



United Nations
Environment
Programme



Distr.
GENERAL



UNEP/WG.94/10
13 February 1984

ENGLISH
ORIGINAL: SPANISH

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

Vienna, 16-20 January 1984

REPORT OF THE WORKING GROUP

INTRODUCTION

1. In accordance with the recommendation of the Working Group at the first part of its third session (UNEP/WG.94/5, (a)), the second part of the third session was held at the Vienna International Centre from 16 to 20 January 1984.

I. ORGANIZATIONAL MATTERS

A. Opening

2. The second part of the third session was opened on behalf of the Executive Director of UNEP by the Assistant Executive Director, Office of the Environment Programme. He hoped that, with a moderate amount of goodwill, the Working Group would be able to finalize the draft convention at its present meeting. One issue on which the secretariat would welcome its guidance was the future relationship between work under the convention and that of the Co-ordinating Committee on the Ozone Layer. In response to the Working Group's request, the secretariat had consulted WHO and WMO concerning the discharge of secretariat functions under the convention, and both had indicated their willingness to assist, to the extent requested, in the future implementation of the convention within their respective areas of scientific competence.

3. Welcoming participants on behalf of the Austrian Government, Dr. Ernst Bobek, Director General of the Federal Ministry for Health and Environmental Protection, said that the protection of the ozone layer in the interests of present and future generations was a task requiring substantial investment of intellectual and financial resources and a determined effort to bring about social change through modification of consumption patterns, etc.

The Austrian Government therefore welcomed the lead taken by UNEP in international co-operation to that end. Such co-operation was even more necessary at a time of international tension and disputes, and his Government therefore hoped that the draft convention would be finalized at the present session, and would be accepted by as many States as possible.

B. Attendance

4. The second part of the session was attended by experts from Algeria, Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Chile, Denmark, Egypt, Finland, France, Germany, Federal Republic of, Greece, Italy, Japan, Kuwait, Nepal, Netherlands, Norway, Peru, Spain, Sweden, Switzerland, Thailand, Union of Soviet Socialist Republics, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Cameroon, United States of America and Venezuela, and by observers from Iran (Islamic Republic of), Poland and Yugoslavia. Representatives of UNIDO, the World Meteorological Organization, The European Economic Community and the European Council of Chemical Manufacturers' Federations also attended.

C. Election of Officers

5. At the opening meeting, the Working Group unanimously re-elected Mr. Willem J. Kakebeeke (Netherlands) as Chairman, Mr. Y. Sedunov (Union of Soviet Socialist Republics) as Vice-Chairman and Mr. Juan Sola (Argentina) as Rapporteur.

D. Organization of Work

6. The Working Group agreed to begin its work with a fourth reading of the draft convention, followed by discussion of the annexes, as required, and of the proposed draft protocol.

II. FOURTH READING

Preamble

7. The first alternative version of the first preambular paragraph was deleted, and the second version was amended to bring it into line with the definitions in article 1 and to eliminate the specific reference to chlorofluorocarbons. The paragraphs referring to UNEP's co-ordinating and catalytic role and to the decisions of its Governing Council were also deleted, and in the fourth paragraph "clear" was replaced by "relevant". An additional paragraph relating to precautionary measures already taken was included. Proposals to refer in it to measures taken by regional economic integration organizations or to measures at the regional level were not accepted; instead, it was amended to refer to measures at the national and international levels, "international" being understood to include "regional".

Article 1

8. Following extensive discussion, it was agreed to replace "which are, taken overall, deleterious to" by "which have significant deleterious effects on". It was pointed out that, consequent upon that change, the word "significant" need not be used to qualify "adverse effects" in article 2, paragraph 2 (b).

Article 2

9. One expert interpreted the phrase "in accordance with the means at their disposal and their capabilities" in paragraph 2 as meaning that Contracting Parties would not necessarily be obliged to enact any legislation in implementation of the convention; if they considered existing national measures adequate, they need take no further measures as a prerequisite for ratifying the convention.

10. Another expert could accept that interpretation to the extent that different approaches to harmonizing legislation designed to protect the ozone layer were possible, and that in the short run changes in national legislation might not be required; in the long run, however, parties must be prepared to modify their legislative and administrative measures as required. A third agreed that article 2 did not impose an unconditional obligation to enact legislative measures.

