Article 3 of the Protocol) that is actually achieved by the transformation or decomposition.

Exports and imports of used controlled substances

Imports and exports of bulk used controlled substances should be treated and recorded in the same manner as virgin controlled substances and included in the calculation of a Party's consumption limits.

Further issues

In developing the above recommendations, several issues were raised by the Working Group for future consideration by the Parties:

1. The Parties should consider the extent to which other environmental considerations should be considered as part of the process for approving transformation or decomposition processes and the methods for so doing.

/...

2. Parties that are non-producers of controlled substances may receive production credits for either permanent transformation or decomposition of controlled substances that they have imported. Although these production credits would allow these Parties to increase imports of controlled substances, the Working Group raised the issue of whether the Protocol should be amended to allow for the transfer of such production credits to Parties with the capacity to produce controlled substances.
3. Several industry representatives on the Working Group raised the issue of the need to approve transformation or decomposition technologies in a manner consistent with preserving proprietary business information.

Annex VI

MODIFICATION OF THE HARMONIZED COMMODITY DESCRIPTION AND
CODING SYSTEM IN ORDER TO FACILITATE COLLECTION AND
COMPARISON OF DATA UNDER THE MONTREAL PROTOCOL

(Submitted by a Working Group with representatives from
United Kingdom, Sweden, United States, Switzerland, Japan and the EEC.)

1. Implementation of Articles 4 and 7 of the Montreal Protocol would be greatly facilitated if a regular system for the reporting of imports and exports could be used.
2. The Harmonized Commodity Description and Coding System (HS), developed under the auspices of the Customs Cooperation Council, provides an opportunity for countries to report import and export information through an international trade record-keeping system. Both imports and exports are classified under the same nomenclature. Under the system, the classification for a product can be composed of 8 to 10 digits. All developed countries must have the same six digits for a group of products. Developing countries are required to have the same first four digits.
3. Under the system all the controlled substances fall under the following two headings.

"290340 Halogenated derivatives of acyclic hydrocarbons containing two or more different halogens."

382390 Other chemical mixtures not covered elsewhere.
4. HS290340 covers the pure controlled substances and HS382390 the mixtures of controlled substances. However both headings also include many other substances such as the non-fully halogenated CFCs.
5. The system is so designed that the two last digits ("40" in the case of pure substances) can be further broken down into different subgroups (by using the digits "41", "42", etc.). This possibility is used, for instance, for hexachlorobenzene and DDT. It has so far not been used for the heading 290340 or 382390.
6. This makes it possible to amend HS to identify the controlled substances within 290340 and to create separate headings for mixtures within 382390 by introducing the additional sub-headings. The Working Group is suggesting the following headings:
 - (a) Pure substances

290340 - Halogenated derivatives of acyclic hydrocarbons containing 2 or more different halogens

/...

- - Perhalogenated derivatives of acyclic hydrocarbons containing 2 or more different halogens.
- - - Only fluorinated and chlorinated.
- 290341 - - - - Trichlorofluoromethane (CFC 11), Dichlorodifluoromethane (CFC 12), Trichlorotrifluoroethane (CFC 113), Dichlorotetrafluoroethane (CFC 114), Chloropentafluoroethane (CFC 115)
- 290342 - - - - Other
- - - - Other
- 290343 - - - - Bromotrifluoromethane (Halon 1211), Dibromotrifluoromethane (Halon 1301), Bromochlorodifluoromethane (Halon 2402)
- 290344 - - - - Other
- 290349 - - - - Other

(b) Mixtures

- 382370 - Mixtures comprising at least one prehalogenated derivative of an acyclic hydrocarbon containing 2 or more halogens
- 382371 - - - - Only fluorinated and chlorinated
- 382372 - - - - Other

7. Heading 290341 to 290348 identify the pure controlled substances as listed in Annex A to the Montreal Protocol and 382371 and 382372 identify mixtures of these substances. Heading 290349 covers all other products within 290340 which are not controlled substances. The notes to Chapter 38 of HS will need expanding to make clear that any mixture containing a controlled substance under the Montreal Protocol must be entered under 382371 or 382372 regardless of its size or proportion within the mixture.

Countries are encouraged in their national nomenclatures to go further and identify the controlled substances in more detail.

8. The Working Group suggests that the Parties, at their first meeting and after proper consideration by the Signatories and the Secretariat, request the Executive Director of UNEP to bring this matter to the attention of the Customs Cooperation Council which is the international authority responsible for the Harmonized Commodity Description and Coding System.

/...

