



United Nations
Environment
Programme



Distr.
RESTRICTED

UNEP/WG.151/L.4
15 January 1987

Original: ENGLISH

Ad Hoc Working Group of Legal and
Technical Experts for the Preparation
of a Protocol on Chlorofluorocarbons
to the Vienna Convention for the
Protection of the Ozone Layer (Vienna Group)

First session
Geneva, 1-5 December 1986

DRAFT REPORT OF THE AD HOC WORKING GROUP ON THE WORK OF ITS
FIRST SESSION

I. INTRODUCTION

1. The first session of the Ad hoc Working Group of Legal and Technical Experts for the Preparation of the Protocol on Chlorofluorocarbons to the Vienna Convention for the Protection of the Ozone Layer (Vienna Group) was held in Geneva from 1 to 5 December 1986 in accordance with UNEP Governing Council decision 13/18, Section I.

II. ORGANIZATIONAL MATTERS

A. Opening of the Meeting

2. The first session was opened on behalf of the Executive Director of UNEP by the Deputy Executive Director, Mr. W.H. Mansfield III. He welcomed delegates to Geneva and reviewed for them the process which led to the adoption of the Vienna Convention for the Protection of the Ozone Layer which, currently, had been signed by 27 countries and ratified by seven.

He noted the increasing levels of chlorofluorocarbon emissions and referred to recent stratospheric occurrences, such as the Springtime hole in the ozone layer, which, for the past 10 years had been deepening over Antarctica, and reported ozone depletion over northern Europe. Mr. Mansfield said that preparatory scientific and technical meetings had provided a solid groundwork for moving into the diplomatic arena to elaborate a protocol. He said a new momentum had begun and that evidence suggested that the community of nations should take early steps to protect the ozone layer. But, he cautioned, the controls decided should be fair, economically manageable, easy to monitor and adaptable to changing conditions.

He urged delegations to work together to develop a protocol to protect the ozone layer, which would remain a symbol of environmental protection long after the strains and pains of the negotiating process have passed.

B. Attendance

3. The first session was attended by experts from Argentina, Australia, Austria, Belgium, Brazil, Canada, Denmark, Egypt, Finland, France, Germany, Federal Republic of, Hungary, Italy, Japan, Mexico, Netherlands, Norway, Philippines, Portugal, Sweden, Switzerland, Union of Soviet Socialist Republics, United States of America, United Kingdom of Great Britain and Northern Ireland and Uruguay. Representatives were also present from the World Meteorological Organization, Economic Commission for Europe the Commission of the European Communities, the Organization for Economic Co-operation and Development, the European Parliament, the International Council of Scientific Unions, the European Federations of Chemical Industry Associations, the Environmental Defense Fund, the Federation of European Aerosol Associations, the International Chamber of Commerce, the Natural Resources Defense Council and the World Resources Institute.

C. Election of officers

4. The Working Group elected as its Chairman Mr. Winfried Lang (Austria). The Working Group also elected Mr. Vladimir Zakharov (USSR) and Mr. Ahmed Amin Ibrahim (Egypt) as Vice-Chairmen, and Mr. Geraldo Nascimento-Silva (Brazil) as Rapporteur.

D. Adoption of the agenda and organization of work

5. The Working Group adopted the following agenda:

1. Opening of the session.
2. Election of officers and adoption of the agenda.
3. Review of UNEP activities relevant to the elaboration of a protocol on the control of chlorofluorocarbons (CFCs).
4. Consideration of the fifth revised draft protocol on the control of chlorofluorocarbons.
5. Plans for future work.
6. Other matters.
7. Closure of the session.

III. REVIEW OF UNEP ACTIVITIES RELEVANT TO THE ELABORATION OF
A PROTOCOL ON THE CONTROL OF CHROLOFLUOROCARBONS (CFCs)

6. A representative of the UNEP Secretariat, Mr. Peter Usher, informed delegates of the series of scientific and technical meetings and economic workshops that had been held by UNEP in order to provide a sound basis for discussions on a protocol by the Vienna Group. Mr. Usher said the UNEP Co-ordinating Committee on the Ozone Layer (CCOL) had met three times in the past year and had provided to the Vienna Group summaries of assessments of ozone layer modification and its impact and also a policy support document setting out in easily-understood terms some of the issues concerning the ozone layer and the factors which affect its depletion which the Vienna Group should consider in elaborating a protocol. He outlined some of the more significant findings of the CCOL and also those of the two-part UNEP workshop on the control of chlorofluorocarbons which reviewed all aspects of the production, emissions, use of CFCs and of current regulations for their control and, at its second part, compared different control strategies for the CFCs and other ozone modifying substances against an agreed set of criteria. Mr. Usher said that the two reports of the workshop were available as background documents for the Vienna Group meeting which, together with the assessment reports and the policy support document, made five documents specifically addressed to the Vienna Group.