11. There was some discussion of the use of the term "stricter domestic measures" in paragraph 3. Prior to the eventual agreement on the replacement of "stricter" by "additional", together with other amendments, two experts suggested that replacement, and a third said he could accept that suggestion. A fourth said that a compromise solution might be to add at the beginning of paragraph 2 the words "Without prejudice to the rights of Contracting Parties to adopt further domestic measures,", while another cited the Convention on International Trade in Endangered Species of Wild Fauna and Flora as a precedent for the text of paragraph 3 as it stood, and argued against weakening the convention by abandoning reference to the fact that States may domestically take environmental measures even stricter than those required by international law.

12. One of the experts opposing the use of the term "stricter" argued that the precedent was not a good one; the United Nations Convention on the Law of the Sea afforded a far more appropriate model. He proposed an alternative wording designed to exclude the possibility of Parties adopting measures, whether domestic, bilateral or multilateral, which were not consistent with their obligations under the convention, arguing that the adoption of paragraph 3 as originally worded could lead to the convention legalizing acts of national legislation which would in substance mean violation of the convention: such a situation would be a violation of generally accepted principles of international law, and would endanger the purposes of the convention. After further discussion, agreement was reached on a version of the original text amended to exclude such a possibility.

Article 3

13. Article 3 was approved without alteration except for the deletion of "ongoing" before "activities".

Article 4

14. Pending consideration of a proposed amendment relating to protection of confidential information, article 4 was approved with minor drafting changes. The preference previously expressed for the use of the phrase "subject to" instead of "consistent with" was not insisted upon. Subsequently, following further discussion, the amendment relating to confidential information was agreed on.

Article 5

15. Article 5 was approved without change.

Article 6

16. It was agreed that the reference to transfer of technology and knowledge should be retained, as being consistent with the provisions of article 4. The article was then approved without change.

Article 7

17. One expert stated that to include, as a function of the secretariat, inviting the attention of Contracting Parties to any matter pertaining to the purposes of the convention (para. 1 (d)) would constitute an unfortunate precedent. For the secretariat to carry out such a function, it would necessarily have to undertake assessments of the implementation of the convention by Contracting Parties, and would thus be drawn into performing a substantive role which was outside the competence of a secretariat, whose functions should be purely technical. Moreover, the paragraph opened the question of the purposes of the convention, which were nowhere defined.

18. The Working Group agreed to delete paragraph 1 (d), noting that should the need be felt in future for the secretariat to perform any such function, the Contracting Parties could so determine under the terms of paragraph 1 (h) (now g).

19. Paragraph 1 (f) (now 1 (e)) was amended to read "activities carried out by the secretariat in implementation of its functions under this Convention", so as to avoid any implication that the secretariat was responsible for implementing the convention.

20. A proposal was made for the addition, to paragraph 1 (c) or as a new subparagraph, of the function "To prepare the necessary documentation on the implementation of the Convention for consideration by the Contracting Parties". The Working Group agreed to take up the substance of that proposal by considering a condensed version which was submitted in written form. The condensed version was subsequently approved with minor modifications.

21. It was suggested that article 7 should contain some provision to the effect that new functions should only be assigned within the limits of existing budgetary resources. The Working Group agreed that the issue could be left for consideration by the Contracting Parties at their first meeting.

/...

It also agreed that, notwithstanding the fact that under article 6.3 it was for the Contracting Parties to agree on financial provisions governing the functions of the secretariat, an opportunity needed to be provided, before adoption of the convention, for in-depth discussion of document UNEP/WG.78/7, which dealt with the financial and other details relating to the secretariat.

22. The representative of WMO made a statement concerning the possible discharge of secretariat functions under the convention by his organization. 1/

Article 8

23. Article 8 was approved without change, following discussion of a proposed amendment whereby the adoption of protocols would be by two-thirds majority and a compromise proposal whereby the two-stage procedure agreed on in article 9 would be followed. The amendment was withdrawn in favour of the compromise proposal, but agreement was not reached on the latter. It was pointed out that one of the possible approaches to resolving the issue would be to leave it for the Conference of Contracting Parties to settle when adopting the rules of procedure.

