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United States Department of State

*Bureau of Oceans and International
Environmental and Scientific Affairs*

Washington, D.C. 20520

DATE: 2/3/94

TO:

NAME: Marc Chupka OEP fax: 456-2710
Eileen Clausen NSC fax: 395-1590
Dirk Forrister DOE fax: 586-7644

NUMBER OF PAGES, INCLUDING THIS PAGE: 7

FROM:

NAME: Jonathan C. Pershing TEL: (202) 647-4069
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MESSAGE:

Attached are the Q&As I think Finnegan was referring to. They were part of State's answers to a set of questions that had originally been raised prior to the August INC session. Question 6 and its reply are likely the ones Finnegan was citing.

I have included not only the question on the process issue, but several others which might have some bearing on the matter as well. Note in the reply to question 2 that the issue of adequacy is explicitly highlighted.

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2. Please explain the purpose of the meeting in Geneva beginning August 16, 1993 and subsequent meetings before ratification. What is the present mandate of the Intergovernmental Negotiating Committee? What rules, protocols, or other actions can be expected? What is the effect of these meetings on the parties? Are the actions binding? What is the obligation of the signing countries to produce National Action Plans? Is there a consensus on the format of such plans?

THE MEETING IN GENEVA FROM AUGUST 16-27, WAS THE 8TH SESSION OF THE INTERGOVERNMENTAL NEGOTIATING COMMITTEE FOR A FRAMEWORK CONVENTION ON CLIMATE CHANGE. ALONG WITH THE TWO SESSION HELD SINCE THE CONVENTION WAS ADOPTED (IN DECEMBER 1992 AND MARCH 1993); AND TOGETHER WITH THE THREE SESSIONS THAT ARE PLANNED PRIOR TO THE FIRST MEETING OF THE CONFERENCE OF PARTIES TO THE CONVENTION (NOW EXPECTED IN SPRING 1995), THESE SESSIONS ARE DESIGNED TO PREPARE FOR ENTRY INTO FORCE OF THE CONVENTION. THE FIRST MEETING OF THE CONFERENCE OF THE PARTIES TO THE FRAMEWORK CONVENTION ON CLIMATE CHANGE IS TO BE CONVENED BY THE INTERIM SECRETARIAT AND IS TO TAKE PLACE NOT LATER THAN ONE YEAR AFTER THE DATE OF ENTRY INTO FORCE OF THE CONVENTION (WHICH OCCURS 90 DAYS AFTER DEPOSIT OF THE 50TH INSTRUMENT OF RATIFICATION OR ACCESSION). AT THAT SESSION, THE PARTIES ARE REQUIRED BY THE FCCC TO DO THE FOLLOWING:

- DESIGNATE A PERMANENT SECRETARIAT AND MAKE ARRANGEMENTS FOR ITS FUNDING.
- MAKE ARRANGEMENTS TO IMPLEMENT THE PROVISIONS OF THE FINANCIAL MECHANISM.
- CONSIDER AND AGREE ON METHODOLOGIES FOR CALCULATIONS OF EMISSIONS BY SOURCES AND REMOVALS BY SINKS OF GREENHOUSE GASES.
- REVIEW COMMUNICATIONS BY PARTIES (WHICH ARE TO BE SUBMITTED WITHIN 6 MONTHS AFTER ENTRY INTO FORCE FOR EACH ANNEX I PARTY).
- REVIEW THE ADEQUACY OF SUBPARAGRAPHS 4.2(A) AND 4.2(B).
- TAKE DECISIONS REGARDING CRITERIA FOR JOINT IMPLEMENTATION.
- ADOPT RULES OF PROCEDURE FOR ITSELF AND THOSE SUBSIDIARY BODIES ESTABLISHED BY THE CONVENTION.
- ARRANGE FOR THE PROVISION TO DEVELOPING COUNTRIES PARTIES OF TECHNICAL AND FINANCIAL SUPPORT IN COMPILING AND COMMUNICATING INFORMATION.

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- CONSIDER THE ESTABLISHMENT OF A MULTILATERAL CONSULTATIVE PROCESS FOR THE RESOLUTION OF QUESTIONS REGARDING THE IMPLEMENTATION OF THE CONVENTION.

AT ITS FIRST SESSION, THE CONFERENCE OF PARTIES IS EXPECTED TO TAKE DECISIONS ON ALL OF THE TASKS OUTLINED ABOVE. WHILE DECISIONS TAKEN BY THE INC DURING ITS DELIBERATIONS ARE NOT BINDING ON THE CONFERENCE OF PARTIES UNTIL THE CONFERENCE ADOPTS THEM, IT IS EXPECTED THAT RECOMMENDATIONS MADE BY THE INC TO THE COP WILL BE ADOPTED WITHOUT SUBSTANTIAL ALTERATION.

WITH RESPECT TO THE DEVELOPMENT OF NATIONAL ACTION PLANS, THE CONVENTION REQUIRES COMPREHENSIVE PLANS ON POLICIES PROGRAMS AND MEASURES FROM ANNEX I (OECD, FSU AND EASTERN EUROPEAN) PARTIES (SEE LIST OF ANNEX I COUNTRIES ATTACHED). ONE OF THE PRINCIPAL TASKS OF THE INC IS TO DEVELOP AND RECOMMEND METHODOLOGIES FOR THESE PLANS. ALL PARTIES, INCLUDING DEVELOPING COUNTRY PARTIES, ARE REQUIRED TO PREPARE INVENTORIES OF THEIR GREENHOUSE GAS EMISSIONS. IN ADDITION, ALL PARTIES ARE TO FORMULATE, IMPLEMENT, PUBLISH AND REGULARLY UPDATE NATIONAL AND REGIONAL PROGRAMMES CONTAINING MEASURES TO MITIGATE CLIMATE CHANGE BY ADDRESSING BOTH SOURCES AND SINKS OF GREENHOUSE GASES, AND MEASURES TO FACILITATE ADEQUATE ADAPTATION TO CLIMATE CHANGE. METHODOLOGIES FOR THESE ARE ALSO TO BE RECOMMENDED TO THE FIRST MEETING OF THE COP BY THE INC. WHILE THERE HAS BEEN SOME LIMITED DISCUSSION ON THIS ISSUE TO DATE, AND A CONSENSUS IS EMERGING, THERE IS NOT YET AGREEMENT WITH REGARD TO THESE METHODOLOGIES.

3. Please provide a summary of your understanding of the requirements or obligations of the Convention for all parties, including the requirements of funding, and those that apply to some, but not all, parties. Because most developing countries, including the Eastern Bloc countries, lack resources to address emissions, and because, for them, climate change and its potential impacts are of much less a concern than the issues of development and economic growth, we understand that action to address emissions is not likely without substantial financial assistance.

A: THE CLIMATE CONVENTION CONTAINS COMMITMENTS THAT APPLY TO ALL PARTIES, AS WELL AS OTHERS THAT APPLY TO ONLY CERTAIN PARTIES. THE FOLLOWING COMMITMENTS APPLY TO ALL PARTIES:

- TO PREPARE NATIONAL INVENTORIES OF GREENHOUSE GAS SOURCES AND SINKS,
- TO PREPARE NATIONAL (OR REGIONAL) PROGRAMS TO ADDRESS CLIMATE CHANGE,

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- TO COOPERATE IN PREPARING FOR ADAPTATION TO THE IMPACTS OF CLIMATE CHANGE
- TO COOPERATE IN THE EXCHANGE OF RELEVANT INFORMATION, AND
- TO SUPPORT, FURTHER DEVELOP, AND COOPERATE IN SCIENTIFIC RESEARCH AND SYSTEMATIC OBSERVATION RELEVANT TO CLIMATE CHANGE, AND TO COOPERATE IN PROMOTING EDUCATION, TRAINING, AND PUBLIC AWARENESS RELATED TO CLIMATE CHANGE.

THE FOLLOWING COMMITMENTS APPLY ONLY TO ANNEX I PARTIES (WHICH INCLUDES OECD COUNTRIES, FORMER EAST BLOC COUNTRIES, AND THE EUROPEAN COMMUNITY):

- TO ADOPT POLICIES AND TAKE CORRESPONDING MEASURES TO ADDRESS CLIMATE CHANGE THROUGH BOTH LIMITATION OF EMISSIONS AND ENHANCEMENT OF SINKS,
- TO PROVIDE DETAILED INFORMATION ON POLICIES AND MEASURES, INCLUDING THE PROJECTED EFFECT ON NET EMISSIONS OF SUCH POLICIES AND MEASURES FOR THE PERIOD REFERRED TO IN SUBPARAGRAPH (A) (I.E., THE PERIOD UP TO THE END OF THE DECADE), "WITH THE AIM OF RETURNING INDIVIDUALLY OR JOINTLY TO THEIR 1990 LEVELS OF THESE ANTHROPOGENIC EMISSIONS OF CARBON DIOXIDE AND OTHER GREENHOUSE GASES NOT CONTROLLED BY THE MONTREAL PROTOCOL."

ANNEX II PARTIES (WHICH INCLUDE OECD COUNTRIES AND THE EUROPEAN COMMUNITY, BUT NOT THE FORMER EAST BLOC COUNTRIES) ALSO HAVE THE FOLLOWING COMMITMENTS:

- TO PROVIDE NEW AND ADDITIONAL FINANCIAL RESOURCES TO MEET THE AGREED FULL COSTS OF THE DEVELOPING COUNTRY PARTIES IN FULFILLING THE REPORTING REQUIREMENT,
- COLLECTIVELY, TO PROVIDE FINANCIAL RESOURCES TO MEET THE AGREED FULL INCREMENTAL COSTS OF MEASURES THAT ARE BOTH 1) REQUIRED OF DEVELOPING COUNTRIES; AND 2) ARE AGREED BETWEEN A DEVELOPING COUNTRY PARTY AND THE INTERNATIONAL ENTITY REFERRED TO IN ARTICLE 11, I.E., THE EXACT RELATIONSHIP BETWEEN THE GLOBAL ENVIRONMENT FACILITY ("GEF") OF THE WORLD BANK, UNITED NATIONS ENVIRONMENT PROGRAM, AND UNITED NATIONS DEVELOPMENT PROGRAM AND THE CONVENTION,
- TO ASSIST PARTIES IN MEETING THE COSTS OF ADAPTATION TO ADVERSE EFFECTS OF CLIMATE CHANGE, AS WELL AS TO PROVIDE FOR PROMOTING, FACILITATING, AND FINANCING, AS APPROPRIATE, THE TRANSFER OF ENVIRONMENTALLY SOUND TECHNOLOGIES, PARTICULARLY TO DEVELOPING COUNTRY PARTIES.

