

November 17, 2021

United States Senate
United States Capitol
Washington, DC 20510

Re: Kigali Amendment to the Montreal Protocol on Substances That Deplete the Ozone Layer

Dear Senator:

The undersigned organizations strongly urge you to vote against ratification of the Kigali Amendment to the Montreal Protocol on Substances That Deplete the Ozone Layer (Kigali Amendment). This United Nations treaty provision would impose costly restrictions on the American people and serve as a consumer tax on air conditioning and refrigeration. It would also give an unfair advantage to China and other industrial competitors of the United States.

The Kigali Amendment places limits on future production of hydrofluorocarbons (HFCs) on the grounds that they contribute to climate change, though the Environmental Protection Agency estimates they represent only 3 percent of current greenhouse gas emissions. HFCs are the class of refrigerants used in hundreds of millions of American home and vehicle air conditioners as well as home refrigerators. They are also used by millions of American businesses both large and small, from the refrigerators and freezers in restaurant kitchens to the industrial process refrigeration systems used by manufacturers. Repair costs for this equipment, particularly replenishing refrigerant lost from a leak, will rise as supplies of HFCs dwindle and prices rise. New air conditioning and refrigeration systems will also become more expensive as they will have to be redesigned to use one of the non-HFC refrigerants, many of which are significantly costlier than HFCs. In addition, some of the alternative refrigerants are classified as flammable and thus raise safety concerns.

Last December, Congress passed domestic limits on HFCs as part of the massive Consolidated Appropriations Act, and the Environmental Protection Agency recently finalized a rule implementing them. These provisions, inserted without debate before the full Senate, were actively supported by the makers of HFC-substitute refrigerants and equipment. In contrast, most American consumers and businesses who rely on existing HFC-dependent systems had no idea what was being proposed nor the impact it will have on them. The air conditioning/refrigeration sector is the only beneficiary of HFC restrictions, and they gain at the expense of their customers

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that use this equipment.

Even Senators who supported these domestic HFC restrictions should oppose ratification of the Kigali Amendment because doing so would cede Congressional authority over HFC policy to the United Nations. As it is, Congress could consider modifications to the law if implementation costs prove high (prices for some HFCs have already quadrupled since the AIM Act was passed) or if unanticipated problems arise, but adopting any such relief measures would be much more difficult if the United Nations is placed in charge.

Make no mistake – when it comes to United Nations environmental treaties, it is never a question of whether America gets the short end of the stick, it is only a question of how. The Kigali Amendment is no exception. Our global competitors see it as a way to gain an advantage, and developing nations see it as a rationale for additional aid. China sees it as both.

China is classified as a developing nation under the Kigali Amendment, which allows it to benefit from highly favorable treatment as compared to the U.S. and other developed nations. Developing nations were granted an extra decade to phase down their HFC production, so China will still have plentiful supplies for domestic use long after the U.S. Also, China and other developing nations will be eligible for financial assistance from the United Nations through a special multilateral fund set up under the Montreal Protocol and applicable to the Kigali Amendment. The U.S. is the single largest contributor to that fund.

Thus, under the Kigali Amendment China gets the best of all worlds – it can continue mass producing and using cheaper HFCs domestically for years after supplies begin to dry up in the U.S., including their use in industrial processes that give it an unfair advantage over American competitors. At the same time, China will be receiving millions of dollars in financial assistance from the U.S. and other developed nations to help it comply with the Kigali Amendment.

The most sensible course of action for the Senate is not to entangle the U.S in another costly and unfair United Nations mandate. Instead, you should focus on oversight of the recently-enacted domestic HFC provisions and consider remedies to emerging problems with them.

We again urge you to preserve America's sovereign authority and vote against ratification of the Kigali Amendment. At the very least, you should insist upon the Senate holding a hearing in which the implications of the Kigali Amendment are fully explored prior to a ratification vote. If you have any questions, please contact Ben Lieberman of the Competitive Enterprise Institute at ben.lieberman@cei.org. Thank you.

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