Articles 9 and 10

24. There was considerable discussion regarding the procedures for adoption of amendments and annexes, with a number of experts favouring a two-thirds majority vote in both cases, some inclining to the view that a larger majority should be required for the adoption of amendments to the convention itself, and one adamant that consensus adoption was the only acceptable procedure for both amendments and annexes. As a compromise, it was suggested that, in line with the precedent afforded by the United Nations Convention on the Law of the Sea, all possibilities of reaching consensus should be exhausted before any resort to voting. An informal drafting group met and prepared a text which was acceptable to all concerned.

25. Some experts were strongly of the view that proposed amendments should be circulated only to Contracting Parties, who alone incurred legal obligations under the convention; the provision for their circulation also to signatories was contrary to current treaty practice as embodied, for example, the Law of the Sea Convention. It was suggested that amendments should be circulated to signatories only after their adoption. Following considerable discussion, a compromise text specifying that amendments would be communicated to signatories for information was widely supported; however, no final agreement was reached.

26. A proposal for the redrafting of article 10, paragraph 4, as two separate paragraphs, on grounds both of clarity and of logic, was accepted, as was a concomitant amendment to paragraph 1 of the article. Some experts indicated that they would have preferred the article also to include a provision for the adoption of amendments by simplified procedure.

Article 11

27. The Chairman, recalling the request made at the first part of the session (UNEP.WG.94/5, para. 34), asked if there were any experts whose views could be accommodated only by the adoption of a particular one of the four alternative

texts. That proved not to be the case, but preferences for each of them were expressed. It was suggested that the issue should be left for decision by the diplomatic conference which would be held to adopt the convention: however, informal discussions were undertaken in an effort to reduce the number of alternatives which would be put before that conference. As a result, the choice was narrowed down to two alternatives each combining elements of two of the former four.

Articles 12, 13 and 14

28. A representative of a regional economic integration organization proposed the deletion of the bracketed phrase "and a majority of whose member States and signatories to this Convention" and of the references to a declaration of competence by such organizations. One expert strongly opposed the proposal, while others supported it. Precedents were cited in support of both views.

29. In an attempt at compromise, the Chairman suggested that the provisions of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, which, while containing no membership qualification, explicitly laid down the obligations of the organizations, be taken as a basis for discussion. One expert suggested that, as in the Antarctic Living Marine Resources Convention and the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region, the words "a majority" might be replaced by "at least one". Another expert said that the Law of the Sea Convention, which did have such a qualification and had been drafted with the active participation of, and accepted by, the vast majority of States including most of the members of the European Communities, was a more acceptable precedent. In his view, the obligations that would be imposed under the convention were for implementation by States, and he did not see how regional economic integrations could act on their behalf in that respect where the States did not transfer competence.

30. Following further extensive debate, informal discussions were undertaken in an attempt to resolve the issue. Thereafter, one expert proposed as a compromise the deletion of the bracketed phrase in article 12 and the insertion after "sovereign States" of "themselves parties to the convention". That solution was not, it appeared, acceptable to all experts.

31. An expert from the country currently exercising the presidency of the European Economic Community said that the competences of the Community and its member States were mutually complementary. Regarding emissions of dangerous substances (art. 2, para. 2 (b) of the draft convention), for example, the Community exercised sole competence. Other aspects of the convention, on the other hand, were solely within the competence of the member States. Should the number of member States which accepted the Convention be insufficient to meet any condition that might be imposed on participation of the Community, they would be able to discharge the obligations it imposed on them only to the extent of the competence not transferred by them to the Community. The only way of ensuring that those obligations would be discharged in their entity was to allow the Community, without restriction, to become a contracting party as a complement to its members' participation. In a strictly similar case, that of the Convention on Long-range Transboundary Air Pollution, the Community's participation had not been made subject to any condition of participation by its members.

32. In seeking jointly a means of ensuring that the obligations they entered into could be fully discharged, the States members of the Community believed that they were in conformity with the rule of public international law that only obligations which could be discharged should be entered into. Moreover, the established practice was for the Community and its members to sign, ratify or accede to instruments simultaneously. No misunderstanding could thus arise even without a provision specifying how many members should be signatories or parties.

33. Moreover, other States becoming parties to the convention had every right to know who, the Community or its members, would be responsible for discharging given obligations under it. That right would, the Community and its members believed, be fully guaranteed by the declaration of competence provided for under articles 13.2 and 14.2, which the Community was fully prepared to accept.