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4. Mr. Robert M. Sussman testified May 29 that an international effort is important. He said that we cannot focus on emissions stabilization here to the exclusion of real strides around the world, particularly in developing countries, because, over time those countries will replace the U.S. and other industrialized countries as major emitters. He added that if they fail to control emissions and make progress, the global warming problem is going to get worse, regardless of the steps the U.S. takes or does not take. We assume you agree. Even with foreign assistance, how will we be assured that these countries will limit emissions, particularly since many now oppose GHG limits?

A: REDUCING GREENHOUSE GAS EMISSIONS GLOBALLY IS KEY TO ULTIMATELY SOLVING THE GLOBAL WARMING PROBLEM. WHILE IN THE NEAR TERM, THE MAJORITY OF GLOBAL EMISSIONS WILL CONTINUE TO OCCUR IN DEVELOPED COUNTRIES, BY THE MIDDLE OF THE NEXT CENTURY, THE PROPORTIONS WILL BE REVERSED, WITH THE PREPONDERANCE ORIGINATING IN DEVELOPING COUNTRIES. IT IS THUS IMPERATIVE THAT WE BEGIN TO EVALUATE CONSTRUCTIVE MECHANISMS FOR REDUCING THE GROWTH IN DEVELOPING COUNTRY EMISSIONS.

SEVERAL PROGRAMS ARE ALREADY UNDERWAY TO DO THIS. THE UNITED STATES HAS COMMITTED \$25 MILLION OVER TWO YEARS TO HELP COUNTRIES PREPARE STUDIES TO ADDRESS CLIMATE CHANGE. UNDER THIS COUNTRY STUDIES INITIATIVE, THE UNITED STATES IS PROVIDING FINANCIAL AND TECHNICAL SUPPORT TO DEVELOPING COUNTRIES AND COUNTRIES WITH ECONOMIES IN TRANSITION TO ENABLE THE DEVELOPMENT OF INVENTORIES OF EMISSIONS OF GREENHOUSE GASES, AND TO ASSESS THEIR VULNERABILITY TO CLIMATE CHANGE, AS WELL AS TO EVALUATE RESPONSE STRATEGIES FOR MITIGATION AND ADAPTATION TO SUCH CHANGES. AS OF AUGUST 1993, THE UNITED STATES HAD APPROVED FUNDING FOR 21 STUDIES, AND IS SOLICITING A SECOND ROUND OF APPLICATIONS FROM COUNTRIES WISHING TO PARTICIPATE IN THE PROGRAM.

U.S. AGENCIES ALSO HAVE INTENSIVE PROGRAMS WHICH AIM AT REDUCING NET GREENHOUSE GAS EMISSIONS IN THE DEVELOPING COUNTRIES. THESE INCLUDE BILATERAL INITIATIVES SPONSORED BY:

- AGENCY FOR INTERNATIONAL DEVELOPMENT (E.G., THE ENVIRONMENT AND NATURAL RESOURCES MANAGEMENT PROGRAM WHICH INCLUDES SUSTAINABLE MANAGEMENT OF THE PHILIPPINES TROPICAL FORESTS, GRANTS TO THE CENTRAL AMERICAN RESEARCH INSTITUTE FOR INDUSTRY WHICH IS HELPING TO DEVELOP AN ENERGY STRATEGY FOR CENTRAL AMERICA, AND GRANTS TO THE WORLD COUNCIL FOR ENERGY EFFICIENCY, WHICH IS PROVIDING A FOCAL POINT FOR COLLECTING AND DISSEMINATING INFORMATION ON ENERGY EFFICIENT END USES);

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- DEPARTMENT OF ENERGY (E.G., THE ADEPT PROGRAM WHICH ASSISTS DEVELOPING COUNTRIES AND COUNTRIES WITH ECONOMIES IN TRANSITION TO MARKET ECONOMIES IN DEVELOPING AND APPLYING NEW ENERGY TECHNOLOGIES, THE AMERICA'S 21ST CENTURY PROGRAM, IN WHICH DOE IS WORKING WITH LATIN AMERICAN AND CARIBBEAN COUNTRIES TO PROMOTE RENEWABLE ENERGY TECHNOLOGIES; AND THE CLEAN COAL PROGRAM WHICH PROMOTES ENERGY EFFICIENT USE OF COAL);
- ENVIRONMENTAL PROTECTION AGENCY (E.G., STUDIES IN RUSSIA AND SIBERIA TO DEVELOP MORE ACCURATE ACCOUNTING PROCEDURES FOR USE IN EVALUATING THE BENEFITS OF PROTECTION AND ENHANCEMENT OF FOREST SINKS, PUBLICATION OF THE GREEN PAGES, WHICH IDENTIFIES AND DESCRIBES U.S. VENDORS OF POLLUTION CONTROL, RENEWABLE ENERGY AND ENERGY EFFICIENT TECHNOLOGIES; CONTINUOUS EMISSIONS MONITORING PROGRAMS FOR GREENHOUSE GAS EMISSIONS SUCH AS THOSE IN POLAND).

IN ADDITION, THE UNITED STATES HAS PLAYED AN ACTIVE ROLE IN DEVELOPING GUIDELINES FOR MULTILATERAL LENDING INSTITUTIONS, INCLUDING THE WORLD BANK AND OTHER MULTILATERAL DEVELOPMENT BANKS, TO ENCOURAGE THEM TO INCLUDE CRITERIA FOR ENVIRONMENTAL SUSTAINABILITY IN DESIGNING THEIR LENDING PORTFOLIOS. THE UNITED STATES HAS ALSO PLAYED A ROLE IN THE DEVELOPMENT OF GUIDELINES FOR THE OPERATION OF THE GLOBAL ENVIRONMENT FACILITY, WHICH IS TO BE THE FINANCIAL MECHANISM OF THE CLIMATE CONVENTION.

ASIDE FROM THE SPECIFIC FINANCIAL AND TECHNOLOGY ASSISTANCE PROGRAMS DISCUSSED ABOVE, THE UNITED STATES, THROUGH REGULAR DIPLOMATIC CHANNELS AND THROUGH THE USE OF FEDERAL EXPERTS, IS TRYING TO DEMONSTRATE THE NEED FOR ALL COUNTRIES TO DEVELOP DOMESTIC PROGRAMS TO ADDRESS THEIR GREENHOUSE GAS EMISSIONS. IN PART, WE ARE DEMONSTRATING OUR LEADERSHIP THROUGH THE INTENSIVE EFFORT WE ARE PROMOTING DOMESTICALLY; IN PART THROUGH OUR STRONG SUPPORT FOR SUCH INITIATIVES IN INTERNATIONAL EFFORTS OF THE INC AND DISCUSSIONS IN THE IPCC. THE SUCCESS OF THESE EFFORTS IS DEMONSTRATED BY THE WILLINGNESS OF DEVELOPING COUNTRIES TO PARTICIPATE IN THE CLIMATE CONVENTION, AND TO DEVOTE SOME OF THEIR SCARCE RESOURCES TO THE PREPARATION OF INVENTORIES OF EMISSIONS THAT THE CONVENTION REQUIRES.

WE BELIEVE THAT THROUGH THESE EFFORTS, ALL COUNTRIES, INCLUDING DEVELOPING COUNTRIES, AND COUNTRIES WITH ECONOMIES IN TRANSITION, WILL BE ABLE TO MOVE TOWARD A PATH OF SUSTAINABLE DEVELOPMENT, A PATH WHICH INCLUDES SPECIFIC ATTENTION TO THE DEVELOPMENT OF PROGRAMS TO CONTROL -- AND ULTIMATELY REDUCE -- NET EMISSIONS OF GREENHOUSE GASES.

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6. At the May hearing, Mr. Wirth also said the administration is committed to seeing the Convention promptly implemented and, if necessary, strengthened. Does the U.S. now have a proposal to change or strengthen the Convention?

A. THE CONFERENCE OF THE PARTIES IS TO CONSIDER, AT ITS FIRST SESSION (NOW SCHEDULED FOR LATE MARCH 1995 IN BERLIN), THE ADEQUACY OF THE COMMITMENTS UNDER THE CONVENTION. A FIRST FORMAL DISCUSSION ON THIS ISSUE IS PLANNED FOR THE NINTH SESSION OF THE INC, IN FEBRUARY 1994, AND THE ADMINISTRATION IS CURRENTLY CONSIDERING ALTERNATIVES FOR ESTABLISHING A PROCESS TO REVIEW THE CONVENTION COMMITMENTS. HOWEVER, WE DO NOT AT THIS TIME HAVE SPECIFIC PROPOSALS REGARDING MODIFICATION OF THE CONVENTION COMMITMENTS. THE ADMINISTRATION DOES ACKNOWLEDGE THAT RECENT SCIENTIFIC INFORMATION INDICATES THAT THE PROBLEM OF CLIMATE CHANGE CONTINUES TO BE EXTREMELY SERIOUS, AND THAT IT IS LIKELY ADDITIONAL STEPS, BEYOND THOSE CURRENTLY CONTAINED IN THE CONVENTION, WILL BE NEEDED TO ADDRESS THE PROBLEM ADEQUATELY.

8. Mr. Wirth testified at the Subcommittee's hearing that industrialized countries will have to take the lead in implementing the Convention's commitments. We understand that prior to signing the Convention, the EC and other industrialized nations announced commitments to reduce emissions. Nevertheless, we understand that implementation is lagging in many countries. For example, the EC proposed a burden sharing plan and an energy tax, but both have apparently stalled. What are the commitments of the OECD countries and Japan and what is the status of implementing those commitments today?

What is the history of OECD and other countries actually following the U.S. lead by subsequently adopting and enforcing stringent environmental policies, such as in the case of air and water pollution, to the same extent as the U.S.?

A. THE FOLLOWING TABLE INDICATES, IN BRIEF FORM, THE COMMITMENTS OF OECD COUNTRIES, AND THE PROGRESS TOWARD MEETING THEM.

AUSTRALIA. COMMITTED TO STABILIZE AT 1988 LEVELS BY 2000, AND TO REDUCE BY 20 PERCENT BY 2005. PREPARED AN INITIAL REPORT ON ACTIONS LAST YEAR; EXPECT A FURTHER REPORT BY END OF 1993. 1992 REPORT SHOWS THEY WILL BE 23% ABOVE 1988 LEVELS IN THE YEAR 2005 (WITH A 117 MMTC GAP AT THAT TIME). LOOKING ONLY AT "NO REGRETS" OPTIONS AT THIS TIME.



GLOBAL CLIMATE COALITION

February 3, 1994

Marc Chupka

Associate Director for Air, Energy and Transportation
Room 360
Old Executive Office Building
Washington, DC 20500

Dear Marc:

I understand there was a meeting this morning with Rob Long, who is a member of the GCC, and Mr. Pearlman. I am sorry I was not available to be there to brief you on this vital issue. However, as Executive Director of the GCC, which is the lead business group on this issue, I am always available should you wish to discuss this issue further. Attached is a list of our member organizations.