IV. CONSIDERATION OF THE FIFTH REVISED DRAFT PROTOCOL
ON THE CONTROL OF CHLOROFLUOROCARBONS (CFCs)

7. Several delegations made opening statements to the meeting following the introduction of the agenda item by the Chairman.

8. The representative of the United States of America said that members of the Vienna Group could take pride in the achievement of the Vienna Convention for the Protection of the Ozone Layer, but such success was tempered by the inability to reach agreement, at the same time, on control measures. He referred to the process of scientific examination of the issue which had followed the adoption of the Convention and continued to indicate a serious threat to the ozone layer and that emissions of ozone-depleting chemicals were increasing. He stated that his Government believed that the potential risks to the ozone layer required early and concerted action by the international community. The representative outlined the objectives he felt governments should strive to achieve which included near and long-term strategies to address the problem and periodic reassessment and modification of such strategies to respond to new information. He stated that the first step would be a freeze at or near current levels of adjusted production; that the second stage would be phased scheduled reductions, which might amount to as much as 95%, and that a review process be established to reassess the schedules and chemicals included, based upon scientific and economic factors. He concluded by saying that he hoped a simple and cost-effective solution might be found which would provide a margin of safety against increasing harm to the ozone layer while needed scientific research continues and which would provide governments and industry with incentives and clear targets regarding emission controls, recycling practices and safer substitute chemicals.

9. The representative of Finland said that his Government sought a comprehensive, realistic and equitably balanced solution for the reduction of emissions of fully halogenated chlorofluorocarbons based on the latest scientific facts. He emphasized the importance of adopting short-term concrete measures as a first step.

10. The representative of Switzerland informed the meeting of the entry into force of national regulations limiting the use of CFCs in aerosol sprays and

limiting the emissions of CFCs by technical installations. He also informed the meeting of the initiation by Switzerland of ratification procedures for the Vienna Convention. He said Switzerland supported a solution which would take account of all possible applications of CFCs, rather than a single area of application. The representative informed the meeting that he was prepared for a discussion on the basis of propositions for control measures presented to this session by the United States and by Canada.

11. The representative of Norway said that there was scientific evidence of general ozone depletion and that the risks of irreversible damage to human health and to the environment were convincing. The representative suggested a preliminary step of reduction of ozone modifying substances to reduce damage. He also said that the technical and economic burden of control should be placed initially on the industrialized countries though, in the longer term, all countries should carry this burden.

12. The representative of Canada said it was the view of his country that there were two major problems to be addressed. First, there was a need for a specific control strategy and protocol to deal comprehensively with the global nature of the problem and that it should be flexible in that it could be adjusted if science dictated. Also, the strategy should provide for an equitable apportionment of the global responsibility to protect the ozone layer. Second, it was necessary to decide on a safe and acceptable level of global emissions of ozone depleting substances. He concluded by saying that Canada was prepared to consider, with an open mind, alternative approaches to the one submitted by the Canadian delegation and that it hoped to play a constructive role in consensus-building and finding a globally acceptable solution to the ozone depletion problem.

13. The representative of Egypt informed the group of measures his country had taken to reduce the emission of ozone depleting substances. He said that the Ministry of Industry in Egypt had established a high level committee to address environmental protection related to this problem and suggested that UNEP encourage the development of similar committees in other concerned developing countries.

He pointed out that developing countries needed financial and technical support to enable them to comply with any regulatory measures adopted. He also made an appeal to all emerging nations to pay increased attention to environmental issues and urged UNEP to give them all support.

14. The representative of Argentina said that his country was most interested in the adoption of a protocol containing effective measures to control ozone modifying substances. He expressed his concern about the way in which the situation was developing, as scientific findings showed, and particularly about the increasing depletion of the ozone layer in Antarctica, in areas not very far from the southernmost tip of the South American mainland. He added that Argentina favoured the preparation of a protocol that would be acceptable to the main producers and consumers, which was a condition for it to be effective. He further stated that account should be taken of the situation of the developing countries, to encourage them to participate in the protocol, even though they were responsible only for a very small proportion of the production and consumption of such pollutants.

15. The representative of Japan noted his country's apprehensions over environmental damage related to ozone modification and called for measures to prevent such damage before it became too late. He said that if uncontrolled emissions of ozone-depleting substances might mean enjoying convenience at the cost of the health of future generations, clearly such substances should be regulated. He said, however, in doing so it was important to apply the principle of fairness so that the regulations would be acceptable to all.