34. The representative of the European Economic Community, pointing out that such acceptance was conditional upon removal of the bracketed phrase in article 12, reserved the Community's position regarding the inclusion without brackets of the provision relating to the declaration of competence.

Article 14 (bis)

35. Paragraph 1 was amended by the inclusion of "referred to in article 12" after "organization" and the adoption of minor drafting changes.

36. Proposals were made for the addition of a statement that protocols were not integral parts of the convention, and of a paragraph reading, as in the Convention for the Protection of the Mediterranean Sea against Pollution and its related protocols, "Any protocol to this convention shall be binding only on the contracting parties to the protocol concerned". A number of experts considered the proposed additions superfluous, in that they were self-evident reflections of current international treaty practice. The article was approved without their inclusion.

Article 15

37. In paragraph 3, "thirtieth" was replaced by "ninetieth" in line with a suggestion made by the Office of Legal Affairs, United Nations Headquarters. Since that change made the qualification "subject to paragraph 1" superfluous, it was deleted.

38. Minor drafting changes were in paragraph 4, and it was suggested that the word "additional" might need to be changed, since its meaning was unclear.

Article 16

39. The bracketed phrase "other articles of" was deleted, and the words "or by the protocol concerned" were added to the end of the article. Some experts considered the formulation of the article over-restrictive, and likely to deter countries from participating in the convention. In their view, the provisions of the Vienna Convention on the Law of Treaties against unreasonable reservations afforded sufficient safeguards. They therefore requested that the square brackets around the article be maintained.

Article 17

40. Some experts considered that, in view of the long-term nature of trends affecting the ozone layer and the possibility of shorter-term fluctuations, five years should elapse from the date of entry into force before withdrawal from the convention was permissible (para. 1), and the delay before withdrawal took effect (para. 3) should be one year. Other experts argued for three years and six months respectively. A compromise was reached on four years in paragraph 1; in paragraph 3, one year was agreed upon so as to reduce the possibility of budgetary problems resulting from withdrawal.

Articles 18 and 19

41. The articles were approved unchanged.

Annex I

42. Paragraph 2 (b) (ii) was amended to refer also to possible effects on marine phytoplankton. The word "substantially" in paragraph 4 was deleted.

Annex II

43. In line with the decision reached on article 4, the note relating to the phrase "consistent with" was removed. The title of section 5 was amended to read "Socio-economic and commercial information on the substances referred to in annex I".

III. PROPOSED DRAFT PROTOCOL

44. A large number of experts said a general debate on the need for protocols to the convention would ensure that the need for a protocol was not prejudged, and would also help ensure that the draft protocol before the Working Group (UNEP/WG.94/9) was acceptable to as many experts as possible. Other experts disagreed, saying that the issue had been exhaustively discussed at earlier meetings.

45. It was decided to consider the draft protocol article by article, without prior general debate. Some experts informed the meeting that while they were prepared to take part in the debate, the views they expressed would be ad referendum, with a general reservation being placed on any further revision of the text until the positions of their respective Governments had been made clear.

46. One expert said that protocols should be developed only following the conduct of scientific research; she was therefore not able to participate in the discussion of the draft before the Working Group. Another said that only those States with an interest in any particular protocol should be involved in its draftings; as it was not yet clear whether or not his Government had an interest in the draft protocol, he might not be able to participate in the debate.

47. The Chairman confirmed that the outcome of the discussion would not prejudice the ultimate position of any Government, and expressed the hope that as many experts as possible would participate.

48. The meeting then proceeded to discuss the draft protocol article by article, leaving the preamble to be debated at subsequent readings.

49. One expert proposed that article I be entitled "Definitions", and that paragraph 5 be omitted; instead, "fully halogenated chlorofluorocarbons" should be written in full wherever "CFCs" occurred. Another, while agreeing with the idea behind the amendment, said that where appropriate the name of the actual fluorocarbon relevant to the specific use identified should be used instead. A third suggested that, for the sake of brevity, "(hereafter referred to as CFCs)" should be inserted after the first use of the term. One expert suggested the addition of definitions of "aerosol propellant" (which phrase should replace "aerosol product" throughout the text) and "essential uses". Another expert, supporting the proposal for additional definitions, felt that they should be first considered at a session of the informal technical working group.