Sincerely,

John Shlaes
Executive Director

GLOBAL CLIMATE COALITION



February 3, 1994

Mr. Thomas F. McLarty
Chief of Staff to the President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. McLarty:

The Global Climate Coalition (GCC) has been briefed by members of the State Department that the US delegation to the 9th Intergovernmental Negotiating Committee (INC) meeting will state that the commitments of the industrialized countries under the Framework Convention on Climate Change are "not adequate". We are very concerned this may be perceived as the first step towards mandatory targets and timetables.

The GCC believes this is an inappropriate policy position for the US government and that it is premature to consider reopening the treaty because:

1. There is no new scientific information to justify such a change in policy. The Intergovernmental Panel on Climate Change (IPCC) Second Assessment Report is not due to be completed until the fourth quarter of 1995. Scientific data since the signing of the Framework Convention does not support increased concern over the possibility of man-induced global warming.
2. The relevant technical, social, and economic impacts of climate change and the cost of mitigation efforts are not established with any reasonable degree of certainty. Mitigation efforts which go beyond those called for in the treaty and in President Clinton's Climate Change Action Plan could have a significant negative effect on the US and international economy.
3. The Climate Change Action Plan, with its correct emphasis on voluntary actions to reduce greenhouse gas emissions, is less than four months old. Many businesses and trade associations have indicated that they will participate in cost effective voluntary action plan programs, such as Climate Challenge, Motor Challenge and Green Lights. To conclude that the efforts now being undertaken are "not adequate", even before these programs are underway, could be seen as a repudiation of voluntary actions and could discourage participation by many organizations in these programs.
4. National Action Plans by developed countries, including the U.S., are currently unavailable or unassessed and are not required to be filed until eight months from now. All of these plans must be evaluated before a determination of "adequacy" can be made.

5. There has been no "process" for the development of a US position on the adequacy of treaty commitments. Such a process should include careful evaluation of the views of the public, the business and scientific communities, the members of Congress and the various agencies within the federal government working with voluntary programs.

Industry has worked in good faith with the U.S. government in the development of the treaty, and President Clinton's Climate Change Action Plan and its implementation. Precipitous action by the United States to change the treaty before it is implemented is not in keeping with the spirit of government/industry partnerships and cooperation. We urge the Administration to review the points we have made and revise its position.

Sincerely,



John Shlaes
Executive Director

enclosures



GLOBAL CLIMATE COALITION

GLOBAL CLIMATE COALITION MEMBERSHIP

Board Membership

Aluminum Association, Inc.
 American Automobile Manufacturers Association
 American Electric Power Service Corporation
 American Forest & Paper Institute
 American Mining Congress
 American Iron & Steel Institute
 American Petroleum Institute
 American Portland Cement Alliance
 Association of American Railroads
 Atlantic Richfield Company
 Chemical Manufacturers Association
 Cincinnati Gas & Electric Company
 CSX Transportation, Inc.
 Dow Chemical Company
 Drummond Company
 Duke Power Company
 Duquesne Light Company
 Edison Electric Institute
 ELCON
 Exxon
 Illinois Power Company
 Kaiser Aluminum & Chemical Corp.
 National Association of Manufacturers
 National Lime Association
 National Coal Association
 National Rural Electric Cooperatives Association
 Phillips Petroleum Company
 Process Gas Consumers
 Texaco, Inc.
 The Southern Company
 U.S. Chamber of Commerce
 Union Electric Company

General Membership

American Commercial Barge Line Co.
 Amoco Corporation
 Arizona Public Service Company
 Association of International Automobile Manufacturers
 BP America, Inc.
 Burlington Northern Railroad
 CIBO
 CONRAIL
 Consumers Power
 Du Pont Company
 Eastman Kodak
 LTV Steel Company, Inc.
 Norfolk Southern
 Northern Indiana Public Service Co.
 Ohio Edison
 Pennsylvania Power & Light Company
 Railway Progress Institute
 Shell Oil Company
 Union Pacific Railroad

Rebuttal points to the Global Climate Coalition Industry points regarding U.S. position in the International Negotiating Committee (INC):

Point (1) "The proposed U.S. commitment is premature."

- o The first Conference of the Parties must review adequacy in March 1995; the INC sessions are intended to begin the discussion process. The U.S. will have to take a position on "adequacy" By concluding that the current commitments are inadequate to achieve the objectives of the Convention (which is close to a semantic tautology) the U.S. will be able to lead the discussions, not follow them.
- o The U.S. has nothing to gain by delay.
- o The adequacy determination at this time does not undercut the confidence in our near-term commitment.

Point (2) "The proposed U.S. position is counterproductive from the standpoint of U.S. interests.

- o Finding that the current commitments for industrialized countries (Annex I parties) are inadequate to achieve the objectives of the convention does not imply that the international response will focus exclusively on Annex I countries or on near term emission reduction requirements.
- o Our stated commitment to achieve the non-binding Annex I targets puts the U.S. in a favorable position vis-a-vis other industrialized countries if the result of international negotiations are to make those targets binding. The U.S. has not taken a position on this issue, but it is extremely unlikely that such a protocol could be negotiated anytime soon. Thus, the year 2000 commitments are unlikely to be revisited.
- o The Climate Change Action Plan explicitly states that additional actions will be necessary in the longer term to address the risks of climate change.

Point (3) "The proposed U.S. position ignores the real issues" (global nature of problem)

- o The U.S. position is clear: the commitments are not adequate because they do not address global sources of emissions.

U.S. POSITION AT INC ON "ADEQUACY OF COMMITMENTS"

On the first day of next week's INC meeting in Geneva, Working Group I will discuss the issue of "review of adequacy of commitments in Article 4, para. 2(a) and (b)" of the Climate Change Convention. This pertains to Convention provisions that, among other things, obligate Annex I Parties (the nations of the OECD, of the former USSR, and of Central and Eastern Europe) to adopt and implement policies and measures to limit their greenhouse gas emissions.

At a State Department briefing for U.S. industry on February 1, Deputy Assistant Secretary of State Rafe Pomerance unequivocally stated that, when the INC discusses the issue, "the U.S. plans to say that the commitments are not adequate."

That approach is wrong for three, fundamental reasons: (i) it is premature; (ii) it would be counterproductive from the standpoint of U.S. interests; and (iii) it ignores the real issues concerning the issue of potential global climate change.

(1) The proposed U.S. position is premature:

Whether the commitments in Article 4.2(a) and (b) are or are not adequate cannot be determined now on an informed basis:

- Adequacy of those commitments (and of the rest of the world) depends on having current assessments of the risk of potential global climate change, of the nature and extent of the impacts of the perceived risk, and of the technological and economic feasibility of mitigation and adaptation measures to deal with the issue.
 - The INC has no more information now on those crucial issues than it had when the Climate Change Convention was negotiated in May 1992.
 - The Second Assessment of the IPCC will not be prepared until November/December 1995.
 - One way to judge "adequacy" of commitments is to see how far they go in achieving the Convention's objective, a major element of which is "stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system." Since the international community has not determined that level and is not even close to being able to do so, there is no basis for concluding that current commitments are "inadequate" to achieve that objective.
- Whether the commitments of the Annex I Parties "are adequate" also depends on what those nations actually are doing to implement them. This includes the issue of the amount of net greenhouse gas emissions that will be avoided by reason of the policies and measures of those nations undertaken pursuant to the Convention.

- ♦ The reports of Annex I Parties describing their policies and measures and the anticipated results, in light of otherwise projected emissions, will not be prepared and submitted to the INC for review until September 1994.
- The worst that can be said on an informed basis about the "adequacy" of the commitments of Annex I Parties is that "we do not know at the present time."

(2) The proposed U.S. position is counterproductive from the standpoint of U.S. interests:

Announcing at this time that the U.S. regards the Article 4.2(a) and (b) commitments of Annex I Parties as being "not adequate" is counterproductive from the standpoint of U.S. interests for two basic reasons:

- It is an open invitation to the INC to focus exclusively on what the major industrialized nations are doing to constrain the growth of their greenhouse gas emissions and would pave the way for advocates of rigidly binding "targets and timetables" and of "protocols" to the Convention limited to dealing with carbon dioxide emissions (contrary to the historic and current U.S. position that the Parties must deal with all greenhouse gases, all sinks, and adaptation to such climate change as might occur).
 - ♦ This problem is exacerbated by Mr. Pomerance's statement that one of the alleged "inadequacies" of Article 4.2(a) and (b) is that there are no specific commitments of Annex I Parties beyond the year 2000.
 - ♦ There is every reason to be greatly concerned that "targets and timetables" for carbon dioxide emissions reductions beyond 2000 would entail massive costs to the U.S. economy in terms of growth, unemployment, and trade competitiveness.
 - ♦ Having opened "Pandora's box" on these crucial issues, how would the U.S. abide rigid "targets and timetables," either before or after 2000, without undertaking huge economic risks? There is no answer to that crucial question.
 - ♦ Mr. Pomerance tried to assure industry that, while stating that the commitments were "not adequate," the U.S. would not now offer or agree to suggestions as to how to make them "more adequate." The problem is that other nations will offer ideas that, on the basis of currently available information, would be unacceptably costly to the United States (e.g., the rumored German idea to reduce emissions 25% below 1990 levels by 2005). What does the U.S. gain from stating that the commitments are "inadequate," since that necessarily implies that now is the time to discuss such ideas?

- The risk that the proposed U.S. confession of "inadequacy" would lead to binding "targets and timetables," before and/or after 2000, has created enormous concern on the part of U.S. industry that the prescribed emissions limits could or would be perceived by the Administration and/or Congress as not being assuredly attainable without imposition of federal regulations and/or taxes.
- The prospect of federal measures involving regulatory or tax schemes of unknown nature and extent could chill the current, substantial, and voluntary efforts of industry to try to find cost-effective ways to constrain greenhouse gas emissions.

(3) The proposed U.S. position ignores the real issues:

There is unanimous agreement that, no matter what the major industrialized nations do to limit their greenhouse gas emissions, global emissions would continue to grow substantially. This is because of huge growth of greenhouse gas emissions from developing countries (prompted by population growth and understandable desire for economic development), which will vastly outstrip any reductions or avoidance of emissions from the industrialized countries.

That is the real issue: emissions growth in developing countries.

If the United States were to conclude that the commitments of Annex I Parties under Article 4.2(a) and (b) really are inadequate -- a conclusion that, on the basis of current information, is not warranted -- it at least should explicitly and at the very outset of INC discussions link further discussion of such alleged inadequacy with the issue of the adequacy of the commitments of the rest of the world's nations.

