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TO: Katie McGinty

FROM: Michael Oppenheimer & Scott Hajost

DATE: February 11, 1993

RE: **Our Conversation on INC/OECD Meetings in March**

There follows an explanation of the Climate Convention process and our view on the timing and contents of next steps for the Administration to take. In sum, we suggest that in the State of the Union address the Clinton Administration make a unilateral commitment to a cap and its intent to reflect that cap in a revised National Plan. Second, that it subsequently call upon other industrialized countries to match the U.S. commitment in this regard. Third, that it also call upon the parties to begin work no later than the INC 8 session in August to, at a minimum, put this commitment fully into effect; and, preferably, to have relevant instruments that go beyond that commitment ready by the first Meeting of Parties in '94-'95. The Administration should also, at INC 7, call upon all participants to use INC 8 as an opportunity to clarify the language of the Convention.

Background

1. The first Meeting of Parties is required to review the adequacy of Climate Convention Article 4 paragraph 2(a) and (b), i.e., the industrialized country obligations on emissions limitation. The Convention further specifies that based on that review, the Conference of Parties shall take appropriate action which may include the adoption of amendments to those obligations. The Treaty is neutral on the nature of those amendments.

- FYI, an amendment is similar to a protocol in terms of legal effect. Parties to the Convention would have to ratify either. One difference is that the Convention itself spells out the procedure for adoption and entry into force of amendments. The process for adoption and entry into force of protocols is not completely articulated in the Convention. We can provide further details on the legal distinctions later.

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2. In giving advice and consent, the Senate made absolutely clear that any reinterpretation of the treaty to apply legally binding targets and timetables would require the Senate's further advice and consent. This language in part is related to disputes over the Reagan Administration's interpretation of the ABM treaty. The Senate's advice and consent to the climate convention was premised on a shared understanding with the Executive Branch on what the Treaty means, i.e., no legally binding targets and timetables. The Executive Branch cannot unilaterally disregard that shared understanding. However, this restriction does not remove all opportunities to seek further clarification by the parties.

There are at least five different types of action that could be taken relating to strengthening the Treaty. One, unilateral action by the United States, e.g., U.S. commitment to a cap; Two, seeking political commitment from other countries; Three, clarifications and/or interpretations of ambiguous text; Four, agreed decisions of the parties; Five, amendments and/or protocols. Here is a thumbnail sketch of how we propose that the Administration proceed.

Proposed Actions

As matters of policy:

- o In the State of the Union address, the Clinton Administration announces a domestic commitment to cap CO₂ and other greenhouse gases at 1990 levels by the year 2000. Furthermore, it agrees that this will be reflected in a revised U.S. climate action plan.

- o Before or during the March INC 7/OECD meetings, the Clinton Administration calls upon other industrialized countries also to meet this commitment. This could be reflected in some form of political declaration or communique that could emanate from the OECD meetings, or be attached to the report of INC 7.

- o In order to clarify language in the Convention on commitments, and recognizing that INC 7 is basically intended to deal with finances, the Clinton Administration could at INC 7 charge the industrialized countries to consult fully among themselves during the period before INC 8, scheduled for August. Work should begin in earnest at INC 8 in reaching agreement on the details of methodologies and mechanisms for ensuring that a cap would be met. This would begin the process of clarification with regard to joint implementation, net emissions, definition of greenhouse gases, and so forth.

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o As minimal first steps, the Clinton Administration could suggest that there should be agreement that the dates in Convention sections 4 2(a) and (b) are linked, which would create an obligation to act on emissions by year 2000 (although meeting the target would remain non-binding due to the phrase "with the aim of returning").

o The Clinton Administration should also suggest that work begin immediately in August at INC 8 in reviewing the adequacy of industrialized country commitments with a view to developing appropriate decisions and/or amendments and/or protocols to be ready by the first Meeting of Parties (in 1994 or 95) at minimum locking in the cap and preferably going beyond, consistent with the long-term objective of the Convention. The precise mix of mechanisms will depend on how ambitious the political atmosphere at the negotiations allows the U.S. to be. If all that one was going to get was a cap, and you wanted it to be legally affected, there could be relatively simple amendments to 4 2 (a) and (b) providing precise dates (although this could be covered by an interpretation as noted above), and, at the same time, substitution of language for the term "aim."

With regard to "loose ends" in the Convention, the Administration could argue at INC 8 for the following:

o That there be clarification or agreement or commitment on joint implementation, i.e., it will not be used until the phase going beyond the cap or at a minimum that the criteria to be adopted by the first Meeting of Parties would preclude industrialized countries fossil fuel related emissions rising above 1990 levels in the use of joint implementation. They should push for development of strong and rigorous criteria.

o The existing text allows credit for sinks. The first meeting of parties is to agree on methodologies for calculations on sinks. Work should begin in August on these calculations and it could be proposed that there be agreement that no country should take credit for enhancement of sinks as part of its cap commitment until there has been agreement on common methodologies.

o Additionally, the Convention provides rather ambiguous language on environmental impact assessments (EIA's). The Clinton Administration should suggest that the parties agree that effects on greenhouse gas emissions should be a part of all the EIA's they prepare.