50. One expert objected to the term "phase out" in article II, paragraph 1. After discussion, another expert suggested a revised text of paragraph 1:

"1. Each Party shall take all appropriate measures to gradually reduce the production of CFCs 11 and 12, their use in aerosol products and their export to other countries by prohibition of the use of CFCs except for:

(a) Essential uses;

(b) Non-essential uses which it considers insignificant in terms of its total quantities of CFCs released into the atmosphere."

The omission of the word "its" in subparagraph (b) and the addition of the words "by the party in question" at the end of the subparagraph were also suggested. One expert said that with "phase out" replaced by "gradually reduce", subparagraphs (a) and (b) were superfluous and could be omitted.

51. One expert said that two regulatory strategies could be adopted:

(i) Ban all but essential aerosol uses;

(ii) Ban specific aerosol products.

The second of them, which was the one followed in his country, was not defined in paragraph 1 as it stood. Moreover, some of the data referred to in article II, were not currently available, and would be costly to produce: the obligation implicit in the article was therefore unwarranted, in the light of the provisions of annex II to the convention that the usefulness and cost of information to be exchanged must be taken into account.

52. Another expert said that the notion of "essential use" would not be in conformity with his country's approach to regulating CFC use, whereby reductions in the aerosol sector were linked not only to the use pattern, but also to safety conditions in fabricating and transporting aerosol products.

53. One expert felt that article II was too broad in its reference to the impact of CFCs in general, and would be better limited to CFCs 11 and 12; however, it was also too narrow, in that its provisions did not encompass the effects of other potential ozone-modifying substances. It also implied a degree of certainty not confirmed by scientific fact, particularly in the light of paragraphs 2, 9, 13 and 14 of the executive summary of the 1984 NASA assessment report "Present state of knowledge of the ozone layer".

54. Another expert proposed the addition to article II of a new paragraph reading:

"3. Each Party shall ensure at least a () per cent reduction in the use of aerosol propellants from its 1976 levels".

55. Other experts expressed concern over the export of chemicals to developing countries. To meet that concern, one proposed an additional article relating to the control of production capacity rather than of exports, since the former was easier to monitor than the latter.

56. One expert suggested that article III should be included as part of article IV, as both dealt with non-aerosol uses of CFCs. Two other experts suggested the deletion of article III, but another felt the article had merit.

57. Several experts said they had difficulty in interpreting article IV, which as presently worded might allow present emission levels to be maintained rather than ensure reduced emissions. The replacement of "outweighed" by "offset" was suggested. Another expert cautioned that if paragraph 2 (b) was to be retained, a precautionary phrase on confidentiality of information should also be included.

58. It was suggested that the brackets around article V be deleted, and the words "consistent with article IV of the convention" added. No comments were made in respect of articles VI and VII, although a new article VII bis was proposed relating to the timing of entry into force of the protocol which would ensure that a sufficient number of producing countries first became parties to it.

59. Whether or not the elaboration of a protocol was premature was a matter of considerable debate, more or less evenly divided. One expert suggested the establishment by UNEP of a group of experts to formulate a code of environmental guidelines regarding the conduct of enterprises in the production and use of CFCs and their exports to the developing countries. It was also suggested that COOL should study and comment on the NASA assessment report, which included new findings. A number of experts submitted the text of a proposed draft decision for adoption by the Governing Council (see annex I to the present report), whereby COOL would be requested to study and report on the substances listed in annex I to the draft convention and work on the establishment of a code of conduct for CFC production, use and export would be encouraged. One expert said that the proposal was interesting, and fully consistent with the goal of an effective convention. However, he did not believe a study by COOL would serve the intended purpose; what was needed was an intensified scientific research programme. Another expert said that future work should concentrate on the preparation of a protocol for the adoption at the same time as the convention: accordingly, and in view of the lack of time experts had had to study it, he did not find the proposal acceptable.

60. One expert pointed out that the draft protocol appeared somewhat divergent from the purpose of the convention; it did not mention the ozone layer, but concerned itself more with the banning of CFCs, and contained no reference to research, systematic observations and information exchange.