Otherwise:

- The community of nations is focusing on the wrong issue; and
- The United States has absolutely no bargaining power to negotiate commitments from developing nations as to what they will do to limit their emissions. If INC discussion is limited to adequacy of commitments of Annex I Parties, there is no reason for developing nations even to think about what they can and should do.

While "adequacy of commitments" under Article 4.2(a) and (b) is a topic that must be "reviewed" by the Conference of the Parties at its first meeting (Berlin, late March 1995) and the INC is supposed to "prepare" for that meeting, it must be remembered that Article 7.2(a) requires the Conference of the Parties to "[p]eriodically examine the obligations of the Parties" (emphasis added). That requirement is not limited to obligations of the Annex I Parties alone. Therefore, it is perfectly proper for the United States to insist, during INC preparation for the

first meeting of the Conference of the Parties, that the adequacy of the commitments of Annex I Parties under Article 4.2(a) and (b) not be "reviewed" in isolation and that the commitments of all Parties should be "reviewed" concurrently. The issue of potential global climate change requires that there be global adequacy of commitments.

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United States Department of State

*Bureau of Oceans and International
Environmental and Scientific Affairs*

Washington, D.C. 20520

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Room 4329-A

MESSAGE:

Statement of the U.S. Delegation
at the 9th Session of the
Intergovernmental Negotiating Committee
Framework Convention on Climate Change

Adequacy of Commitments, Article 4.2(a) and (b)

Thank you, Mr. Chairman.

My government welcomes this first discussion of the adequacy of commitments in Article 4.2(a) and (b) of the United Nations Framework Convention on Climate Change. You will understand if I do not quote these commitments -- apparently, many have found them difficult to follow.

The Framework Convention, which will enter into force next month, establishes a critical objective for our efforts now and for many years to come. That ultimate objective is the stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. It notes that this level should be achieved within a time-frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner.

How close are we today to this objective? At present, we have no way of knowing. But let us start from what we know. If we can assume that today's atmospheric concentrations of greenhouse gases are not dangerous, what would it take to stabilize them? In its First Assessment Report nearly four years ago, the Intergovernmental Panel on Climate Change (IPCC) calculated with confidence that the long-lived gases would require immediate reductions in emissions from human activities of over 60 percent to stabilize their concentrations at today's levels; methane would require a 15 to 20 percent reduction.

Are we yet on a path to reducing emissions from human activities? No, we are not. Each year emissions are increasing. Are we yet on a path that will stabilize atmospheric concentrations of greenhouse gases at even triple their current levels? No, we are not. As the IPCC also noted in 1990, the atmospheric concentration of carbon dioxide, at 353 ppmv in 1990, is now about 25 percent greater than the pre-industrial (1750-1800) value of about 280 ppmv, and higher than at any time in at least the last 160,000 years. And it's growing. Are we even approaching the threat of climate change with the long term perspective it demands? No, we are not. Our convention takes us to the year 2000 -- we have not yet begun to look beyond that date, less than six years hence.

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Mr. Chairman, last fall President Clinton released our Climate Change Action Plan, which is designed to reduce our emissions of greenhouse gases to their 1990 levels by the year 2000. As I noted in my opening remarks, we are justifiably proud of this plan. Developing it involved an enormous effort, both public and private. And that effort continues as we implement each of its specific actions.

In addition, through programs such as "Climate Wise" and "Climate Challenge", we are forging new partnerships between government and industry. We are enlisting the enormous resources, ingenuity and creativity of the private sector in pursuit of environmental goals voluntarily adopted. We are changing the way people think and the way they respond.

Having undertaken such an effort, we are as aware as some -- and more aware than others, who have yet to act -- of how complex and difficult coming to grips with this problem can be. Still, the threat we face in global warming does not make our actions optional. As President Clinton said last October, we are dealing with "perhaps the biggest environmental threat to this planet."

Mr. Chairman, this threat will not disappear in the year 2000. The increase in human emissions is unrelenting. Despite our efforts, atmospheric concentrations continue to rise. We must begin now to look beyond the millenium -- to consider approaches and initiatives that will sustain the momentum begun.

For this reason, and for others, we do not consider that the commitments contained in Article 4.2(a) and (b) are adequate, and we urge this Committee to begin a serious effort to explore how we may all further the objective of the convention. The actions of Annex I Parties are clearly important. They have agreed to take the lead in modifying longer-term trends in human emissions. We will have an opportunity next year to review the progress they have made. But global warming is a global problem, and many are concerned that our efforts to date to address it are insufficiently global.

We do not come to this session with specific proposals. We come today with experience, resolve and belief that all nations and all peoples share a common concern for the world they will leave to their children. Recognizing our common but differentiated responsibilities, we must begin to chart a path to the future. We must begin to establish milestones along this path that will ultimately achieve the objective of our convention. We must be willing to discuss, explore, develop and act on proposals that will move us forward.

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Mr. Chairman, we anticipate that some may say it is too soon. Some may suggest that we wait awhile, gain some experience under the convention and defer consideration of the future. Some may urge that we need new science and propose that we await the IPCC's Second Assessment Report. Some may urge that we await the development and evaluation of the national action plans Annex I countries will submit next fall.

In our view, time is a precious commodity. As the IPCC noted four years ago:

"Continuation of present day emissions are committing us to increased future concentrations, and the longer emissions continue to increase, the greater would reductions have to be to stabilise at a given level. If there are critical concentration levels that should not be exceeded, then the earlier emission reductions are made the more effective they are."

In our view, we do not need new science. Most of the countries represented here are involved in preparing the IPCC's Second Assessment Report; while we anticipate further elaboration of many issues, we do not anticipate significant changes in the science, and we believe that the existing science is sufficiently compelling for us to act.

In our view, we do not need to base our review of Article 4.2(a) and (b)'s adequacy on the action plans Annex I countries will submit. These plans are clearly vital to promoting the development of concrete actions to implement existing commitments. Our review of these plans will also be vital to promoting transparency under the convention and to building confidence among the Parties. But even assuming that all existing commitments are fully met -- can we say that the commitments in Article 4.2(a) and (b) are adequate? We think not. We think that the future -- that our children and their children -- demand more of us.

As I said, Mr. Chairman, we will table no specific proposals today. We hope instead to begin a process here that will lead to near-term action. We have no pre-conceptions; a very broad range of possibilities awaits us. We will spend the time between now and our next session in August in a determined effort to identify and evaluate the options. We will work closely with others to determine what more can be done.

But as President Clinton directed his administration in reversing the policy of the past, "we must produce a cost-effective plan...that can continue the trend of reduced emission." And time is not our friend.

Thank you, Mr. Chairman.



*Natural Resources
Defense Council*

February 3, 1994

Vice President Albert Gore, Jr.
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. Vice President:

Thank you for following
through to ensure that the U.S.
takes a leadership role on the need
to strengthen the treaty. This is
of great importance to NRDC.

Best wishes,

A handwritten signature in cursive script, appearing to read "John".

John H. Adams
Executive Director

1650 New York Ave. N.W.
Washington, DC 20005
202 833 7800



Natural Resources
Defense Council

1350 New York Ave. NW
Washington, DC 20005
202 783-7800
Fax 202 783-5917

February 3, 1994

President William J. Clinton
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. President:

I am writing to express my appreciation for the important development in U.S. policy regarding the international Climate Convention negotiations announced by Deputy Assistant Secretary of State Rafe Pomeroy on Tuesday. The Natural Resources Defense Council will welcome a clear statement at the upcoming international meeting that the United States now regards as inadequate the commitments contained in the Climate Convention negotiated by the Bush Administration. This statement will help lay the groundwork for strengthening the Climate Treaty, consistent with your domestic commitment to return greenhouse gas emissions to 1990 levels by 2000, and to continue the trend of reduced emissions thereafter. Your continued leadership will be needed to conclude an international agreement to strengthen the treaty by the first Conference of the Parties in March 1995.

We look forward to continuing to work with you, both to strengthen the international Climate Convention, and to strengthen and implement your domestic Climate Change Action Plan.

Sincerely,

A handwritten signature in cursive script that reads "John Adams".

John H. Adams
Executive Director

Background Note for Climate Meeting

I am somewhat concerned about how we structure our policy discussion leading up to the February INC meeting. This stems from my brief review of the documents used at the last sub-group meeting, and my sense that we cannot have a strategy on the details until we have a broader sense of where we want to go, and how we should get there (a vision). I realize that many of you share my point of view, so perhaps this meeting can help us establish a framework that can be used over the next year leading up to the Meeting of the Parties in 1995.

The obvious starting point is our overall goal for where we want the world to be over the longer term. I don't know the details on the science well, but it seems to me that we want to achieve a trend of reduced emissions globally. Obviously the greater the detail we have on this, the better off we will be, but I think we can begin with something on the vague side and still establish a strategy that is meaningful.

The next step, I think, is to take a look at each of the the country groups that are relevant to this issue -- the developed countries (OECD+), the EITs and the developing countries, and then, for each, set up a matrix of information. This should include to the following questions:

1. What are their commitments (under the Climate Convention, or by verbal commitment)?
2. What is the status of those commitments?
3. What should their goals be (within the context of the overall goal)? We need to look at several options, or a range of options.
4. What tools are available for each group? (The choices should range from modifications of the Convention for developed countries to \$\$\$ for developing countries; should include phasing, kinds of limitations, i.e. technology based v. emissions limits; country programs, development assistance, MDB financing etc.)
5. What should our strategy be for each group? (We need to think along a time line, given the current state of the issue.)

Obviously we don't have answers to all of these questions, but I think it may be useful for us to agree on what the questions are first, and then set about trying to answer some or all of them. This should, I think, play into the February meeting as I believe it would be most useful to move the rest of the world to an understanding of the right questions before they begin to haggle over the language of a particular article.

Maybe we can use this as a basis for our discussion.

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Intergovernmental Negotiating Committee
for a
Framework Convention on Climate Change
Ninth Session, February 7-28, 1994, Geneva

AGENDA ITEM: 2(d)

DOCUMENT: A/AC.237/47

ISSUE: Review of Adequacy of Commitments in Article 4.2(a) & (b)

BACKGROUND:

- Article 4(2)(d) of the Convention provides that the Conference of the Parties "shall, at its first session, review the adequacy of subparagraphs (a) and (b)" and that the Conference of the Parties shall take appropriate action "based on this review."
- Article 4(2)(d) provides that the review of adequacy "shall be carried out in the light of the best available scientific information and assessment on climate change and its impacts, as well as relevant technical, social and economic information". Further, the Convention implies that adequacy needs to be evaluated, at least in part, as against the objective of the Convention.
- The INC Secretariat paper for this issue does not address options for substantive recommendations should the review conclude the articles are inadequate; instead it lists processes under which action might be taken, including amendments and protocols to the FCCC, or a resolution adopted by the COP at its first session.
- The Secretariat paper notes relevant information the INC may wish to consider in carrying out its review, including:
 - technical analysis and synthesis of information on the global situation based on national communications;
 - recommendations by the Subsidiary Body on Implementation (or whatever organ carries out that body's function prior to COP 1);
 - reports of the IPCC -- or compilations of scientific data by the Subsidiary Body for Scientific and Technological Advice (or whatever organ carries out that body's function prior to COP 1).

