AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

106th Congress
2d Session

SENATE

TREATY DOC.
106–32

AMENDMENT TO MONTREAL PROTOCOL ("BEIJING AMENDMENT")

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

AMENDMENT TO THE MONTREAL PROTOCOL ON SUBSTANCES THAT DEPLETE THE OZONE LAYER (THE "MONTREAL PROTOCOL"), ADOPTED AT BEIJING ON DECEMBER 3, 1999, BY THE ELEVENTH MEETING OF THE PARTIES TO THE MONTREAL PROTOCOL (THE "BEIJING AMENDMENT")



JUNE 22, 2000.—Amendment was read the first time, and together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate

---

U.S. GOVERNMENT PRINTING OFFICE

79–118 WASHINGTON : 2000

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *June 22, 2000.*

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer (the "Montreal Protocol"), adopted at Beijing on December 3, 1999, by the Eleventh Meeting of the Parties to the Montreal Protocol (the "Beijing Amendment"). The report of the Department of State is also enclosed for the information of the Senate.

The principal features of the Beijing Amendment, which was negotiated under the auspices of the United Nations Environment Program, are the addition of trade controls on hydrochlorofluorocarbons (HCFCs), the addition of production controls on HCFCs, the addition of bromochloromethane to the substances controlled under the Montreal Protocol, and the addition of mandatory reporting requirements on the use of methyl bromide for quarantine and preshipment purposes. The Beijing Amendment will constitute a major step forward in protecting public health and the environment from potential adverse effects of stratospheric ozone depletion.

By its terms, the Beijing Amendment will enter into force on January 1, 2001, provided that at least 20 parties have indicated their consent to be bound. The Beijing Amendment provides that no State may become a party unless it previously has become (or simultaneously becomes) a party to the 1997 Montreal Amendment. The Montreal Amendment is currently before the Senate for its advice and consent to ratification (Senate Treaty Doc. No. 106–10).

I recommend that the Senate give early and favorable consideration to the Beijing Amendment and give its advice and consent to ratification, at the same time as it gives its advice and consent to ratification of the Montreal Amendment.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 22, 2000.*

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, March 24, 2000.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you the Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer ("Montreal Protocol"), adopted at Beijing December 3, 1999, by the Eleventh Meeting of the Parties to the Montreal Protocol. I recommend that the Amendment (the "Beijing Amendment") be transmitted to the Senate for its advice and consent to ratification.

The Montreal Protocol, which the United States ratified in 1988, is the most important international instrument for the protection of an essential component of the global environment, the stratospheric ozone layer. U.S. leadership in protecting the ozone layer, besides being critical to the success of this global environmental endeavor, works to safeguard public health. The gradual loss of the stratospheric ozone layer, which the Montreal Protocol seeks to reverse, has been causally linked to, for instance, a higher incidence of skin cancers, cataracts, and damage to ecosystems.

A multilateral regime such as that provided by the Protocol is necessary to control emissions of ozone-depleting substances because such emissions anywhere could affect the ozone layer globally. The Beijing Amendment and adjustments to the Protocol adopted in 1999 will, when implemented, constitute another major step forward in protecting public health and the environment from potential adverse effects of stratospheric ozone depletion.

This is the fourth amendment to the Montreal Protocol; the first amendment (the "London Amendment"), to which the United States is a party, entered into force on August 10, 1992. The second amendment (the "Copenhagen Amendment"), to which the United States is also a party, entered into force on June 14, 1994. The third amendment (the "Montreal Amendment"), which is currently before the Senate for its advice and consent to ratification, entered into force on November 10, 1999.

The Beijing Amendment is the product of several months of negotiations under the auspices of the United Nations Environment Program. During the negotiations, the Department of State coordinated with all relevant federal agencies and consulted closely with Congress, industry, and environmental groups.

The principal features of the Beijing Amendment are:

- the addition of bromochloromethane as a controlled substance under the Montreal Protocol, along with associated con-

trol measures (such as a phaseout of production and consumption by January 1, 2002, subject to essential use decisions, and a ban on trade of this substance with non-Parties);

• the addition of a freeze in the level of production of hydrochlorofluorocarbons ("HCFCs") from January 1, 2004;

• the addition of a ban on trade with non-Parties in HCFCs from January 1, 2004; and

• the addition of reporting requirements on the annual use of methyl bromide for quarantine and preshipment purposes.