61. A small informal drafting group was established to consolidate the text of the draft protocol in the light of the comments made. The chairman of the drafting group informed the Working Group that many conflicting views on the possible content of the protocol had been expressed at the informal meeting, and considerable difficulty had been experienced in attempting to reconcile those views. Rather than a cleaning up of the text, what had been achieved was an opening up of possibilities for consideration. The main problem encountered concerned article II, dealing with the strategies for control of CFCs. The revised draft contained three alternative suggestions for the article. Changes had also been made in the preamble to express better the rationale for the precautionary measures proposed in article II. Article III was incorporated in one of the alternative versions for article II, while articles IV, V, VI and VII of the original draft were largely retained, with some amendments. The revised draft was intended to be a working document for use in the future preparation of a possible protocol to the convention.

IV. OTHER BUSINESS

A. Financial questions

62. Following an exchange of views regarding the financial implications of the convention secretariat as outlined in document UNEP/WG.78/7, the UNEP secretariat was requested to prepare a revised document in the light of the functions assigned to the convention secretariat under article 7 of the draft convention. The revised version should not include the budgets for the Co-ordinating Committee on the Ozone Layer and the global ozone monitoring project, but should take full account of the need for conferences and meetings of subsidiary bodies provided for under the convention. The secretariat was requested to take into account, in preparing the revised paper, the experience of other United Nations bodies and agencies in cost-sharing arrangements.

63. It was agreed that, in preparing the revised document, the secretariat should exclude options 3 and 4 as presented in paragraph 9 of document UNEP/WG.78/7. Several experts expressed a preference for option 2, as being the most equitable and balanced; some of them suggested that the proportion of the budget to be assigned to some of the Contracting Parties should be 80 per cent, while one suggested that a distinction might be made in terms of size of contribution between CFC-producing and non-CFC-producing developed countries. Other experts expressed a preference for option I.

B. Recommendations for future work

64. The Working Group agreed on the following recommendations to the Executive Director:

- (a) The next meeting of the Working Group should be convened later in 1984 to complete its work;

(b) The revised draft texts resulting from the second part of the third session should be transmitted to all States, with an introductory note and a request for comments; they should also be distributed as part of the documentation for the twelfth session of the UNEP Governing Council;

(c) The Governing Council should be requested:

- (i) To advise the Executive Director on further action regarding the draft texts;
- (ii) To make the necessary administrative and financial provision for the interim period until the completion of the first ordinary meeting of the Conference of the Contracting Parties;

(d) Without prejudice to the above-mentioned arrangements, the considered views of the Executive Council of the World Meteorological Organization on the possible execution of the permanent secretariat functions envisaged under the convention, as well as on the financial implications of such execution, should be solicited;

(e) An appropriate body such as the Co-ordinating Committee on the Ozone Layer should be requested:

- (i) To stimulate the research required for a thorough evaluation, as soon as possible, of the substances listed in annex 1 of the draft convention in respect of their effects in modifying the ozone layer, separately and in interaction with each other, and to submit a report on the current state of scientific knowledge and future research needs;
- (ii) To study and report on recent assessments of the state of knowledge on the ozone layer, in order to ensure that new scientific information is taken into account in the development of possible further protocols under the convention.

65. One expert proposed the addition of a new subparagraph (e) (iii) reading "To review the draft protocol and prepare recommendations as to how the measures called for in it could be linked to physical indicators of the state of the ozone layer". Several experts, however, were opposed to linking the work of the Working Group with that of the Co-ordinating Committee. Owing to time constraints, the Working Group was not able to provide guidance on the future relationship between work under the convention and that of the Co-ordinating Committee.

66. Agreement was not reached on a proposed recommendation reading "(f) Preparatory work should be initiated on an environmental code of conduct for enterprises producing, using or exporting chlorofluorocarbons". Several experts favoured its inclusion, with amendments whereby ", taking into account the special environmental interests and concerns of the developing countries," would be inserted after "initiated", and ", and dealing also with the disposal of used containers" added to at end. Others considered that the work referred to was premature, both because the Working Group had not completed its current task and because a code of conduct should be prepared only if scientific research showed it was needed; one expert also said that the question could be dealt with within the framework of the proposed United Nations Code of Conduct for Transnational Corporations.

V. ADOPTION OF THE REPORT

67. The present report was adopted on 20 January 1984, subject to the incorporation of amendments agreed to during the discussion of the draft report, and to the finalization of some parts by the Rapporteur in conjunction with the secretariat.

VI. CLOSURE OF THE SESSION

68. The Chairman expressed the thanks of the Working Group to the Government of Austria for its generosity in enabling the second part of the third session to meet in Vienna, and for its hospitality. Following the customary exchange of courtesies, he then declared the session closed.