Annex VII

PROPOSAL ON NON-COMPLIANCE WITH THE
MONTREAL PROTOCOL FOR THE FIRST MEETING
OF THE CONTRACTING PARTIES TO THE PROTOCOL

(by the United States)

In order to facilitate preparations for the first meeting of the Parties to the Protocol, the United States would like to circulate the following proposal concerning non-compliance procedures and institutional mechanisms. This proposal was previously distributed to participants at the Montreal Diplomatic Conference, 12-16 September 1987:

"Text of United States proposed Article on non-compliance:

1. The Parties hereby establish a Compliance Committee. The function of the Committee shall be to consider complaints submitted to the Secretariat concerning non-compliance by a Party with the provisions of Articles 2, 4 and 7 of this Protocol.
2. The Committee shall be composed of representatives of [one third] of the Parties, due account being taken of geographical distribution. The chairman of any given meeting of the Committee shall be selected by the Committee members.
3. The members of the Committee shall be elected at a meeting of the Parties for a four-year term, except that, at the first election held, one-half of the Committee members shall be elected for a two-year term. Outgoing members of the Committee may not be elected for consecutive terms unless such is required because of the limited number of States for which the Protocol is in force.
4. The Committee shall adopt its own rules of procedure, subject to approval by the Parties.
5. The Committee shall be convened as soon as possible after a complaint has been submitted by a Party that another Party is in breach of its obligations under Articles 2, 4 or 7 of this Protocol. Such a complaint shall be supported by evidence known to the complainant Party which corroborates the allegation on non-compliance.
6. The Committee shall afford the Party complained a reasonable opportunity to rebut any evidence supplied by the complainant Party.
7. After consideration of all the evidence pertaining to the matter, the Committee shall submit a report to the Parties containing its findings,

/...

including any mitigating factors, and its conclusions regarding whether the Party complained of is in compliance with the provisions of Articles 2, 4 or 7 of this Protocol. The Committee's report may also contain a recommendation as to appropriate action.

8. If the Committee has concluded that the Party complained of is not in compliance with the provisions of Articles 2, 4 or 7, a meeting of the Parties shall be convened to determine whether the conclusions and any recommendation of the Committee should be accepted.

9. Any Party determined by the Parties at such a meeting to be in breach of its obligations under Articles 2, 4 or 7 of this Protocol shall be treated as a non-Party for purposes of voting and trade for a period of time at least equal in duration to the period of its non-compliance.

10. The procedures contained in this Article shall apply to any complaints regarding non-compliance with Articles 2, 4 or 7 of this Protocol. Complaints regarding compliance with other provisions of this Protocol shall be resolved in accordance with the procedures outlined in Article 11 of the Convention.

Insert following paragraph in Article 12: Secretariat

The Secretariat shall receive and transmit to members of the Compliance Committee any complaints concerning non-compliance by a Party with the provisions of Articles 2, 4 or 7 of this Protocol."

Ad Hoc Working Group of Legal and Technical
Experts for the Harmonization of Data
on Production, Imports and Exports of
Substances that Deplete the Ozone Layer

Second session
The Hague, 24-26 October 1988

ASSESSMENT OF CONTROL MEASURES

Note by the Executive Director

1. In accordance with Article 6 of the Montreal Protocol on Substances that Deplete the Ozone Layer (Assessment and Review of Control Measures) the Parties to the Protocol inter alia shall assess the control measures provided for in the Protocol. The first assessment of the control measures is to be made in 1990, on the basis of available scientific, environmental, technical and economic information. The Article provides for the Parties to convene appropriate panels of experts qualified in the fields mentioned above at least one year before each assessment.
2. In order to expedite this process, the Executive Director wishes to make the following suggestions to the Working Group for its consideration and endorsement: The Parties should establish an Intergovernmental Multi-Disciplinary Panel. The advice of the Working Group is sought on the terms of reference and composition of the Panel. In this connection, the Working Group might wish to recommend that the Executive Director formulates draft terms of reference for the Panel which would be submitted to the Panel for its consideration.

3. The Executive Director suggests that an Intergovernmental Multi-Disciplinary Panel of Legal and Technical Experts be constituted, composed of legal experts, natural and physical scientists and experts in economics and technical matters.

4. Each Party would nominate one expert to serve on the Panel, to be appointed in consultation with the Executive Director, in order to ensure the required multi-disciplinary composition. A small ad hoc advisory meeting might be convened for the purpose of proposing the structure of the Panel. The Panel should be established in April 1989 at the first meeting of the Contracting Parties.

5. The Executive Director recommends to the Working Group that the assessment process be accelerated so that any necessary amendments to the control measures can be quickly achieved.

6. The attention of the Working Group is drawn to the conclusions of the UNEP Scientific Experts Meeting, which took place on 17/18 October 1988 and reached general agreement on the likely schedules and processes for undertaking reviews of the current knowledge of scientific environmental, technical and economic matters relative to the implementation of the Protocol. The meeting suggested that four reports be prepared by four small panels by the end of July 1989 to be reviewed by the above-mentioned Intergovernmental Multi-Disciplinary Panel.

/...