The United States will have the legal authority to implement its obligations under the Beijing Amendment under Title 6 of the Clean Air Act, as amended (including, e.g., sections 602, 604, 605, 606, 614, and 615). Certain new regulations will be required for the United States to carry out its obligations under the Amendment.

By its terms, the amendment will enter into force on January 1, 2001, provided that at least twenty Parties to the Montreal Protocol have deposited their instruments of ratification, acceptance or approval. In accordance with Article 2 of the Beijing Amendment, no State may deposit an instrument of ratification to the amendment unless it has previously or simultaneously become a party to the Montreal Amendment. Thus, U.S. ratification of the Beijing Amendment will require its previous or simultaneous ratification of the 1997 Montreal Amendment.

Ratification by the United States of both these amendments is important to demonstrate to the rest of the world the U.S. commitment to the preservation of the stratospheric ozone layer. Early ratification of the Beijing Amendment will also encourage the wide participation necessary for full realization of its goals. Ratification is consistent with U.S. foreign policy and environmental and economic interests.

I recommend that the Beijing Amendment be transmitted to the Senate for advice and consent to ratification at an early date.

Respectfully submitted.

STROBE TALBOT.

C.N.1231.1999.TREATIES-1 (Annex)

Decision XI/5. *Further Amendment of the Montreal Protocol*

To adopt, in accordance with the procedure laid down in paragraph 4 of Article 9 of the Vienna Convention for the Protection of the Ozone Layer, the Amendment to the Montreal Protocol as set out in annex V to the report of the Eleventh Meeting of the Parties;

AMENDMENT TO THE MONTREAL PROTOCOL ON SUBSTANCES THAT DEPLETE THE OZONE LAYER

Article 1: Amendment

A. Article 2, paragraph 5

In paragraph 5 of Article 2 of the Protocol, for the words:

Articles 2A to 2E

there shall be substituted:

Articles 2A to 2F

B. Article 2, paragraphs 8(a) and 11

In paragraphs 8(a) and 11 of Article 2 of the Protocol, for the words:

Articles 2A to 2H

there shall be substituted:

Articles 2A to 2I

C. Article 2F, paragraph 8

The following paragraph shall be added after paragraph 7 of Article 2F of the Protocol:

8. Each Party producing one or more of these substances shall ensure that for the twelve-month period commencing on 1 January 2004, and in each twelve-month period thereafter, its calculated level of production of the controlled substances in Group I of Annex C does not exceed, annually, the average of:

(a) The sum of its calculated level of consumption in 1989 of the controlled substances in Group I of Annex C and two point eight per cent of its calculated level of consumption in 1989 of the controlled substances in Group I of Annex A; and

(b) The sum of its calculated level of production in 1989 of the controlled substances in Group I of Annex C and two point eight per cent of its calculated level of production in 1989 of the controlled substances in Group I of Annex A.

However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to fifteen per cent of its calculated level of production of the controlled substances in Group I of Annex C as defined above.

D. Article 2 I

The following Article shall be inserted after Article 2H of the Protocol:

Article 2I: Bromochloromethane

Each Party shall ensure that for the twelve-month period commencing on 1 January 2002, and in each twelve-month period thereafter, its calculated level of consumption and production of the controlled substance in Group III of Annex C does not exceed zero. This paragraph will apply save to the extent that the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be essential.

E. Article 3

In Article 3 of the Protocol, for the words:

Articles 2, 2A to 2H

there shall be substituted:

Articles 2, 2A to 2I

F. Article 4, paragraphs 1quin. and 1sex.

The following paragraphs shall be added to Article 4 of the Protocol after paragraph 1 *qua*:

1 *quin*. As of 1 January 2004, each Party shall ban the import of the controlled substances in Group I of Annex C from any State not party to this Protocol.

1 *sex*. Within one year of the date of entry into force of this paragraph, each Party shall ban the import of the controlled substance in Group III of Annex C from any State not party to this Protocol.

G. Article 4, paragraphs 2 quin. and 2 sex.

The following paragraphs shall be added to Article 4 of the Protocol after paragraph 2 *qua*:

2 *quin*. As of 1 January 2004, each Party shall ban the export of the controlled substances in Group I of Annex C to any State not party to this Protocol.

2 *sex*. Within one year of the date of entry into force of this paragraph, each Party shall ban the export of the controlled substance in Group III of Annex C to any State not party to this Protocol.