16. The representative of the European Economic Community said that his Organization had already taken a number of precautionary measures to limit CFC emissions. He noted that world-wide opinion favoured more stringent overall controls and he suggested a staged approach to the problem. This would comprise a first, interim stage, based on setting a production limit, possibly at the 1986 levels, of CFC 11 and 12 by the existing producers and a continuing review of research into scientific, technical and economic matters and of control measures. This process would reflect future evaluations of what is desirable and practicable. He urged that a definite time-table should

be set down for a comprehensive review of all the aspects relevant to future control measures. He stressed that initially, the substances to be considered for control should be CFC 11 and 12, but consideration should also be given to including other potential ozone depleting substances for which reliable economic data could be made available, (e.g., CFCs 113 and 114).

17. The representative of Sweden pointed out that his country considered it essential that the control measures to be adopted should be principally based on emissions. An accurate measurement of emissions would have to be dealt with in an indirect way. One way would be to use the techniques which had been used in the US proposal (UNEP/WG.151/L.2 Article III: 1.) He stated that all countries using CFCs had to take responsibility for reducing the damage to the ozone layer. This could be achieved only by taking the emissions into account.

18. Two documents were then introduced containing alternative versions of the text of Article II, Control Measures. These were UNEP/WG.151/L.1, Draft Protocol on chlorofluorocarbons or other ozone-modifying substances submitted by Canada and UNEP/WG.151/L.2, Revised Draft Protocol on chlorofluorocarbons submitted by the United States of America. In addition a proposal for a substitute paragraph for paragraphs 1 and 2 of Article II of UNEP/WG.151/L.2 was submitted by Norway, Sweden and Finland.

19. A discussion paper by the European Economic Community on protection of the ozone layer was also presented to the Working Group, together with a provisional proposal setting out some model articles showing how the ideas in the paper might be incorporated in a protocol. It was emphasized that this text did not necessarily represent the formal position of the European Community.

20. A general debate was held on the proposed alternative texts for Article II. Several experts, while agreeing in principle that it would be desirable to set emission limits as proposed by Canada, felt that there were practical difficulties which made it impossible to do so. In this regard, it was also said that the time lag which occurred between production and ultimate release prevented an accurate estimate of emission values. In reply, the

expert from Canada said that the time lag referred to was in fact insignificant when compared with the atmospheric lifetime of CFCs and it could be assumed that all CFCs not destroyed eventually reached the atmosphere. Thus, he did not consider there was an error in the formula used to calculate emission levels nor was there any barrier to the monitoring of emissions. However, another delegation felt that if the Canadian proposal was adopted then the national legislation needed to comply with the proposed regulations would involve the enactment of many additional new laws which could not be achieved except over a long time period. He suggested that such laws were needed to address the questions on imports and exports other than in bulk shipments and a need to evaluate levels of CFCs contained in manufactured products currently in use which would eventually contribute to emission levels if CFCs were released or leaked away. He said that if urgent measures were necessary the pragmatic approach would be to regulate production, not emissions.

21. Two experts from developing countries spoke of their reservations concerning the proposals for Article II feeling that they were unfair to the less developed world. One considered that a production limit would prejudice the future production of CFCs by developing countries which presently imported the chemicals. The other felt that a national emission limit set on the basis of a 75 per cent weighting on gross National Product and 25 per cent on population was discriminatory against countries having a low GNP which was not compensated for by the population element. The expert went on to say that the burden of cost for protecting the ozone layer should fall on the major producing and consuming countries. He said that any agreed protocol should be fair and not contain clauses unacceptable to particular groups which would inhibit their becoming a party to the protocol and result in its less than universal acceptance. He concluded by requesting attention be given to the development of alternatives for CFCs and for this item to be incorporated in the protocol.

22. One expert suggested that it would be in line with the Stockholm Declaration that the users of the chemicals be liable for damage that these substances cause to the environment. The delegate of Canada in reply to the

last speaker said that his calculations showed that the formula for national emission limits were fair to all countries and would initially be most severe on the major producing countries. In reply to another question on the definition of Global Emission Limits (GEL) he said that the GEL could be determined and periodically revised by a scientific group established especially for that purpose and cited the precedent of GESAMP which advised on levels of marine pollution.

23. A wide-ranging debate was held on whether the proposed protocol should include potential ozone modifying substances other than fully halogenated chlorofluorocarbons as specified in Governing Council decision 13/18 of 24 May 1985. Many delegates insisted that it was outside the competence of the Working Group to consider substances other than fully halogenated CFCs and considered the Group strictly bound by the decision of the Governing Council.