7. An International Steering Committee should be established to oversee the preparation of these reports and to ensure compatibility of approach in their preparation. The Executive Director would be prepared to chair this Committee. The other participants would be five or six senior policy-makers and the four chairmen of the review processes.

8. The Intergovernmental Multi-Disciplinary Panel of Experts, with the assistance of the four review chairmen, would integrate all the reports into a single report on the current state of knowledge on scientific, environmental, technical and economic matters. Under its terms of reference, the Panel would consider the consolidated report with regard to the likely implications for the Control Measures provided for in the Protocol, and if it considered them necessary, would recommend to the Parties specific amendments to the Protocol. This first assessment of the control measures would be completed by August/September 1989. The report and recommendations would be circulated in October 1989 by the Protocol Secretariat to Parties and signatories of the Protocol for their information.

9. At the Second Meeting of the Contracting Parties (April 1990), Parties would review the Assessment, consider the proposed amendments and introduce them into the Protocol in accordance with the provisions of paragraphs 9 and 10 of Article 2.

/...

10. The views of the Working Group are sought with regard to the value of circulating the four review reports to all Governments, when they are ready in July 1989 and before their submission to the Intergovernmental Multi-Disciplinary Panel.

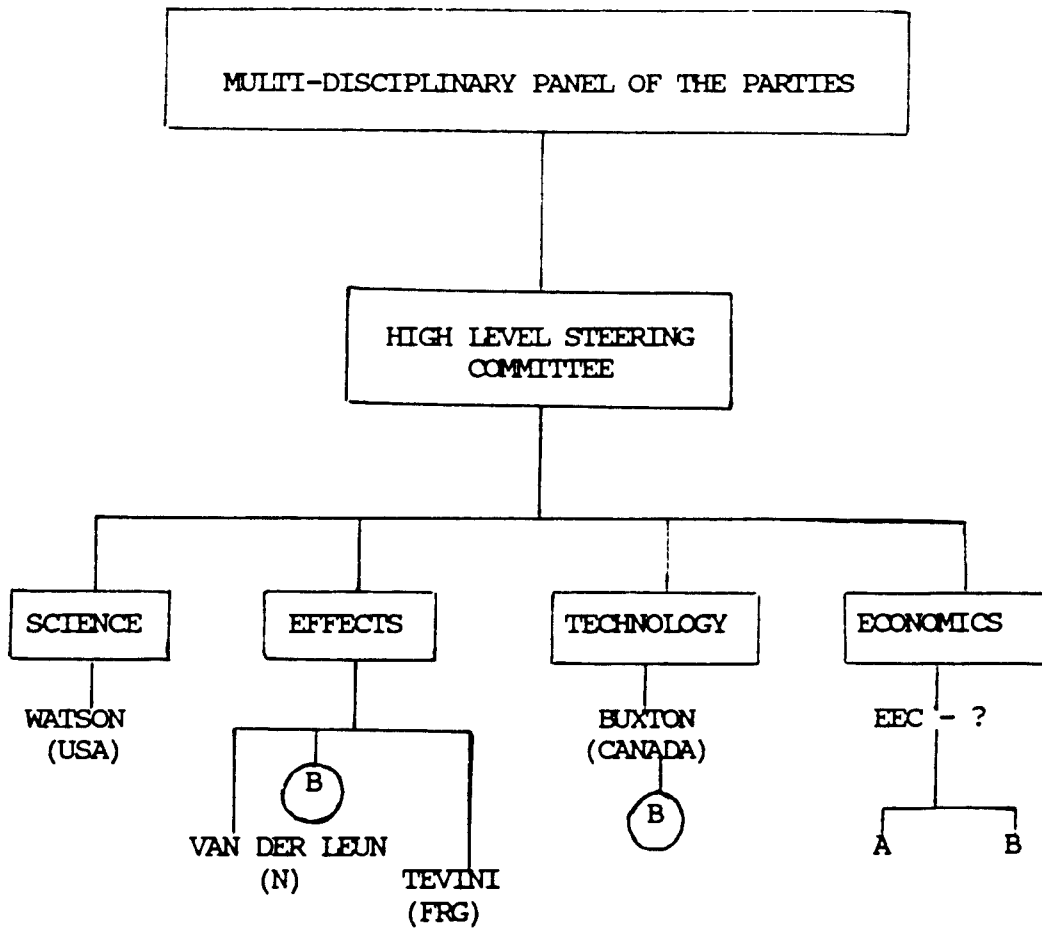
11. It is expected the Working Group will agree with these proposals and will recommend that the Executive Director proceed with the process to provide reviews of scientific, environmental, technical and economic knowledge as outlined in this note and to circulate such information to all Governments as soon as possible and, similarly, to circulate the reports as soon as they are ready.