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- Finally, the Secretariat paper raises questions on possible follow-up activities for the INC, including making recommendations on:
 - the extent to which COP 1 will be able to address the adequacy issue in light of the timing of the first COP meeting and the availability of national communications; and
 - possible scenarios for COP 1, in particular the kind of decisions and follow-up that might result from the review of adequacy.

U.S. POSITION:

Substantive Issues:

- The U.S. should state that the FCCC Articles 4.2(a) and (b) are inadequate as currently written.
- The current FCCC requirements lead to shortfalls in at least the following three respects:
 - The return to 1990 levels by 2000 is not obligatory, and even were it legally binding, the net result would likely be only a 2-3% reduction in global emissions -- not enough to stabilize atmospheric concentrations;
 - The Convention has no provision regarding a post-2000 regime; and
 - Only Annex 1 countries have commitments -- while the problem will only be solved with global action. [Note: this point is likely to be extremely sensitive for developing countries which may resist any changes requiring commitments on their part that are not linked to full funding to meet them.]
- The U.S. should, however, make it clear that conclusions regarding the inadequacy of the commitments do not, unfortunately, lead directly to concrete proposals for amendments or protocols, and that decisions on next steps need to be the focus of discussions at subsequent INC sessions.

Process Issues:

- The issue of the adequacy of commitments should begin with an examination of how the current commitments are inadequate, then address how to solve these shortcomings in a conceptual way, and only lastly try to examine the details

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of how to implement these solutions in the form of concrete textual emendations, new agreements or other proposals.

- Examination of inadequacy may be addressed using the following three questions:
 - WHO are the participants (e.g., the current convention calls for significant responsibilities only from OECD countries, less from CWEITs, and very little for developing countries);
 - WHAT are the commitments (e.g., the FCCC calls for return to 1990 levels by 2000 -- but only in a very soft "aim at" way); and
 - WHEN, or what is the TIMEFRAME (e.g., the FCCC uses a 1990 level at 2000 as the timeframe).
- It may be useful to separate the discussion into two parts: long-term and short-term approaches.
 - In the longer term, to meet the Convention's objective, it will be necessary to put global emissions on a downward trend.
 - In the shorter term, actions with outcomes in the 2000 to 2010 timeframe need to be considered.
- While the "adequacy" of the commitments should be gauged on the basis of the FCCC's objective, we should oppose dwelling exclusively on efforts to quantify commitments based on Article 2 language alone:
 - First, we are no closer to having a quantitative understanding of the objective ("dangerous interference") than we were when the Convention was negotiated. Thus, some might argue that it is difficult to assess adequacy against an unknown.
 - Second, for every argument that we could potentially put forward based on the objective, someone else could put forward counter-arguments also based on the objective. Such a back-and-forth could divert our attention and energy away from the real task at hand, namely to address the problem of climate change.
- Thus, we should try to steer the discussion of adequacy towards a discussion on the merits, and away from potentially contentious debates on textual arguments.

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- The U.S. should not support waiting for either the interim or Second IPCC Assessment reports prior to taking action on the adequacy issue.
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- The U.S. should support continued discussion of this issue under the mandate assigned to INC Working Group I; it is not necessary to wait for COP 1 (and formal meetings of the subsidiary bodies) to begin to consider next steps for this issue.
- The U.S. should stress throughout the need to build consensus on additional actions; developing a regime with strict standards that few if any countries can meet will be counter-productive in leading to global reductions of greenhouse gas emissions.

drafted: OES/EGC - JCPershing
SEEGC 5781
1/5/94
ext 7-4069

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Intergovernmental Negotiating Committee
for a
Framework Convention on Climate Change
Ninth Session, February 7-28, 1994, Geneva

AGENDA ITEM: 2(d)

DOCUMENT: A/AC.237/47

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**United States Department of State***Bureau of Oceans and International
Environmental and Scientific Affairs**Washington, D.C. 20520*

December 8, 1993

TO:

DOE - Ted Williams Fax: 586-2062
DOE - Abe Haspell Fax: 586-3047
EPA - Dennis Tirpak Fax: 260-6405
→ OEP - Marc Chupka Fax: 456-2710
NSC - David Doniger Fax: 395-1590

FROM: OES/EGC - Lee Graham *LM* Acting

SUBJECT: OECD National Action Plan Project

Attached are two items resulting for the OECD's work on the climate change action plan project: (1) the 1st rough draft discussion paper prepared by the OECD for use at the experts meeting January 17-19 in Berlin; and (2) a proposed outline for the "non-paper" that would be agreed to at the Berlin experts meeting for submission to the INC at the 9th session in February.

→ The OECD has asked us for our views on these papers by December 14 in time to prepare a revised text before Christmas. In order to meet their deadline, please provide Jonathan Pershing (fax: 647-0191) with your comments no later than OOB, Monday December 13 so they can be compiled and returned in time.

On a related matter, the U.S. has been invited to send three experts to the OECD meeting in Berlin, and to inform the OECD of the names of our proposed participants by December 15. At the last session, the U.S. was represented by Jonathan Pershing, Dennis Tirpak and Ted Williams. Please let me know as soon as possible whether these same individuals or others should/will attend on behalf of the U.S.

PRELIMINARY FINDINGS: GREENHOUSE GAS INVENTORIES

Under the Framework Convention on Climate Change, Annex 1 Parties are asked to:

"Develop, periodically update, publish and make available to the Conference of the Parties, in accordance with Article 12, national inventories of anthropogenic emissions by sources and removal by sinks of all greenhouse gases not controlled by the Montreal Protocol, using comparable methodologies to be agreed upon by the Conference of the Parties" (Article 4, Paragraph 1(a)).

"...communicate to the Conference of the Parties, through the secretariat...a national inventory of anthropogenic emissions by sources and removal by sinks of all greenhouse gases not controlled by the Montreal Protocol, to the extent its capacities permit, using comparable methodologies to be promoted and agreed upon by the Conference of the Parties" (Article 12, Paragraph 1(a)).

A. RATIONALE

Greenhouse gas inventories are an important tool for assessing progress toward achieving the objectives of the Framework Convention on Climate Change. A submission to the Conference of the Parties should be:

- **Complete** - To allow monitoring of all possible anthropogenic contributors (sources and sinks) to climate change not already controlled by the Montreal Protocol.
- **Comparable** - To facilitate review, summary and possibly aggregation of inventories.
- **Transparent** - To enable a third party to reconstruct the inventory from national activity data and assumptions and evaluate the reasonableness of the results.

B. BASE YEAR

- All OECD countries should provide inventory data for the base year 1990.
- Countries with economies in transition should provide inventory data for their base year (which may be different from 1990 if the country chooses to use Article 4.6 of the FCCC).

Need for Discussion

1. Should all countries be asked to provide a 1990 greenhouse gas emissions inventory, even if, as is the case in countries with economies in transition, this is not their base year?

2. The guidelines developed by the IPCC encourage the averaging over a number of years of emission estimates for certain sectors (e.g., agriculture, forestry) provided that such a procedure is clearly documented. This has been done because technical experts have stated this is likely to provide more representative results in those sectors. Should countries, however, be allowed to use the average of a multi-year period across all sectors to construct their base year inventory?

C. COVERAGE OF GASES

- Parties should strive to provide inventory data on all anthropogenic sources and sinks of greenhouse gases not controlled by the Montreal Protocol. At a minimum, Parties must provide data with respect to the major direct greenhouse gases: CO₂, CH₄, and N₂O. Parties should also make best efforts to provide inventory data for ozone precursors: NO_x, NMVOCs and CO. In addition, HFCs, PFCs and sulphur gases (including but not limited to SO₂) should be included in inventories when data are available.
- Data may also be provided on emissions of gases controlled by the Montreal Protocol (CFCs and HCFCs), but these data must be presented separately from the summary greenhouse gas inventory.

D. PRESENTATION OF DATA

Parties should follow the IPCC Guidelines for the reporting of greenhouse gas inventories. Those Parties currently using the CORINAIR methodology will be receiving a software package that will allow them to convert their data into the IPCC format.¹ Some examples of the Guidelines with respect to the presentation of data include:

- Emissions data should be presented in Gg or thousand metric tonnes.
- Emissions data should be presented on a gas by gas basis.²
- Inventory data should be disaggregated as specified in the IPCC recommendations into source and sink categories (sectors).

Need for Discussion

1. Should reporting Guidelines also encourage Parties to report their aggregate inventory data in other forms, such as greenhouse gas emissions per capita, or per unit of GDP?

E. USE OF GLOBAL WARMING POTENTIALS

Need for Discussion

1. Is it acceptable to use global warming potentials to integrate greenhouse gas inventories in carbon equivalent terms at either the national level or the sectoral level?

In the event that agreement can be reached on the use of global warming potentials to integrate greenhouse gas inventories, there would need to be additional agreement with respect to:

- Completeness - All Parties would have to agree on what gases can be integrated through the use of global warming potentials.

¹. CORINAIR is the greenhouse gas inventory system used within the European Community and it is being introduced into 10 of the 12 Annex 1 countries with economies in transition.

². It should be noted that when the term 'gas by gas' is used, the word gas sometimes refers to a collection of chemical species like NMVOCs.

- **Comparability** - To ensure comparability at either the national or sectoral level, all Parties should:
 - (a) use the same global warming potential values.
 - (b) have complete inventories (all sources and sinks) for CO₂, CH₄, and N₂O, for the inventory data (national or sectoral) being integrated with global warming potentials.
- **Transparency** - Inventory data would have to be presented on a gas by gas basis as well as on a carbon equivalent basis.

F. PRESENTATION OF METHODOLOGIES AND ASSUMPTIONS

Parties should follow the IPCC Guidelines for the reporting of greenhouse gas inventories. Some examples of the Guidelines with respect to the presentation of methodologies and assumptions include:³

- All estimation methods that differ from IPCC default methods should be fully described.
- In the event that a country has not used the IPCC default methods to estimate CO₂ emissions from fuel combustion, the country should also present estimates using the default method as a check against its own work and to ensure transparency and comparability.
- All key assumptions (activity data and emission factors) must be documented through data tables.
- Full references must be provided to source documents.
- Any new research findings and source documents that were relied on to develop the inventory should be highlighted.