An equal number of delegates felt that, as the purpose of the Convention and of protocols to it was to protect the ozone layer, it was necessary to include all potential ozone modifying substances as candidates for regulation under the protocol. Some of these delegations considered that the decision of the Governing Council was ambiguously phrased and did already, in their opinion, justify consideration of substances other than fully halogenated CFCs.

As no consensus could be reached, the Chairman suggested that the Working Group should agree initially to only consider fully-halogenated chlorofluorocarbons at this juncture, that Governments should reconsider the situation in the light of consultations within their own countries and as necessary at a later stage, and no later than at the holding of Diplomatic Conference to adopt a protocol, amend the draft protocol to include such other ozone modifying substances considered as requiring regulatory measures.

Definitions of the different classes of halocarbons were given to the Working Group by the UNEP Scientific Advisory Panel and are included in Annex I to this report.

24. A first reading of the fifth revised draft protocol on the control of chlorofluorocarbons was begun after agreement was reached by delegates that the fifth revised draft protocol UNEP/WG.151/2 would be used as the working draft in the elaboration of a draft protocol. Delegates considered that it was probably not appropriate to change the text until Article II concerning control measures was agreed. It was felt that the content of this Article would to a great extent dictate what was included in the other Articles. Some delegates pointed out that a footnote to document UNEP/WG.151/2 was not accurate as their countries were not party to the approval of the preamble for the fourth revised draft protocol as stated. Two delegates informed the meeting that they reserved their position regarding the text submitted by the secretariat. Many delegations commented on the content of each draft Article as it was introduced with considerable discussion revolving around Article IX, Financial Provisions, and Article X, Relationship of the Protocol to the Convention. A few considered that it may be necessary to have a secretariat for the protocol separate from that for the Convention in view of the different financial provisions that may have to be made for its operation, it being pointed out that Parties to the Convention would not necessarily also be Parties to the Protocol. It was agreed that an Ad Hoc working group on institutional and financial matters would be established from among participants to consider the matter and redraft the particular Articles accordingly.

25. One delegate said that although the proposed strategies were different, they did have common elements such as a proposed limit on production of CFCs and the adoption of a review process. He admitted that a long-term strategic approach to regulatory measures did not feature in all proposals but felt that it was still possible to reach a general understanding of the possible contents of Articles II to IV of a protocol. Several other delegates agreed, emphasizing the necessity for the protocol to address long term goals in addition to short term measures.

26. Another delegate agreed with a previous speaker with regard to the existence of common elements in the proposal but pointed out fundamental differences, with three proposals based on emission controls and another on

production control. He said that his country could not accept the concept of production limits as a basis for a protocol. However, an element he would like to see in a protocol was a provision for both producer and user of CFCs to share the costs of administering the protocol. The delegate warned that a freeze at the 1986 production level as contained in one draft protocol before the Group would lead to a production monopoly for current producers.

27. Several delegates felt it would be useful to agree definitions of some of the terms being used such as "production" and "emissions". It was felt that a clear understanding of these could help in establishing common ground in the negotiating process. In response, some delegates noted that "emissions" was defined in article III of the US proposal as "adjusted production"; i.e. bulk production minus exports plus imports minus destroyed substances.

28. A statement on the concerns of 79 European and American non-governmental organizations over risks to the ozone layer and of man-induced climate change was read to the Group by Mr. David Wirth of the Natural Resources Defense Council, an observer to the Vienna Group meeting.

29. The Chairman informed the meeting of the informal consultations he had held with some delegations. As a result of these consultations, he had identified several elements which he considered to be common to the various proposals for a protocol before the Group. These included:

- Agreement to seek a global instrument to limit emissions or production of CFCs 11 and 12 and possible other potential ozone depleting substances such as CFCs 113 and 114;

- Measures to protect the ozone layer are needed in both the short and long term;

- A review process is a necessary part of an agreed strategy. Such a process would both periodically review scientific and technical informations and also review the protocol itself.

30 An informal note prepared by the Chairman and circulated among delegates was considered by them likely to be a useful aide when negotiations recommence in 1987 and in accordance with the wishes of many delegations if incomplete is included in the report as follows:

Article II: Control Measures

1. a) Each state party, under the jurisdiction of which [fully-halogenated chlorofluorocarbons] [CFCs 11, 12 (113, 114 ...)] are produced, shall ensure that within (...) years after the entry into force of this Protocol the [aggregate annual production] [adjusted annual production] of these substances does not exceed [its 1986 level] [the level determined by this Protocol].

b) Each state party, under the jurisdiction of which [fully halogenated chlorofluorocarbons] [CFCs 11, 12 (113, 114 ...)] are not produced, shall ensure that within (...) years after the entry into force of this Protocol its annual imports of these substances do not exceed [their 1986 level] [the level determined in this protocol].