12. The Working Group is also asked to consider how the preparation of the four reports referred to in para. 6 above should be financed. It is suggested that the lead countries for each review should arrange for the cost of preparing the report up to and including the time of their submission to the Intergovernmental Panel. It would be expected that the costs of participating in the review process by individual experts would be borne by the country of affiliation of each expert except in the case of developing country experts, whose costs could be arranged with assistance of interested developed countries.

TIME LINE FOR PROCESS

- 4 review panels created October 1988
- High Level Steering Committee
(Dr. Tolba, 6-8 ministers, 4 chairmen) November 1988
- Montreal Protocol enters into force January 1989
- Advisory Group for the preparation of
documents for the first meeting of the
Contracting Parties February 1989
- First meeting of the Contracting Parties
(establishing the Multi-Disciplinary
Panel (MDP) with one expert from each
party) April 1989
- Finalization of draft reports from the
4 review panels August 1989
- High Level Steering Committee to
finalize the integrated report September 1989
- Integrated report to be considered by
the MDP of Parties September 1989
- MDP approves the report and sends it
to the Parties October 1989
- Second meeting of the Contracting
Parties to decide on amendments and
send decisions to the Depositary (UN) April 1990
- Entry into force of amendments to the
Protocol October 1990

/...



A - ?

B - ANDERSEN
(USA)

REVIEW OF SCIENTIFIC INFORMATION

OUTLINE OF REVIEW

EXECUTIVE SUMMARY

CHAPTER SUMMARIES

CHAPTER 1 - INTRODUCTION

CHAPTER 2 - POLAR OZONE

CHAPTER 3 - GLOBAL TRENDS

CHAPTER 4 - MODEL PREDICTIONS

SELECTION OF (CHAPTER CHAIRPERSONS
(REVIEW PANEL

TIMETABLE

NOVEMBER 1988 - CHAIRPERSONS/REVIEW
(LONDON) PANEL MEETING

DECEMBER 1988 - CHAPTERS DRAFTED
- MAY 1989

JUNE 1989 - CHAPTERS REVIEWED

JULY 1989 - DOCUMENT FINALIZED

AUGUST 1989 - EXECUTIVE SUMMARY PREPARED

REVIEW PROCESS LED BY USA
REVIEW PANEL - INTERNATIONAL

/...

REVIEW OF ENVIRONMENTAL EFFECTS

OUTLINE OF REVIEW:

EXECUTIVE SUMMARY

- CHAPTER 1 - INTRODUCTION
- CHAPTER 2 - SOLAR RADIATION
- CHAPTER 3 - HEALTH EFFECTS
- CHAPTER 4 - TERRESTRIAL EFFECTS
- CHAPTER 5 - AQUATIC EFFECTS
- CHAPTER 6 - TROPOSPHERIC POLLUTION
- CHAPTER 7 - EFFECTS ON MATERIALS

SELECTION OF (CHAPTER CHAIRPERSONS
(REVIEW PANEL

TIMETABLE

- NOVEMBER 1988 - CHAIRPERSONS/REVIEW
(ST. CROIX) PANEL MEETING
- DECEMBER 1988 - CHAPTERS DRAFTED
- MAY 1989 - REVIEW PANEL
(MUNICH) MEETING

REVIEW PROCESS LED JOINTLY BY NETHERLANDS AND FEDERAL REPUBLIC OF GERMANY
REVIEW PANEL - INTERNATIONAL

/...

Ad Hoc Working Group of Legal and Technical
Experts for the Harmonization of Data
on Production, Imports and Exports of
Substances that Deplete the Ozone Layer

Second session
The Hague, 24-26 October 1988

Review of Technology

OUTLINE OF REVIEW

EXECUTIVE SUMMARY

- CHAPTER 1 - INTRODUCTION
- CHAPTER 2 - REFRIGERATION, AIR CONDITIONING,
HEAT PUMPS
- CHAPTER 3 - FOAMS (FLEXIBLE AND RIGID)
- CHAPTER 4 - SOLVENTS (ELECTRONICS, METAL,
DRY CLEANING)
- CHAPTER 5 - MISCELLANEOUS USES (STERILIZATION,
OPTICAL COATINGS, AEROSOLS, MEDICAL ETC.)
- CHAPTER 6 - HALONS

SELECTION OF CHAPTER CHAIRPERSONS AND PARTICIPANTS

TIMETABLE

- Assessment Coordinator decided and terms of reference discussed - October 1988
- Chapter Chairpersons and contributors to be identified - November 1988
- Chapter Chairpersons to finalize the terms of reference for each chapter to agree on timetable - December 1988
- Submission of draft chapter by chapter by Chairpersons - March 1989
- Submission of executive summaries - April 1989
- Chapter Chairpersons to meet to coordinate preparation of final report and discuss conclusions - May 1989
- Report finalized - June 1989
- Submission of final report to High Level Committee - July 1989