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1997 AMENDMENT TO MONTREAL PROTOCOL

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 MONTREAL ON SEPTEMBER 15–17, 1997, BY THE NINTH MEETING TO THE PARTIES TO THE MONTREAL PROTOCOL



SEPTEMBER 16, 1999.—Treaty 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

69–118 WASHINGTON : 1999

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *September 16, 1999.*

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 Montreal on September 15–17, 1997, by the Ninth Meeting of the Parties to the Montreal Protocol. The report of the Department of State is also enclosed for the information of the Senate.

The principal features of the 1997 Amendment, which was negotiated under the auspices of the United Nations Environment Program (UNEP), are the addition of methyl bromide to the substances that are subject to trade control with non-Parties; and the addition of a licensing requirement for import and export of controlled substances. The 1997 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 1997 Amendment was to have entered into force on January 1, 1999, provided that at least 20 states had deposited their instruments of ratification, acceptance, or approval. However, because this condition was not met until August 12, 1999, the 1997 Amendment will enter into force on November 10, 1999.

I recommend that the Senate give early and favorable consideration to the 1997 Amendment to the Montreal Protocol and give its advice and consent to ratification.

WILLIAM J. CLINTON.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, September 10, 1999.

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 Montreal September 15–17, 1997, by the Ninth Meeting of the Parties to the Montreal Protocol. I recommend that the Amendment be transmitted to the Senate for its advice and consent to ratification.

The Montreal Protocol on substances that Deplete the Ozone Layer is part of the United Nations Environment Program. 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. United States leadership in protecting the ozone layer, besides being critical to the success of this global environmental endeavor, works to safeguard our 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 and cataracts and abnormalities in the animal kingdom.

A multilateral regime such as that provided by the Montreal Protocol is necessary to control emissions of ozone-depleting substances because such emissions anywhere could affect the ozone layer globally. The Amendment to the Montreal Protocol adopted in 1997 will, when implemented, institute another major step forward in protecting public health and the environment from potential adverse effects of stratospheric ozone depletion.

This is the third 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 1997 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 1997 Amendment are the expansion of trade controls to include methyl bromide and the addition of a licensing requirement for trade in certain controlled substances.

The trade provisions of the Montreal Protocol (Article 4) would be amended to treat methyl bromide in the same manner as other substances already controlled, that is, there would be a ban on trade in methyl bromide between a Party and a non-Party.

The licensing provision will require each Party to have in place a system for licensing the import and export of all new, used, recycled, and reclaimed controlled substances under the Montreal Protocol.

The main intent of the trade ban with non-Parties is to minimize, if not thwart, the possibility that States which are not bound by compliance obligations regarding methyl bromide could gain a competitive advantage over Montreal Protocol Parties who are bound. The licensing provision will support world law enforcement efforts to diminish any illegal trade in controlled substances.

The United States has the legal authority to implement its obligations under the 1997 Amendment under Title 6 of the Clean Air Act, as amended (including, e.g., sections 604, 605, 606, 614 and 615).

By its terms, the 1997 Amendment was to have entered into force on January 1, 1999, provided that at least twenty States, party to the Montreal Protocol, had deposited their instruments of ratification, acceptance or approval. However, because twenty States had not indicated their consent to be bound until August 12, 1999, the Amendment will enter into force for those States on November 10, 1999. In accordance with Article 2 of the 1997 Amendment, no State or regional economic organization may deposit an instrument of ratification, acceptance, approval or accession to the Amendment unless it has previously or simultaneously become party to the Copenhagen Amendment.

Ratification by the United States is important to demonstrate to the rest of the world our commitment to protection and preservation of the stratospheric ozone layer. Our ratification will also encourage the wide participation necessary for the full realization of the 1997 Amendment's goals. Ratification of the 1997 Amendment is consistent with the U.S. foreign policy and our environmental and economic interests.

The Department of State recommends that the 1997 Amendment to the Montreal Protocol be submitted to the Senate for advice and consent to ratification at an early date.

Respectfully submitted,

THOMAS R. PICKERING.

Annex IV

AMENDMENT TO THE MONTREAL PROTOCOL ADOPTED BY THE NINTH MEETING OF THE PARTIES

ARTICLE 1: AMENDMENT

A. Article 4, paragraph 1 qua.

The following paragraph shall be inserted after paragraph 1 ter of Article 4 of the Protocol:

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

B. Article 4, paragraph 2 qua.

The following paragraph shall be inserted after paragraph 2 ter of Article 4 of the Protocol:

2 qua. Commencing one year after the date of entry into force of this paragraph, each Party shall ban the export of the controlled substance in Annex E to any State not party to this Protocol.

C. Article 4, paragraphs 5, 6 and 7

In paragraphs 5, 6 and 7 of Article 4 of the Protocol, for the words:

and Group II of Annex C

there shall be substituted:

Group II of Annex C and Annex E

D. Article 4, paragraph 8

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

Article 2G

there shall be substituted:

Articles 2G and 2H

E. Article 4A: Control of trade with Parties

The following Article shall be added to the Protocol as Article 4A:

1. Where, after the phase-out date applicable to it for a controlled substance, a Party is unable, despite having taken all practicable steps to comply with its obligation under the Protocol, to cease production of that substance for domestic consumption, other than for uses agreed by the Parties to be essential, it shall ban the export of used, recycled and reclaimed quantities of that substance, other than for the purpose of destruction.

2. Paragraph 1 of this Article shall apply without prejudice to the operation of Article 11 of the Convention and the non-compliance procedure developed under Article 8 of the Protocol.

F. Article 4B: Licensing

The following Article shall be added to the Protocol as Article 4B:

1. Each Party shall, by 1 January 2000 or within three months of the date of entry into force of this Article for it, whichever is the later, establish and implement a system for licensing the import and export of new, used, recycled and reclaimed controlled substances in Annexes A, B, C and E.

2. Notwithstanding paragraph 1 of this Article, any Party operating under paragraph 1 of Article 5 which decides it is not in a position to establish and implement a system for licensing the import and export of controlled substances in Annexes C and E, may delay taking those actions until 1 January 2005 and 1 January 2002, respectively.

3. Each Party shall, within three months of the date of introducing its licensing system, report to the Secretariat on the establishment and operation of that system.

4. The Secretariat shall periodically prepare and circulate to all Parties a list of the Parties that have reported to it on their licensing systems and shall forward this information to the Implementation Committee for consideration and appropriate recommendations to the Parties.

ARTICLE 2: RELATIONSHIP TO THE 1992 AMENDMENT

No State or regional economic integration organization may deposit an instrument of ratification, acceptance, approval or accession to this Amendment unless it has previously, or simultaneously, deposited such an instrument to the Amendment adopted at the Fourth Meeting of the Parties in Copenhagen, 25 November 1992.

ARTICLE 3: ENTRY INTO FORCE

1. This Amendment shall enter into force on 1 January 1999, 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.

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