2. Each state party shall ensure that (...) years after the entry into force of this Protocol its aggregate annual emissions of [fully-halogenated chlorofluorocarbons] [CFCs 11, 12 (113, 114 ...)] shall not exceed its aggregate annual emissions in the year of entry into force of this Protocol [if the states parties confirm this obligation by a two-thirds majority] [unless the states parties by a two-thirds majority otherwise decide]. This decision shall be taken at the latest (...) years before the end of the (...) year period. A decision confirming this obligation shall also establish the mode of calculation of aggregate annual emissions.

3. Each state party shall ensure that any reductions of levels of [annual aggregate production] [adjusted annual production] or emissions, which may be decided by the states parties by a two-thirds majority, will be carried out within (...) years after the adoption of the decision. Any such decision will take into account most recent scientific data on the ozone depletion capacity of the substances concerned and the availability of new technologies.

4. Each state party undertakes to comply fully with any decision related to global emission limits and national emission limits adopted by states parties by a two-thirds majority, within (...) years after the adoption of such decision.

5. Each state party shall adjust its imports of [fully-halogenated chlorofluorocarbons] [CFCs 11, 12 (113,114 ...)] in order to comply with its obligations, which may arise as a consequence of decisions taken under para. 2 to 4.

NOTE:

- This paper was submitted by the Chairman in his personal capacity and does not reflect necessarily any negotiating positions.
- To this draft special provisions concerning developing countries will have to be added.

31. An ad hoc working group on institutional and financial matters was established to discuss and consider the articles of the fifth revised draft protocol on chlorofluorocarbons (UNEP/WG.151/2). The working group met three times under the Chairmanship of Mr. J.G. Lammers (Netherlands). Ms. S. Nurime (Finland) acted as rapporteur of the working group.

32. The working group agreed on a number of adjustments to articles I and VII-XIII, mainly of a drafting nature, and partly in order to bring the text, where appropriate, more closely in line with the text of the Convention.

3. The Vienna group took note of the revised text prepared by the working group and decided to include it as Annex II to this report. Some delegations expressed their reservation on article XII in the form presented by the working group, emphasizing that this article should be more consistent with the Vienna Convention. The delegate from Argentina, referring to the financial provisions emphasized that his country's position is that the financial responsibility for the implementation of the protocol should, in principle, rest on the major producers and users of CFCs.

34. An Ad Hoc scientific working group was established under the chairmanship of Professor Zakharov (USSR) with the purpose of determining which ozone depleting substances should be included in the protocol for consequent regulation. After considerable discussion in which experts were equally divided between those who considered that only fully halogenated chlorofluorocarbons could be considered in accordance with the legislative authority contained in UNEP Governing Council decision 13/18, and others who felt that, as the responsibility was clearly to protect the ozone layer, other potential ozone-depleting substances should be considered for inclusion in the Protocol.

35. Both groups agreed that CFCs 11 and 12 must be included and most agreed that CFCs 113 and 114 should also feature in the list. However, no agreement was possible on whether to include the Bromine containing compound Halon 1211. The UNEP scientific advisor from the USSR noted that halon 1211 and halon 1301 were fully halogenated halocarbons but did not belong to the category of fully halogenated chlorofluorocarbons. Fully halogenated chlorofluorocarbons formed a narrower class of chemical substances among halocarbons. This point of view was also expressed by the Soviet delegation.

36. It was finally agreed by the scientific working group that the compounds CFC 11 and 12 should be included in a draft protocol. The position of CFCs 113 and 114 and the Halon 1211 were not determined and would be further considered in plenary session. However, experts were unanimous in their concern over the ozone-depleting potential of several substances and agreed that future consideration should be given to their regulation within the Convention. Accordingly, the Group recommended that a list of such substances should be included in, or annexed to the draft Protocol as future candidates for regulation. It was felt that in doing so it would provide a useful guide to industry as to the likely future direction of control of ozone-depleting substances. However, the group felt that the manner in which this list was incorporated into the protocol lay outside its competence to draft and it sought the advice of the legal experts of the Vienna Group with regard to the most appropriate way to draft the final protocol document. One delegate asked the scientific group how large the ozone depletion potential of the Halons are compared to CFC 11 and 12 when using global 1985 emissions. The scientific group answered that the figure was approximately 10%.