Note

1/ For the text of the statement, see annex II to the present report.

/...

Annex I

SUGGESTED DRAFT DECISION FOR ADOPTION BY THE GOVERNING COUNCIL

Proposed by the experts from Chile, France, Germany, Federal Republic of, Greece, Italy and United Kingdom of Great Britain and Northern Ireland

The Governing Council,

Desirous of promoting the implementation of article 2, paragraphs 1 and 2 of the draft Convention for the Protection of the Ozone Layer,

Recognizing the possibility that certain fully halogenated chlorofluorocarbons and other natural and man-made substances might have modifying effects on the ozone layer, and the need for more precise understanding of such effects,

Recognizing also that such modifying effects, if shown to be significant, may result in harmful consequences for man and the environment,

Recognizing further also the special environmental interests and concerns of the developing countries,

Determined to promote co-operation in the conduct of precautionary measures necessary to protect the ozone layer against such modifying effects, and aware of the need to minimize delay in implementing any measures that may be necessary,

Mindful of the measures already taken at the national and international levels,

1. Urges Governments:

(a) To maintain and improve, as appropriate, existing measures and to develop other measures in the spirit of the draft Convention for the Protection of the Ozone Layer;

(b) To consider and jointly agree further precautionary measures to be taken in the short term for the protection of the ozone layer;

(c) To encourage, as a first step, the establishment of an environmental code of conduct for enterprises producing, using or exporting chlorofluorocarbons;

2. Requests the Co-ordinating Committee on the Ozone Layer to investigate immediately the substances listed in annex I of the draft Convention, to submit an appraisal within (3) (5) years on the effects of those substances, separately and in interaction with each other, in modifying the ozone layer, and to make recommendations.

/...

Annex II

STATEMENT BY THE REPRESENTATIVE OF
THE WORLD METEOROLOGICAL ORGANIZATION (WMO)

As a result of a recommendation from the previous session of this Working Group, the Secretary-General of WMO has considered the question of the execution of the secretariat functions envisaged under the draft Convention and is in a position to provisionally report the following:

Firstly. By virtue of the purpose of the Organization as laid down in Article 2 of its Convention, WMO can obviously be considered as the appropriate Organization responsible for the exchange of meteorological and related geophysical data and their application to human activities. However, before making any formal commitments, the possible implementation of secretariat functions by WMO requires due consideration by the Executive Council's Bureau which will meet in January-February 1984 and subsequently by the Executive Council in June 1984. Only then an official position by WMO on this matter could be expected and reported to this Working Group or to any other appropriate authority provided that it is the feeling of this Group to continue to endorse its earlier recommendation in this respect.

Secondly. WMO is and will continue to be active in fulfilling its responsibility as lead agency in several fields of the World Plan of Action on the Ozone Layer and, as such, reiterates its willingness to be associated in the future implementation of the Convention for the Protection of the Ozone Layer, its Annexes and Protocols.

In this connection WMO's efforts are primarily concentrated on:

- Improving the Global Ozone Observing System (GOOS) including observations (total ozone and vertical distribution), instruments, calibration, data collection and analysis, trends detection,
- Clarifying physical processes and phenomena which possibly affect ozone photochemistry and ozone trends including theoretical modelling and laboratory studies,
- Studying the potential climatic effects of ozone and other radiatively active minor trace gases such as carbon, nitrogen, chlorine, bromine and hydrogen substances.

It should be noted that satisfactory progress has been made in the past in obtaining an improved Global Ozone Observing System as well as in other related activities with the valuable assistance provided by UNEP and the expertise received from interested donor countries.

Thirdly. The secretariat functions envisaged under the draft Convention do seem to require additional expertise and qualifications which, under the present circumstances, are not available in the WMO Secretariat. As mentioned in Articles 5 to 10 of the draft Convention, they mainly concern:

- Certain legal, procedural or regulatory aspects aimed at keeping the Convention, its Annexes and Protocols and amendments in due form and order,
- Assistance on the information exchange pertaining to policies, strategies and measures to minimize the release of substances causing or likely to cause modifications in the ozone layer,
- Co-ordination with other relevant international bodies.

Additional support would be required for the arrangement and servicing of meetings, the preparation of documentation and reports, their translation and other related administrative functions.
