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Biodiversity - Kantor's Comments on Biodiversity Conference

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FAX TRANSMITTAL SHEET

THE NATIONAL SECURITY COUNCIL

FROM: Eileen Claussen

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TO

FAX

PHONE

Gil Donahue

395-3911

395-6864

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NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

MEMORANDUM FOR GIL DONAHUE

FROM: *E* EILEEN CLAUSSEN

SUBJECT: The Biodiversity Convention

I have major problems with the text you suggest Ambassador Kantor use on the biodiversity convention. I think we can say:

- a. Global cooperation aimed at the conservation of biological diversity is a high priority of the United States.
- b. Some of the language in the Biodiversity Convention, particularly the language on IPR, is vague and often contradictory.
- c. While this is of concern to us, we are investigating all avenues to seek resolution of our issues in the interests of signing the Convention.

This is similar to the language we approved for the U.S. experts to use at the recent international meeting that was held in Nairobi.

As you know, we have begun an NSC review on biodiversity, and I think you know where we are headed. It is important that we all speak with one voice on this.

Facsimile Cover Sheet

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

**Executive Office of the President
Washington, DC 20506**

To: Eileen Klosson

From: 24DONA

Date: Wednesday, Feb 24, 1993 1:32 p.m

MESSAGE

Eileen, Carmen asked me to make you aware that we are receiving requests to provide the Administration's views on the convention. Would appreciate your comments on the attached. Thank you, Gil Donahue

CONTACT: If there are any problems receiving this fax, please call (202) 395-3419.

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Ambassador Kantor is being asked to provide his views on the Biodiversity Convention. In an effort to respond to this need, we have prepared the following.

I would appreciate your comments on this text by noon, Thursday, February 25. Thank you.

Gil Donahue, USTR, tel. 395-6864, fax 395-3911

The main problems with regard to intellectual property are as follows:

- The obligations on the part of developing countries to protect intellectual property rights are vague;
- There appear to be overly broad obligations on the part of owners of technology in developed countries to make the technology available on a concessional basis to developing countries;
- Based on the language in the Convention (Article 16, paragraph 5), some countries may argue that technology related to biodiversity should be subject to lower levels of intellectual property protection than other forms of intellectual property.
- The relationship between the Convention and other international agreements affecting intellectual property is unclear.

There are many problems with the Convention in addition to the intellectual property concerns that you raised. The financing mechanism and the dispute settlement procedure are cases in point.

The Administration has not decided what steps to take with regard to the Convention. We are currently reviewing the provisions of the Convention, discussing problem areas with interested private sector groups, and considering our options.

Sincerely,

Michael Kantor