V. PLANS FOR FUTURE WORK

37. The Secretariat informed the Working Group that Governing Council decision 13/18 called for the preparation of a draft protocol on the control of chlorofluorocarbons in 1987. The Secretariat had set a timetable which included a second meeting of the Vienna Group, scheduled for 23-27 February 1987 in Vienna.

38. A representative of the European Economic Community said that the Community had difficulties with the suggested date of the next meeting since the Community's Council of Ministers (EEC's decision making body) would not take place until late March 1987 when its position on the issue would be discussed. The Community was unlikely to be in a position to offer a formal stand before that date. The representative asked that, in order to facilitate constructive debate, the next Vienna Group meeting be postponed until early April 1987. This proposal was supported by another delegation, a Member State of the Community and by a member state not a member of the Community. Another delegate said that the second meeting should be postponed till after the 14th session of the Governing Council when the scope of the protocol with regard to the substances addressed by it could be adjusted by decision of the Council. Several other delegates said that the February 1987 meeting date had been agreed as far back as September 1985, was well known to the European Commission and member states, and they accordingly saw no compelling reason why the second session should be postponed. Those delegations expressed their hope that the Community would be able to coordinate its internal processes in time for a February meeting. In any event, they believed a productive meeting could be held in February with as many countries as would be prepared to participate seriously.

39. One delegate said he would prefer a later date than February for reconvening the group if it would guarantee progress. He preferred future meetings to be held in Geneva to enable continuity of attendance of representatives. There being no consensus, the Chairman requested that this exchange of views be reported to the Executive Director of UNEP for a decision to be made on the dates and the venue of the next meeting.

VI. OTHER BUSINESS

40. The Chairman informed the meeting that he had received a letter from one delegation referring to the composition of another delegation. The Chairman stated that he had received other letters on the subject and that all these communications would be reflected in the report of the meeting. They are attached to this Report as Annex III.

41. The delegation of the USSR drew attention to the need to have documents in the working languages of the United Nations, as provided for by the procedures of that organization.

VII RECOMMENDATION

42. The meeting requests the Executive Director of UNEP to remind all States of the importance of the further ratification and accessions to the Vienna Convention for the Protection of the Ozone Layer for its early entry into force.

43. The meeting also requests the Executive Director to note the progress of its work in elaborating a draft protocol on the control of chlorofluorocarbons to the Vienna Convention and to reach an early decision on the date and venue for the next meeting in order to facilitate the preparation of that session.

VIII. CLOSURE OF THE SESSION.

44. The meeting reviewed its report and after amendments adopted it and its annexes as a record of the proceedings. The Chairman, Mr. W. Lang, thanked participants for their hard work and called for a continued spirit of cooperation to ensure a speedy conclusion of its work in subsequent sessions. He concluded by wishing all delegates a safe journey home and closed the meeting at 1.30 pm on Friday 5 December 1986.

Annex I

DEFINITIONS

1. A fully halogenated chlorofluorocarbon must contain carbon, chlorine and fluorine, e.g. CF_3Cl (CFC 11), CF_2Cl_2 (CFC12). It cannot contain hydrogen, but can contain a Br. e.g. $\text{CF}_2\text{F1 Br}$ (Halon 1211).
2. A fully halogenated halocarbon cannot contain hydrogen, but must contain carbon and any combination of chlorine, fluorine or bromine. Therefore, it would include all of category I and compounds such as CCl_4 (carbon tetrachloride) and CF_3Br (Halon 1301).
3. A partially halogenated halocarbon must contain carbon and hydrogen, and some combination of chlorine fluorine or bromine. Compounds such as CHClF_2 (CFC 22) and CH_3CCl_3 (methyl chloroform) fall into this category.

Any compound in category 1, 2 or 3 which contains Cl or Br has the potential to deplete O_3 . However, those in category 3 are less effective because they are partially removed in the troposphere.

Annex II

REVISED TEXT PREPARED BY THE WORKING GROUP ON INSTITUTIONAL
AND FINANCIAL MATTERS

ARTICLE I : DEFINITIONS

For the purpose of this Protocol,

1. "The Convention" means the Vienna Convention for the Protection of the Ozone Layer;
2. "Parties" means, unless the text otherwise indicates, Parties to this Protocol;
3. "The Secretariat" means the Secretariat of the Convention;
- [4. "Chlorofluorocarbon" or "CFC" means any fully halogenated chlorofluoroalkane.]