H. Article 4, paragraphs 5 to 7

In paragraphs 5 to 7 of Article 4 of the Protocol, for the words:

Annexes A and B, Group II of Annex C and Annex E

there shall be substituted:

Annexes A, B, C and E

I. Article 4, paragraph 8

In paragraph 8 of Article 4 of the Protocol, for the words:

Articles 2A to 2E, Articles 2G and 2H

there shall be substituted:

Articles 2A to 2I

J. Article 5, paragraph 4

In paragraph 4 of Article 5 of the Protocol, for the words:

Articles 2A to 2H

there shall be substituted:

Articles 2A to 2I

K. Article 5, paragraphs 5 and 6

In paragraphs 5 and 6 of Article 5 of the Protocol, for the words:

Articles 2A to 2E

there shall be substituted:

Articles 2A to 2E and Article 2I

L. Article 5, paragraph 8 ter (a)

The following sentence shall be added at the end of subparagraph 8 *ter* (a) of Article 5 of the Protocol:

> As of 1 January 2016 each Party operating under paragraph 1 of this Article shall comply with the control measures set out in paragraph 8 of Article 2F and, as the basis for its compliance with these control measures, it shall use the average of its calculated levels of production and consumption in 2015;

M. Article 6

In Article 6 of the Protocol, for the words:

> Articles 2A to 2H

there shall be substituted:

> Articles 2A to 2I

N. Article 7, paragraph 2

In paragraph 2 of Article 7 of the Protocol, for the words:

> Annexes B and C

there shall be substituted:

> Annex B and Groups I and II of Annex C

O. Article 7, paragraph 3

The following sentence shall be added after the first sentence of paragraph 3 of Article 7 of the Protocol:

> Each Party shall provide to the Secretariat statistical data on the annual amount of the controlled substance listed in Annex E used for quarantine and pre-shipment applications.

P. Article 10

In paragraph 1 of Article 10 of the Protocol, for the words:

> Articles 2A to 2E

there shall be substituted:

> Articles 2A to 2E and Article 2I

Q. Article 17

In Article 17 of the Protocol, for the words:

Articles 2A to 2H

there shall be substituted:

Articles 2A to 2I

R. Annex C

The following group shall be added to Annex C to the Protocol:

Group	Substance	Number of Isomers	Ozone-Depleting Potential
Group III			
CH_2BrCl	bromochloromethane	1	0.12

Article 2: Relationship to the 1997 Amendment

No State or regional economic integration organization may deposit an instrument of ratification, acceptance or approval of or accession to this Amendment unless it has previously, or simultaneously, deposited such an instrument to the Amendment adopted at the Ninth Meeting of the Parties in Montreal, 17 September 1997.

Article 3: Entry into force

1. This Amendment shall enter into force on 1 January 2001, provided that at least twenty instruments of ratification, acceptance or approval of the Amendment have been deposited by States or regional economic integration organizations that are Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer. In the event that this condition has not been fulfilled by that date, the Amendment shall enter into force on the ninetieth day following the date on which it has been fulfilled.

2. For the purposes of paragraph 1, any such instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

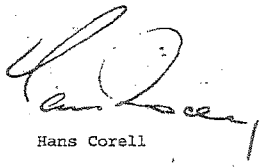
3. After the entry into force of this Amendment, as provided under paragraph 1, it shall enter into force for any other Party to the Protocol on the ninetieth day following the date of deposit of its instrument of ratification, acceptance or approval.

I hereby certify that the foregoing text is a true copy of the Amendment, adopted on 3 December 1999 at the Eleventh Meeting of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer, which was held in Beijing, China, from 29 November 1999 to 3 December 1999.

Je certifie que le texte qui précède est une copie conforme de l'Amendement adopté le 3 décembre 1999 à la Onzième Réunion des Parties au Protocole de Montréal relatif à des substances qui appauvrissent la couche d'ozone, tenue à Beijing, Chine, du 29 novembre 1999 au 3 décembre 1999.

For the Secretary-General,
The Legal Counsel
(Under-Secretary-General
for Legal Affairs)

Pour le Secrétaire général,
Le Conseiller juridique
(Secrétaire général adjoint
aux affaires juridiques)



Hans Corell

United Nations, New York
28 January 2000

Organisation des Nations Unies
New York, le 28 janvier 2000

O