G. TREATMENT OF UNCERTAINTY

There are many different possible sources of uncertainty in greenhouse gas inventories and these must be addressed with respect to each source/sink category. IPCC Guidelines request Parties to assign qualitative rankings of uncertainty to each of the major source/sink categories of the gas by gas inventory. The Guidelines also provide countries with the opportunity to report ranges for each category of gas, while at the same time requiring countries to provide, at a minimum, point estimates.

Need for Discussion

1. *Is it possible to provide scientifically credible quantitative estimates of uncertainty in the emissions data contained in greenhouse gas inventories?*

H. INTERNATIONAL BUNKERS

Need for Discussion

1. *Do countries have the ability to separate emissions associated with air and marine transportation into domestic and international components as requested by the IPCC Guidelines?*

³ It is hoped that the software package being developed for countries using the CORINAIR methodology will also enable countries to meet the IPCC Guidelines with respect to the presentation of methodologies and assumptions.

I. PERIODICITY OF THE INVENTORY

Need for Discussion

1. Should the submission to the Conference of the Parties include a complete greenhouse gas inventory for:

(a) the base year alone?

(b) the base year and the most recent year with adequate data?

(c) the base year and subsequent years at standard intervals (anywhere between two and five years)?

(d) the base year and each subsequent year?

2. If it is impossible to provide a complete greenhouse gas inventory on an annual basis, would it be useful for Parties to:

(a) submit partial inventories (e.g., energy-related CO₂) for each year?

(b) provide an annual update highlighting significant changes from the previous complete inventory?

J. SUBMISSION OF INFORMATION TO THE COP

Transparency requires that a third party be able to reconstruct the inventory from national activity data and assumptions and verify the reasonableness of the results. This requires the presentation of a significant amount of information. Parties are unlikely to want to put so much information in their National Communication.

Need for Discussion

1. What information should be included in the National Communication, and what information should be provided to the CoP through additional technical documents?

K. COUNTRIES WITH ECONOMIES IN TRANSITION

Countries with economies in transition are less able to prepare comprehensive inventories of greenhouse gases than other Annex 1 countries. Some observations on the special situation of countries with economies in transition include:

- Most countries with economies in transition can prepare inventories of emissions related to fuel combustion. There are reliability problems, however, with data from the current transition period because many new private actors now fall outside the bounds of government statistics collection.
- In general, countries with economies in transition have done little work on the preparation of complete (all greenhouse gas sources and sinks) inventories. Some have, however, begun to work with either the IPCC Guidelines, the CORINAIR programme, or have received assistance from other Annex 1 countries to develop more complete inventories.

- Countries with economies in transition are likely to require further international assistance if they are to provide a complete greenhouse gas inventory in their first National Communication. Even then, the absence of reliable national activity data and emission factors means that such inventories could be much improved in subsequent years.

Need for Discussion

1. Should economies in transition have a different set of Guidelines for the reporting of greenhouse gas inventories than other Annex I Parties?

PRELIMINARY FINDINGS: DESCRIPTION OF POLICIES, PROGRAMMES AND MEASURES

Under the Framework Convention on Climate Change, Annex 1 Parties are committed to

"...adopt national policies and take corresponding measures on the mitigation of climate change, by limiting its anthropogenic emissions of greenhouse gases and protecting and enhancing its greenhouse gas sinks and reservoirs. These policies and measures will demonstrate that developed countries are taking the lead in modifying longer-term trends in anthropogenic emissions...recognizing that the return by the end of the present decade to earlier levels of anthropogenic emissions of carbon dioxide and other greenhouse gases not controlled by the Montreal Protocol would contribute to such modification...." {Article 4, Paragraph 2(a)}.

Annex 1 Parties are then asked to communicate:

"...detailed information on its policies and measures referred to in subparagraph (a) above...." {Article 4, Paragraph 2(b)}.

"a detailed description of the policies and measures that it has adopted to implement its commitment under Article 4, paragraphs 2(a) and 2(b)...." {Article 12, Paragraph 2(a)}.

NOTE: The FCCC also requires countries to report on policies and measures they have adopted with respect to climate change adaptation, education, training and public awareness, research and systematic observation, and international cooperation. The following text does not discuss reporting with respect to these other FCCC commitments.

A. RATIONALE

The description of policies, programmes and measures in National Communications is an important tool for assessing progress towards the objectives of the Framework Convention on Climate Change. A submission to the Conference of the Parties should be:

- Complete - include a description of all policies, programmes and measures that the Party believes make a significant contribution to the Party's efforts to limit emissions and enhance sinks of all greenhouse gases.
- Comparable - provide a framework for review and summary of the actions being taken by all Parties in specific source/sink sectors.
- Transparent - provide enough information to enable a third party to understand:
 - a) the nature of the policy, programme or measure and its objective in terms of the gas(es) and sector(s) targeted.
 - b) each policy, programme or measure's degree of implementation.
 - c) how each policy, programme or measure's effectiveness will be monitored (and in subsequent National Communications, information on the results of the monitoring).

B. MEASURES TO BE DESCRIBED IN THE COMMUNICATION

- Each Party should describe all policies, programmes or measures which, in the eyes of the Party, make a significant contribution to its efforts to implement the FCCC with respect to the reduction of greenhouse gas emissions and the enhancement of greenhouse gas sinks. Actions that are described need not have as their primary objective the limitation of greenhouse gas emissions.
- Each Party should describe policies, programmes and measures taken by the national government, but should also be free to provide information on actions taken by regional and local governments, or the private sector. Care must be taken, however, to avoid 'double-counting'.
- Each Party should feel free to describe policies, programmes or measures that use any type of policy instrument, be it regulatory, fiscal, education, research and development or others.
- Joint implementation initiatives can also be included, but they must not be counted towards a Party's emission limitation commitments until the international discussions within the INC and the CnP with respect to joint implementation have been concluded. These initiatives should be described in a separate section of the National Communication of both Parties involved. The structure and content of the description of joint implementation measures should be similar to that for all other measures. Parties may add additional information if they desire at this time, but the final structure and content for the description of joint implementation initiatives will only be determined after there has been further discussion within the INC on the joint implementation issue.

Need for Discussion

1. *Should policies, programmes and measures implemented before the base year should be described in detail in the National Communication?*
2. *Should policies, programmes and measures that have not yet been implemented or committed to by the responsible government be described in detail in the National Communication?*

C. KEY INFORMATION TO BE INCLUDED IN THE DESCRIPTION

Parties should include the following information in their description of individual policies, programmes and measures in the National Communication:

- Objective of the policy, programme or measure in terms of the gas(es) and sector(s) targeted.
- Type of policy instrument (e.g., regulatory, fiscal, education, research and development).
- How the policy, programme or measure significantly interacts with other policies, programmes or measures described to reduce greenhouse gas emissions or enhance greenhouse gas sinks.
- Degree of implementation (e.g., implemented, adopted but not yet implemented, committed to but not yet adopted, proposed, etc.). As the political process differs between countries, all Parties should include in their National Communication (probably in a section on National Circumstances), a brief description of their government's policy-making process that could be referred to when describing the degree of implementation of policies, programmes and measures.

- How the policy, programme or measure is expected to work or is working (who, what, when, where and how).
- Future milestones for the policy, programme or measure (may be activity related rather than greenhouse gas emission related).

D. STRUCTURE OF THE DESCRIPTION OF POLICIES, PROGRAMMES AND MEASURES

Policies, programmes and measures should be organised by sector. This should, to the extent possible, parallel the source-sink categories set out in the inventory. The description of policies, programmes and measures should be structured as follows:

- Primary Energy Production (including extraction/distribution)
- Energy Transformation (transformation/generation/conversion)
- Transport and Traffic Sector
- Industrial Sector (energy-related or process-related)
- Residential and Commercial Sector (energy-related)
- Agricultural Sector (non-energy)
- Forestry Sector and Land Use Changes
- Waste Management
- Cross-Sectoral

E. COUNTRIES WITH ECONOMIES IN TRANSITION

Greenhouse gas emissions have fallen significantly in countries with economies in transition as a result of economic recession and significant economic restructuring. Little of the decline can be attributed to policies and measures that are primarily designed to limit greenhouse gas emissions or enhance the removal of greenhouse gases through sinks. Nonetheless, many government policies that have been designed to assist the transition to a market economy (e.g., energy price increases) do have a significant impact on greenhouse gas emissions. An observation on the special situation of countries with economies in transition is:

- Countries with economies in transition can meet the same reporting requirements as other Annex 1 countries with respect to the description of programmes, policies and measures. There are likely to be, however, fewer actions to report on in these countries and their impact on greenhouse gas emissions will be largely indirect.

PRELIMINARY FINDINGS: PROJECTION OF GREENHOUSE GAS EMISSIONS

Under the Framework Convention on Climate Change, Annex 1 Parties are committed to

"...adopt national policies and take corresponding measures on the mitigation of climate change, by limiting its anthropogenic emissions of greenhouse gases and protecting and enhancing its greenhouse gas sinks and reservoirs. These policies and measures will demonstrate that developed countries are taking the lead in modifying longer-term trends in anthropogenic emissions...recognizing that the return by the end of the present decade to earlier levels of anthropogenic emissions of carbon dioxide and other greenhouse gases not controlled by the Montreal Protocol would contribute to such modification...." (Article 4, Paragraph 2(a)).

Annex 1 Parties are then asked to communicate:

"...detailed information on its policies and measures referred to in subparagraph (a) above, as well as on its resulting projected anthropogenic emissions by sources and removals by sinks of greenhouse gases not controlled by the Montreal Protocol for the period referred to in subparagraph (a)...." (Article 4, Paragraph 2(b)).

"...a specific estimate of the effects that the policies and measures...(adopted to implement commitments under Article 4, paragraphs 2(a) and 2(b))...will have on anthropogenic emissions by its sources and removal by its sinks of greenhouse gases during the period referred to in Article 4, paragraph 2(a)...." (Article 12, Paragraph 2(b))

A. RATIONALE

The estimation of effects on greenhouse gas emissions of policies and measures is an important tool for assessing progress towards the objectives of the Framework Convention on Climate Change. Views vary on what the FCCC actually requires with regard to estimating the effects on greenhouse gas emissions of policies and measures. Based on a review of the FCCC text, and our discussions with officials from various countries, we suggest that a submission to the Conference of the Parties should, at a minimum, be:

- Complete - all Parties should:
 - (a) present a projection of future greenhouse gas emissions that, to the extent possible, incorporates the effects of policies and measures that have been implemented or committed to when the National Communication is produced.
 - (b) provide, to the extent possible, a specific estimate of the total effect on greenhouse gas emissions of all policies and measures that the Party believes make a significant contribution to its efforts to implement the FCCC with respect to the reduction of greenhouse gas emissions and the enhancement of greenhouse gas sinks.
- Comparable - a common framework (e.g., timelines used, presentation of data, treatment of uncertainty) should be used by all Parties when projecting future greenhouse gas emissions and providing a specific estimate of the effects of policies and measures in order to achieve comparability.