ARTICLE VII : MEETINGS OF THE PARTIES

1. The Parties shall hold meetings at regular intervals. The Secretariat shall convene the first meeting of the Parties not later than one year after the entry into force of this Protocol and in conjunction with a meeting of the Conference of the Parties to the Convention, if a meeting of the latter is scheduled within that period.
2. Subsequent ordinary meetings of the Parties shall be held, unless the Parties otherwise decide, in conjunction with meetings of the Conference of the Parties to the Convention. Extraordinary meetings of the Parties shall be held at such other times as may be deemed necessary at a meeting of the Parties, or at the written request of any of them, provided that, within six months of such a request being communicated to them by the Secretariat, it is supported by at least one third of the Parties.
3. The Parties shall by consensus adopt Rules of Procedure for their meetings.
4. The functions of the meetings of the Parties shall be:
 - (a) To review implementation of this Protocol;
 - [(b) To establish where necessary guidelines or procedures for reporting of information as provided for in article IV and V;]
 - (c) To review requests for technical assistance provided for in article VI;

(d) To review requests received from the Secretariat pursuant to article VIII;

[(e) To reassess, pursuant to article III, the control measures provided for in article II;]

(f) To consider and adopt proposals for amendment of this Protocol [in conformity with articles IX and X of the Convention;]

(g) To consider and adopt the budget for implementation of this Protocol;

(h) To consider and undertake any additional action that may be required for the achievement of the purposes of this Protocol.

5. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not party to this Protocol, may be represented at meetings of the Parties by observers. Anybody or agency, whether national or international, governmental or non-governmental, qualified in fields relating to the protection of the ozone layer which has informed the secretariat of its wish to be represented at a meeting of the Parties as an observer may be admitted unless at least one-third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Parties.

ARTICLE VIII : SECRETARIAT

The Secretariat shall:

(a) Arrange for and service meetings of the Parties provided for in article VII;

[(b) Distribute to the Parties information on each Party's year of maximum use of CFCs by sectors and the total amount of its use in that year, as reported by the Parties in accordance with article IV;]

[(c) Prepare and distribute to the Parties regularly a report based on information received pursuant to articles IV and V];

(d) Notify the Parties of any request for technical assistance received pursuant to article VI so as to facilitate the provision of such assistance to the extent possible;

(e) Perform such other functions for the achievement of the purposes of the Protocol as may be assigned to it by the Parties.

ARTICLE IX: FINANCIAL PROVISIONS

1. The funds required for the operation of this Protocol, including those for the functioning of the Secretariat related to this Protocol shall be charged exclusively against contributions from the Parties.
2. The Parties shall by consensus adopt Financial Rules for the operation of this Protocol, including rules for assessing contributions from the Parties.

**ARTICLE X: RELATIONSHIP OF THIS PROTOCOL
TO THE CONVENTION**

The provisions of the Convention relating to its protocols shall apply to this Protocol.

ARTICLE XI: SIGNATURE

This Protocol shall be open for signature at from
..... to

ARTICLE XII: ENTRY INTO FORCE

1. The Protocol shall enter into force on the same date as the Convention enters into force, provided that at least nine instruments of ratification, acceptance, approval or accession to the Protocol have been deposited. In the event that nine such instruments have not been deposited by the date of entry into force of the Convention, this Protocol shall enter into force on the thirtieth day following the date of the ninth instrument of ratification, acceptance, approval or accession to the Protocol.
2. For the purpose of paragraph 1 any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organizations.
3. After the entry into force of this Protocol, any state or regional economic integration organization shall become a Party to this Protocol on the thirtieth day following the date of deposit of its instrument of ratification, acceptance, approval or accession.

ARTICLE XII bis: RESERVATIONS

[No reservations may be made to this Protocol]

ARTICLE XIII: AUTHENTIC TEXTS

The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF THE UNDERSIGNED, BEING DULY AUTHORIZED TO THAT EFFECT, HAVE SIGNED THIS PROTOCOL,,

DONE AT THIS
DAY OF

Annex III

Letter from the Delegation of the
Union of Soviet Socialist Republics

Geneva, 4 December 1986

Sir,

It has been learnt that the delegation of the Federal Republic of Germany to the Ad Hoc Working Group of Legal and Technical Experts for the preparation of a Protocol on Chlorofluorocarbons to the Vienna Convention for the Protection of the Ozone Layer includes Dr. T. Bunge, an official of the Federal Environmental Agency of the Federal Republic of Germany, which is illegally located in West Berlin.

The appointment of an official of that Agency as a member of the delegation of the Federal Republic of Germany cannot be viewed as anything other than an act aimed at misusing the authority of the United Nations Environment Programme in order to obtain legal sanction for the State bodies of the Federal Republic of Germany illegally located in Western Berlin.