Finally, there are probably some other useful things the Clinton Administration could say on financing including commitment to a real and independent evaluation of the GEF in the pilot phase.

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We hope these thoughts are useful. Don't hesitate to call us for help or clarification. Scott will be out of touch until 2/22, but Michael can be reached at 212/505-2100.

MO/SH:gp

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

February 19, 1993

THE ADMINISTRATOR

TO: Mack McLarty
Chief of Staff

FROM: Carol Browner
EPA Administrator 

CC: Christine Varney
Secretary to the Cabinet

RE: Weekly Report

This memorandum reviews the key activities the Environmental Protection Agency (EPA) expects to be involved in during the upcoming week and provides initial information about activities that may occur during the next two to four weeks.

I. Next Week

- * Administrator's Activities (Week of February 22). I will be interviewed by USA Weekend Magazine; meet with ministers from Eastern Block countries at the Smithsonian Air and Space Museum; testify before the House Appropriations Committee on the Economic Stimulus Package; meet with Congressmen Conyers, Torres, and de la Garza; meet with Natural Resources Defense Council staff regarding pesticide issues (Delaney Clause); participate in the filming of NBC's Environmental Showcase; and meet with Congresswoman Meek and Delegate Norton.
- * Federal Implementation Plans (February 22). On Monday, the United States Supreme Court is expected to announce its decision on whether to review decisions by two U.S. District courts which mandated EPA to promulgate Federal Implementation Plans (FIPs) for ozone in three areas of California: South Coast Air Basin (Los Angeles area), Ventura County, and Sacramento Air Quality Maintenance Area. If the Supreme Court decides not to hear the cases, EPA will most likely be ordered to promulgate the FIPs within six to twelve months. Any FIPs designed to meet the ozone standard for these areas are likely to be controversial: they will intrude on state control of air quality planning and are likely to lead to a shortage of EPA staff and resources.

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- * Incinerator Cases (Week of February 22). We expect activities in two cases addressing the safety of hazardous waste incinerators. In the case involving the Vertac Superfund site (Arkansas), we will be filing an expedited appeal of a District Court injunction against the operation of an incinerator. In the WTI case (Ohio), preliminary injunction the hearing, concluded on Wednesday. We are expecting a decision from the federal judge presiding over Greenpeace's request for a preliminary injunction to prevent the test burn of the incinerator. As you know, I am recused from the WTI matter. Acting Deputy Administrator Dick Morgenstern is considering a Greenpeace petition to revoke the test burn approval.
- * Release of Rules from OMB (Week of February 22 or March 1). OMB recently released the five remaining EPA regulations the EPA had been reviewing. Within the next two weeks, EPA expects to publish three of these rules in the Federal Register: a Pesticide Export Policy; Standards for Reformulated Gasoline; and Accelerated Phaseout of Ozone Depleting Chemicals and Listing of Methyl Bromide. The other two rules (the Corrective Action Management Units final rule and the proposed Exemption for Petroleum-Contaminated Media from Underground Storage Tanks) were published last week.
- * Bus Emission Standards (By February 26) Under a court-ordered deadline, EPA must promulgate a rule to reduce emissions of particulate matter from the tailpipes of diesel-powered urban buses. This rule would require bus engine manufacturers to meet very stringent emission standards for buses made in 1994 and later years. The rule also establishes tighter nitrogen oxide standards for heavy-duty diesel engines.
- * Energy-Efficient Computers (Week of February 22 or March 1). EPA, along with the General Services Administration, is anticipating the release of draft government-wide guidelines making it government policy to procure energy-efficient computers that meet EPA Energy Star requirements to the maximum extent possible. The use of energy-efficient computers is essential in attaining the federal government's goal of reducing energy use in federal buildings by 20 percent by the year 2000.

II. Future Activities

- * Ozone (Smog) Standard (By March 1). EPA will sign a Federal Register notice announcing its final decision to reaffirm the existing National Ambient Air Quality Standards (NAAQS) for ozone. EPA intends to initiate an expeditious review of recent scientific studies to assess whether the standard should be revised. EPA's decision responds to a court-ordered deadline (American Lung Association v. Reilly).

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- * Emissions Trading (Late February and March). EPA expects to promulgate by late February a rule which establishes sulfur dioxide emission credits ("allowances") for utilities as part of the Clean Air Act acid rain program. On March 29, 1993, EPA is conducting the first annual auction of these credits with the Chicago Board of Trade acting as our agent. This rule had a statutory deadline of December 31, 1992.