- **Transparent** - enough information should be provided to enable a third party to acquire:
 - a) a qualitative understanding of the approach used to project anthropogenic greenhouse gas emissions after the implementation of policies and measures and a quantitative understanding of the key assumptions used to make the projection.
 - b) a qualitative understanding of the approach used to provide a specific estimate of the total effect of policies and measures on future greenhouse gas emissions and removals, as well as a quantitative understanding of the key assumptions used to develop the specific estimate.
 - c) a qualitative discussion of the relationship between these approaches and the results generated.

Need for Discussion

1. *Does transparency require that Parties provide a projection of greenhouse gas emissions that does not incorporate the effect of all significant policies and measures already implemented or committed to when the National Communication is produced (baseline or reference projection)?*
2. *Is it desirable for Parties to provide a specific estimate of the effects of policies and measures that have not yet been adopted or committed to?*
3. *Does transparency require that Parties provide estimates of the effect on future greenhouse gas emissions of individual policies and measures as opposed to simply providing an aggregate number?*
4. *In developing a specific estimate of the effects of policies and measures, how should Parties account for policies and measures that they believe are impossible to quantify in terms of their effect on emissions?*

Issues identified above as requiring discussion were the most controversial issues discussed during our reviews. The answers to these questions can have a significant impact on the type of recommendations that could be made with respect to the projection of greenhouse gas emissions in National Communications.

B. TIMELINE FOR PROJECTIONS/ESTIMATES

- Projections of anthropogenic greenhouse gas emissions and removals should indicate emission and removal levels in the year 2000.
- Specific estimates of the effects of policies and measures should indicate the effects of those policies and measures in the year 2000, and should be incorporated in the projection of anthropogenic greenhouse gas emissions and removals.

Need for Discussion

1. *There seems to be general agreement that projections of future anthropogenic greenhouse gas emission and removal levels can usefully be extended 10-15 years into the future (some believe the projection becomes too speculative after that time). Should Parties be encouraged to provide projections that extend beyond the year 2000 (e.g., 10-15 years into the future)?*

2. When Parties provide results from their projection of future anthropogenic greenhouse gas emissions and removals, and their specific estimate of the effects of policies and measures, will one figure for the year 2000 suffice? If this is not adequate, should Parties present results on a year by year basis, or should results for other interim years (e.g., 1997) be requested?

C. CONTENT OF PROJECTIONS/ESTIMATES

- Projections of future anthropogenic greenhouse gas emissions and specific estimates of the effects of policies and measures should, to the extent possible, be made with respect to all greenhouse gases (sources and sinks) reported in the inventory. At a minimum, projections and estimates should provide information on the three major direct greenhouse gases: CO₂, CH₄, and N₂O.

D. PRESENTATION OF PROJECTIONS/ESTIMATES

- Projection of future anthropogenic greenhouse gas emissions and specific estimates of the effects of policies and measures should be presented on a gas by gas basis.

Need for Discussion

1. Should projections of future anthropogenic greenhouse gas emissions and specific estimates of the effects of policies and measures be provided on a disaggregated source/sink basis that parallels the inventory, or does a gas by gas approach suffice?

E. USE OF GLOBAL WARMING POTENTIALS

Need for Discussion

1. Is it acceptable to use global warming potentials to integrate greenhouse gases in projections of future anthropogenic greenhouse gas emissions or specific estimates of the effects of policies and measures?

In the event that agreement can be reached on the use of global warming potentials to integrate greenhouse gases in projections of future anthropogenic greenhouse gas emissions and specific estimates of the effects of policies and measures, there would need to be additional agreement (as identified in the section of this paper on greenhouse gas inventories) with respect to completeness, comparability, and transparency.

F. TREATMENT OF UNCERTAINTY

- Any projection of future anthropogenic greenhouse gas emissions must include a qualitative discussion of the uncertainty associated with the projection and its underlying assumptions.
- Any specific estimate of the effect of policies and measures on future greenhouse gas emissions must include a qualitative discussion of the uncertainty associated with the estimate and its underlying assumptions.

Need for Discussion

1. Sensitivity analysis (showing how projections/specific estimates would change with a change in a major assumption) are one method of highlighting uncertainty. Should Parties be requested to make use of sensitivity analysis and report on the results?

G. PRESENTATION OF METHODS AND ASSUMPTIONS

- Models and approaches used to develop projections/specific estimates must be described, including an indication of their credibility within the scientific community (e.g., peer-review).
- Key input assumptions to the model/approach must be clearly stated. Key assumptions will differ with the model/approach used. If assumptions relevant to the Party's model/approach are included in the following list, the actual value should be reported for the base year (1990 in most cases) and the assumed value for the year 2000.
 - (a) World Oil Price
 - (b) Domestic Energy Prices (including electricity)
 - (c) GDP Level and Growth Rate (should be consistent with economic forecasts used by the Party)
 - (d) Population Level and Growth Rate
 - (e) Interest Rate
 - (f) Rate of Autonomous Energy Efficiency Improvement
 - (g) Total Housing, Including Turnover
 - (h) Commercial Floor Space, Including Turnover
 - (i) Index of Manufacturing Production
 - (j) Index of Industrial Production
 - (k) Average New Vehicle Fuel Economy
 - (l) Vehicle Kilometres Travelled
 - (m) Policy Context (with significant policies, programmes and measures in the context of greenhouse gas emissions/removals described according to a common format)
 - (n) Rate of Penetration and Absolute Levels of New End-Use Technologies
- Key outputs of the model/approach (other than those relating to greenhouse gas emissions) should also be reported. If the model/approach used by a Party provides outputs included in the following list, the actual value should be reported for the base year (1990 in most cases) and the projected value for the year 2000.
 - (a) Primary Energy Production by Fuel Type (Petajoules) - except coal (millions of tonnes)
 - (b) Primary Energy Demand by Fuel Type (Petajoules) - except coal (millions of tonnes)
 - (c) Energy Demand by Sector (Petajoules)
 - (d) Final Energy Consumption by End-Use (Petajoules)
 - (e) Head of Livestock (thousands by species)
 - (f) Rice Cultivation (area cultivated in hectares)
 - (g) Nitrogen Fertilizer and Manure Use (tonnes of nitrogen)
 - (h) Forest Area Cleared (thousands of hectares)
 - (i) Waste Landfilled (tonnes)
 - (j) Wastewater Biochemical Oxygen Demand (kg)

H. MODELS/APPROACHES TO BE USED

- The CoP cannot realistically aim to establish common models/approaches for use by all Parties in the development of projections/specific estimates. Accordingly, Parties should be free to work with the models/approaches they are most familiar with and that, in their view, provide the most accurate results for their country.

- Whatever model/approach is used to project future anthropogenic greenhouse gas emissions, the Party must integrate and take into account the key determinants of emissions (identified by the key variables noted above).
- When estimating the specific effect of policies and measures on greenhouse gas emissions, countries should use a detailed end-use/sectoral approach. An effort must also be made, however, to account for any overlap that may exist between policies and measures, and to account for the impact of the specific effect of policies and measures on the economy, and subsequently the greenhouse gas emissions level.
- No matter what model/approach is used, its strengths and weaknesses should be briefly summarized.

I. SUBMISSION OF INFORMATION TO THE COP

A large amount of information is required to enable a third party to understand the approach used to project anthropogenic greenhouse gas emissions and removals and the approach used to provide a specific estimate the effects of policies and measures. This information is likely to be more extensive than most countries are willing to put in their National Communication.

Need for Discussion

1. What information should be included in the National Communication, and what information should be provided to the CoP through additional technical documents?

J. COUNTRIES WITH ECONOMIES IN TRANSITION

Uncertainty around the projection of anthropogenic greenhouse gas emissions and specific estimates of the effects of policies and measures is exacerbated in countries with economies in transition. Some observations on the special situation of countries with economies in transition include:

- Countries with economies in transition cannot rely on historical economic data to develop models/approaches to project greenhouse gas emissions, because the current and future economies will bear little resemblance to this historical record.
- Current economic data in countries with economies in transition is unreliable since many elements of the economic activity now fall outside the scope of government statistical programs.
- It is impossible to estimate when this period of economic transition will end and serious economic instability will cease.

Need for Discussion

The use of any approach/model to project future anthropogenic greenhouse gas emissions or provide specific estimate of the effects of policies and measures is bound to be less accurate in countries with economies in transition because data are often poor and assumptions are more speculative than in more stable economies.

1. Should economies in transition have a different set of guidelines for projecting greenhouse gas emissions and estimating the effects of measures than other Annex I Parties?

PRELIMINARY FINDINGS: GLOBAL ASSESSMENT BY THE CONFERENCE OF THE PARTIES

Under the Framework Convention on Climate Change, the Conference of the Parties is asked to:

"Assess, on the basis of all information made available to it in accordance with the provisions of the Convention, the implementation of the Convention by the Parties, the overall effect of the measures taken pursuant to the Convention, in particular environmental, economic and social effects as well as their cumulative impacts and the extent to which progress towards the objective of the Convention is being achieved;...." (Article 7, Paragraph 2(c))

A. USE OF PROJECTIONS BY THE CONFERENCE OF THE PARTIES

- The Conference of the Parties should not attempt to aggregate emission projections provided to it by each Annex 1 Party through National Communications. This would lead to erroneous conclusions about the future.
- The Conference of the Parties can use the projections and underlying assumptions about key variables as an indicator of the future direction of greenhouse gas emissions trends. In this manner, the projections could usefully serve as one of the many tools the Conference of the Parties will have to use to conduct a global assessment of progress.

Need for Discussion

1. *Would it be useful to ask all countries to provide one projection of future anthropogenic greenhouse gas emissions that uses a common assumption about future world oil prices?*
2. *Should the Conference of the Parties use the assumptions contained in the National Communications as the basis for a global projection of greenhouse gas emissions constructed with a single forecasting tool?*

Adequacy of Commitments

I. Fundamental Questions

- The issue of the adequacy of commitments should begin with an examination of how the current commitments are inadequate, then address how to solve these shortcomings in a conceptual way, and only lastly try to examine the details of how to implement these solutions in the form of concrete textual emendations or agreements.
- Examination of inadequacy may be addressed using the following three questions:
 - WHO are the participants (e.g., the current convention calls for significant responsibilities only from OECD countries, less from CWEITs, and very little for developing countries);
 - WHAT are the commitments (e.g., the FCCC calls for return to 1990 levels by 2000 -- but only in a very soft "aim at" way); and
 - WHEN, or what is the TIMEFRAME (e.g., the FCCC uses a 1990 level at 2000 as the timeframe).
- The current FCCC requirements lead to shortfalls in all three respects:
 - Only Annex 1 countries have commitments -- the problem will only be solved with global action;
 - The return to 1990 levels by 2000 is not obligatory, and even were it legally binding, the net result would likely be only a 2-3% reduction in global emissions -- not enough to stabilize atmospheric concentrations; and
 - The Convention has no provision regarding a post-2000 regime.
- It may be useful to separate the discussion into two parts: long-term and short-term approaches.
 - In the longer term, to meet the Convention's objective, it will be necessary to put global emissions on a downward trend.
 - In the shorter term, next steps such as using a 2010 timeframe for actions, continued stabilization post-2000, or agreements on non-CO2 greenhouse gases may all be considered.