The establishment of such bodies in West Berlin runs directly counter to the provision of the Quadripartite Agreement of 3 September 1971 that West Berlin continues not to be a constituent part of the Federal Republic of Germany and not to be governed by it. Attempts to involve such bodies in international co-operation can only create unnecessary complications in our work and hinder the accomplishment of the tasks before UNEP.

Mr. W. Lang

Chairman of the first session of the
Ad Hoc Working Group of Legal and
Technical Experts for the Preparation
of a Protocol on Chlorofluorocarbons
to the Vienna Convention for the Protection
of the Ozone Layer (Vienna Group)
Geneva

In view of the foregoing, the delegation of the USSR cannot recognize as lawful the appointment of Dr. T. Bunge as a member of the delegation of the Federal Republic of Germany and requests you, Mr. Chairman to take the appropriate measures for this statement to be duly reflected in the report of our session.

(signed) V. Sakharov
Head of the delegation of the
Soviet Socialist Republics

Na.87-5030

7/01/87

Letter from the Permanent Mission
of France to the United Nations
Office at Geneva
Ambassador
No.388

Geneva, 4 December 1986

Sir,

On behalf of the delegations of France, the United States of America and the United Kingdom of Great Britain and Northern Ireland, I should like to refer to the subject raised by the head of the delegation of the Union of Soviet Socialist Republics in his letter to you of 4 December 1986.

The establishment of the Federal Environmental Agency in the Western Sectors of Berlin was approved by the United States, British and French authorities, acting in exercise of their supreme authority. The responsibilities of the Federal Environmental Agency in the Western Sectors of Berlin do not constitute official or constitutional acts performed by a State body of the Federal Republic of Germany in contravention of the provisions of annex II, paragraph 1, of the Quadripartite Agreement of 3 September 1971. Therefore, the establishment of that Agency in the Western Sectors of Berlin does not contravene any of the provisions of the Quadripartite Agreement of 3 September 1971.

Mr. W. Lang
Chairman of the Ad Hoc Working Group of
Experts for the Preparation of a Protocol
on Chlorofluorocarbons to the Vienna
Convention for the Protection of the Ozone Layer
Geneva

Furthermore, there is nothing in the Quadripartite Agreement which supports the contention that residents of the Western Sectors of Berlin may not be included in delegations of the Federal Republic of Germany to international conferences. Annex IV of the Quadripartite Agreement stipulates that, provided that matters of security and status are not affected, the Federal Republic of Germany may represent the interests of the Western Sectors of Berlin in international organizations and international conferences and that the permanent residents of the Western Sectors of Berlin may participate with representatives of the Federal Republic of Germany in international exchanges and exhibitions.

I should be grateful if you would make the necessary arrangements for this communication be duly recorded in the report of the Ad Hoc Working Group of Experts for the Preparation of a Protocol on Chlorofluorocarbons to the Vienna Convention for the Protection of the Ozone Layer.

Yours sincerely

(signed) Xavier de NAZELLE

Letter by the Delegation of
the Federal Republic of Germany
Wi 495/4

Geneva, 4 December 1986

Honourable Mr. Chairman,

Referring to the letter of the delegation of the Union of Soviet Socialist Republics of 4 December 1986 concerning the inclusion of Mr. T. Bunge from the Federal Environmental Agency in the delegation of the Federal Republic of Germany I wish to state that my Government shares the position set out in the letter of the delegation of France on behalf of the Three Powers dated 4 December 1986.

It regrets the attempts of the delegation of the Union of Soviet Socialist Republics to interfere with the appointment of Mr. Bunge as a member of the delegation of the Federal Republic of Germany to this Ad Hoc Working Group. Mr. Bunge is a well known expert on air pollution problems.

It is, as a matter of principle, for every member country alone to decide which institutions or persons it wishes to involve in its contribution to the work of this Ad Hoc Working Group.

Moreover the Federal Government is of the view that it is the task of this Ad Hoc Working Group to promote international co-operation in the fields of air pollution problems and not to discuss political matters which are beyond the scope of this Ad Hoc Working Group.

Mr. Winfried Lang

Chairman

Ad Hoc Working Group of

Legal and Technical Experts

for the Preparation of the Protocol

on Chlorofluorocarbons to the

Vienna Convention for the Protection

of the Ozone Layer (Vienna Group)

Geneva

May I request you to have the text of this letter duly reflected in the report of the ad hoc Working Group.

(Dietmar Greinader)
Head of Delegation
of the Federal Republic of Germany