

# **SECTION RECOMMENDATIONS AND REPORTS**

## **American Bar Association Section of International Law and Practice Report to the House of Delegates\* I. Montreal Protocol on Substances that Deplete the Ozone Layer**

BE IT RESOLVED that the American Bar Association recommends that the Government of the United States of America ratify the Montreal Protocol on Substances That Deplete the Ozone Layer.

### **REPORT**

1. On the 16th of September 1987, the United States and twenty-four other nations, including France, Canada, and the United Kingdom, adopted a protocol to the Vienna Convention for the Protection of the Ozone Layer, March 22, 1985; ratification of the United States deposited August 29, 1986. This is the first protocol adopted under the Treaty. In substance it provides for the control of chemicals that seem to deplete the Earth's natural ozone layer. One of the primary chemicals to be controlled is chlorofluorocarbon (CFC), a common propellant in aerosol containers and widely used as a refrigerant.

2. Beginning with this agreement there would be a 20 percent reduction in the production of CFC, eventually stepping up a 50 percent reduction and then a total freeze on production.

3. Antarctic air sampling studies have tended to confirm that the production of CFC has chemically reacted with the stratosphere over Antarctica, thereby depleting in varying degrees the Earth's protective ozone layer.

4. Depletion in the ozone layer may not be a localized phenomenon at the South Pole nor one produced by natural causes such as solar influ-

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\*The Recommendation and Report was prepared by the Section's Committee on Aerospace Law, F. Kenneth Schwetji, Chairman.

ences. Recent overflights by NASA's specially adapted aircraft, the ER-2, as well as balloon and surface data confirms rather than rules out the significance of man-made CFC interaction with Earth's atmosphere. Data from the Northern polar region, including that provided by Sweden, Canada, Denmark, the United States, and the USSR remains inconclusive as to the existence of a similar ozone depletion at the North Pole.

5. Scientists have been unable to assess the actual rate of ozone depletion. Should it be shown that the ozone layer above the Earth is being depleted not only at the poles, but is a world-wide phenomenon, a predicted "greenhouse effect" would threaten all life as we know it on Earth.

6. Preliminary discussion with the State Department leads us to believe that the President will send this protocol to the Senate during the month of November 1987. The Senate will conduct hearings on the matter as early as December, with some likelihood that the vote on ratification will be in January. Given this expeditious handling, the American Bar Association cannot delay in its consideration of this resolution.

### CONCLUSION

By means of this recommendation, the American Bar Association can provide support for the ratification of the subject protocol when this matter comes before the United States Senate for its advice and consent. Furthermore, this recommendation is a statement of approval by the American Bar Association of the efforts of many governments to deal with one of the most important environmental problems facing the community of nations.

Respectfully submitted,

Joseph P. Griffin  
Chairman  
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