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Kathleen McGinty
Deputy Assistant to the President
Office of Environmental Policy
The White House
Washington D.C. 20500

February 15, 1993

Subject: Natural Resources and environmental
accounting; two quickies.

Dear Ms. McGinty,

We write to draw your attention to two immediate opportunities for the United States government to take a leadership role in the field of natural resource and environmental accounting. We urge you to bring these opportunities as soon as possible to the attention of the Vice President and the appropriate departments, with a view to achieving the following:

(a) Instruct the United States delegation to the United Nations Statistical Commission to secure adoption of the items listed below by the Statistical Commission at its twenty-seventh session, 22 February-2 March 1993. It is at this session that the Commission is scheduled to adopt the final draft of the revised System of National Accounts (SNA). As you know, the revised SNA does not incorporate any changes regarding treatment of the environment. Instead, efforts have centered on producing a Handbook on Integrated Environmental and Economic Accounts which deals with satellite accounts, to be published separately from the revised SNA. The US representative to the UN Statistical Commission is Katherine Wallman, Chief of the Statistical Policy Branch of the Office of Management and Budget.

Our delegation should seek to reopen the question of the treatment of natural resources and environmental quality in this revision of the SNA.

Failing that, the United States should request incorporation in the final draft, possibly as an appendix, of an explicit agenda for further research and methodological work on environmental and natural resource accounting and its integration into the System of National Accounts. In addition to this agenda, the United States should request adoption of a procedure for reporting by the agencies of the Inter-Secretariat Working Group on National Accounts, which is formed by the International Monetary Fund (IMF), World Bank, Organization for Economic Cooperation and Development (OECD), United Nations, and Statistical Office of the European Community (EUROSTAT). We also suggest that an international task force drawing on expertise from international organizations, developing and industrialized nations, and non-governmental institutes, be established to spur

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implementation of the international agenda that the Commission would outline.

In addition, **a process must be adopted at this session to keep the SNA open for revision** and to bring it up-to-date to better serve policy-makers. This would allow other issues to be the subject of further research, including that of human capital. If agreement cannot be reached on the specifics of the process, the issue should be explicitly included in the agenda for the twenty-eighth meeting of the Commission in 1995. (The Commission meets every other year).

As you well know, there is ample precedent for eleventh-hour negotiations at the United Nations. In this case, the new Administration would be signalling that the United States is taking an effective lead that will have substantial repercussions on the pursuit of sustainable development worldwide.

(b) Include in the President's Budget for Fiscal Year 1994 a request for the revitalization and funding of a full-blown environmental and natural resource accounting program. As you recall, the natural resource accounting initiative that was envisaged under the Bureau of Economic Analysis of the Department of Commerce never took off. The BEA made do with a budget of attrition. The initiative should be revived, expanded, and funded to carry out a forward-looking work program.

As a first step in the definition of such a work program and in order to coordinate the domestic and international steps that the United States will take on this issue, an inter-agency meeting or working group could be set up including the Department of Commerce, the Department of State, the Treasury, the Office of Management and Budget, and other relevant agencies, and calling on non-governmental expertise. ⁽¹⁾

Please find attached a copy of the letter that we have sent to the Secretary of Commerce, and for your information, to Dr. Summers in his former capacity at the World Bank. We will send similar letters to the Office of Management and Budget, the Department of State, the Treasury, and the Council of Economic Advisers.

We urge that action on the suggested points be taken swiftly, as the opportunities presented by the meeting of UN Statistical Commission and the drafting of the Presidential budget will pass in a matter of days. Our letters to the Department of Commerce and to the Office of Management and Budget may not be given attention without your catalytic intervention.

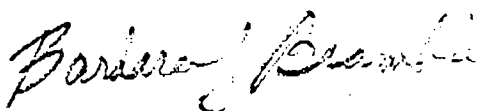
¹. We draw your attention in this respect to the address delivered by Dr. Robert Solow on natural resource accounting, "An Almost Practical Step Toward Sustainability", at Resources for the Future in October 1992.

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We will be happy to cooperate on this important issue, on which the Vice President has so eloquently written and taken a leadership role, in particular through the hearings of the Joint Economic Committee and the study commissioned from the Congressional Budget Office, soon to be completed.

We look forward to hearing from you and are ready to meet or talk by phone with you or the staff designated to follow up on this issue.

Sincerely,



Barbara Bramble
Director, International Program
National Wildlife Federation

on behalf of:

Bruce Rich
Director, International Program
Environmental Defense Fund

Larry Williams
Director, International Program
Sierra Club

Christine Real de Azua
Associate, International Program
Environmental Defense Fund