II. Convention Issues

- Article 4(2)(d) of the Convention provides that the Conference of the Parties "shall, at its first session, review the adequacy of subparagraphs (a) and (b) above."
- The Convention does not indicate against what the "adequacy" of the subparagraphs is to be evaluated.
- One could argue that adequacy should be evaluated in light of the objective (Article 2) of the Convention. While we could certainly construct arguments to support a finding of inadequacy based on the objective, there are potential downsides with such an approach:
 - First, we are no closer to having a quantitative understanding of the objective ("dangerous interference") than we were when the Convention was negotiated. Thus, some might argue that it is difficult to assess adequacy against an unknown.
 - Second, for every argument that we could potentially put forward based on the objective, someone else could put forward counter-arguments also based on the objective. Such a back-and-forth could divert our attention and energy away from the real task at hand, namely to address the problem of climate change.
- Thus, we should try to steer the discussion of adequacy towards a discussion on the merits, not on the basis of textual arguments.

III. Role of Science

- Article 4(2)(d) provides that the review of adequacy "shall be carried out in the light of the best available scientific information and assessment on climate change and its impacts, as well as relevant technical, social and economic information" and that the Conference of the Parties shall take appropriate action "based on this review."
- Some have apparently argued that the COP cannot take action without a review of new science. There does not appear to be textual support for that position. Rather, the only requirement appears to be that the COP consider the "best available" scientific information at the time of the first session. Of course, the COP could decide not to take any action until the IPCC releases its next assessment, but it is not required by the Convention to do so.

- It has also been noted that, because of some quirky language in Article 4(2)(d), it might be argued that neither a protocol nor an amendment could be adopted at the first very meeting of the parties. Because any "appropriate action" by the parties is supposed to be taken based on the review of scientific and other information that the parties conduct at their first meeting, it could be argued that any protocol or amendment circulated six months before that review could not possibly have taken into account such review of information. However, this argument is flawed: there does not appear to be any reason why a proposed protocol/amendment could not be structured flexibly enough so that the variant ultimately adopted was sufficiently "based on the review" to pass legal muster.

IV. Next Steps

- The following options for near-term additional actions may provide a basis for discussion:
 - 1) Annex II countries reduce emissions to 90% of their 1990 levels by the year 2010, counting joint implementation.

*CO2?
all ghg.*

 - This approach deals explicitly with the "what" and the "when" and implicitly with the "who" (i.e., it assumes that CWEITs and developing countries will be assisted through JI, but that CWEITs do not have to meet these obligations).
1.
 - 2) Annex II countries negotiate an agreement to use best available technologies to reduce emissions of all non-CO2 greenhouse gases.
 - This deals with the "what" and the "who"; it does not address the timeframe or provide specific tasks or goals against which progress could be measured.
 - 3) Annex II countries negotiate "common measures" such as taxes, sectorally based standards (e.g., minimum efficiencies for new steam boilers), or technology R&D efforts (e.g., multilateral agreements to push development of hydrogen fuel technology).
 - This addresses the "who", remains vague on the "what", and does not address the "when" at all.
 - 4) Commit all countries to achieve a downward trend in global emissions by 2040.
 - Addresses "what" (albeit vaguely), "when" and "who"; explicit actions needed to undertake this commitment may be difficult to negotiate.

V. Legal Means of Changing the Convention

1. A Protocol

- A protocol is a separate legal instrument, which, in addition to the enhanced greenhouse gas commitment, would have to contain other treaty clauses that would have to be negotiated. While such clauses could be pro forma, the fact that a new legal document was being negotiated might invite countries to raise issues going beyond Article 4.
- It could be negotiated before the Convention enters into force (although this would likely require the establishment of a new negotiating forum or expansion of the INC mandate), but could only be adopted at the earliest six months after the Convention has entered into force. (Under Article 17, the text of a proposed protocol must be communicated to the parties at least six months before the meeting of the parties that is to adopt it.)
- It is not yet known how many Convention parties (e.g., two-thirds, three-fourths) would be required to adopt a protocol; this issue was left to the Convention's rules of procedure, which will be elaborated over the next year and adopted at the first meeting of the Conference of the Parties once the Convention enters into force.
- A protocol would only be binding on those States that elected to become party to it.
- When a protocol would enter into force would be determined by the protocol itself. (The rules governing protocols were largely omitted from the Convention, leaving such decisions to individual protocols.)
- A protocol would likely be sent to the Senate for advice and consent to ratification.

2. An Amendment

- It is clearly contemplated in the Convention that a modification of Article 4's developed country greenhouse gas commitment could be accomplished through an amendment. Specifically, Article 4(2)(d) provides:

"Based on this review [of scientific, technical, social and economic information], the Conference of the Parties shall take appropriate action, which may include the adoption of amendments to the commitments in subparagraphs (a) and (b) above." (emphasis added)

- Because the rules governing amendments (as opposed to protocols) are already set forth in the Convention, an amendment would likely entail a less elaborate negotiation than that of a protocol. At the same time, some countries have informally expressed concern that it might be difficult to limit an amendment to the subparagraphs in question; some countries might try to reopen other painfully negotiated provisions.
- The timing of adopting an amendment would be the same as that of a protocol (see Article 15(2) of the Convention).
- The parties are to make every effort to reach agreement on a proposed amendment by consensus, but, if all efforts have failed, an amendment can be adopted by a three-fourths majority.
- An amendment enters into force ninety days after receipt of instruments of acceptance from three-fourths of the parties to the Convention.
- Like a protocol, an amendment would only be binding on those States that elected to become party to it.
- Like a protocol, an amendment would likely be sent to the Senate for advice and consent to ratification.

VI. Other Means

- A determination by the United States and other Parties to the Convention that subparagraphs 4(2)(a) and (b) are not "adequate" does not necessarily dictate seeking a change to the Convention itself. Potential disadvantages of changing the Convention include, for example:
 - the time any amendment/protocol would take to be negotiated and enter into force;
 - the energy and resources that would be diverted from other climate-related tasks;
 - the opportunities for mischief that opening up the Convention would present for others;
 - the fact that an amendment/protocol would only be binding on those Parties that accepted it, thereby potentially creating even more categories of Parties under the Convention (there are already numerous categories in terms of greenhouse gas commitments);
 - that fact that, domestically in the U.S., such a change would likely require Senate advice and consent.

- One alternative to changing the Convention itself might be a political declaration among like-minded countries (which might include OECD or OECD+). Such a declaration could contain enhanced greenhouse gas commitments, commitments related to environmentally-sound technologies, cooperation in joint implementation, etc.
- Such an approach, while having the potential disadvantage of not being legally binding, could avoid the concerns noted above.

VII. Timetable for action

December 1993:	Berlin Workshop
February 1994:	INC 9 (first discussion of adequacy)
April 1994	IPCC 1st Article 2 Workshop
August 1994:	INC 10 (continued adequacy discussion)
September 1994:	National Action Plans due
September 1994:	6 months before CoP; deadline for submitting proposals for amendments to the FCCC
Late 1994:	IPCC Interim Assessment Report due
Late 1994	IPCC 2nd Article 2 Workshop
February 1995:	INC 11
March/April 1995:	First CoP
Fall 1995:	IPCC Second Assessment Report due
March/April 1996 (?):	Second CoP
March/April 1997 (?)	Third CoP
March/April 1998 (?)	Fourth CoP (2nd Adequacy Review)

TIMELINE FOR "ADEQUACY OF COMMITMENTS"

December 1993 —————> Berlin Workshop

February 1994 —————> INC 9

April 1994 —————> IPCC 1st Article 2 Workshop

August 1994 —————> INC 10

September 1994 —————> NAP due

September 1994 —————> Amendments/Protocols to FCCC due

Late 1994 —————> IPCC Interim Assessment Report

Late 1994 —————> IPCC 2nd Article 2 Workshop

February 1995 —————> INC 11

March/April 1995 —————> First CoP (1st adequacy review)

Fall 1995 —————> IPCC SAR due

March/April 1996 (?) —————> Second CoP

March/April 1997 (?) —————> Third CoP

March/April 1998 (?) —————> Fourth CoP (2nd adequacy review)

—

Hegarty

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OFFICE OF ENVIRONMENTAL POLICY

FAX NO: (202) 456-2710

FROM: **DONALD H. PEARLMAN**

TELEPHONE NUMBER: (202) 457-6512

DATE: February 3, 1994

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MESSAGE TO MARC:

ATTACHED ARE: (1) New, one-page memo concerning review of adequacy of commitments; and (2) Note of the INC Secretariat concerning such review, INC Document No. A/AC.237-47 (16 December 1993).

I LOOK FORWARD TO THE ^{4:30}
A O'CLOCK MEETING.



Donald H. Pearlman

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U.S. POSITION AT INC ON "ADEQUACY OF COMMITMENTS"

The proposed U.S. statement at next week's INC meeting, that the commitments in Article 4.2(a) and (b) "are not adequate," is neither warranted nor prudent for two reasons: (i) it goes well beyond the scope of the issue on the INC agenda, which contemplates discussion of the process for review of adequacy of commitments; and (ii) in any event, it is inappropriate.

THE INC AGENDA CONTEMPLATES DISCUSSION OF PROCESS FOR REVIEW, NOT VALUE JUDGMENTS CONCERNING ADEQUACY OF COMMITMENTS

- The INC Secretariat's "Note" concerning the agenda item called "Review of Adequacy of Commitments in Article 4.2(a) and (b)" clearly directs INC discussion to the process by which the Conference of the Parties (COP) would engage in such review. The Note (copy attached):
 - States that "[p]reliminary conclusions on the scope of the review, expected inputs and their timing and scheduling, and on institutional responsibilities relating to the delivery of products needed at the first session of the COP would be useful."
 - Suggests that the INC "may wish to give indications of whether COP 1 . . . will have sufficient information in time to carry out a meaningful review of the adequacy of commitments, and if not, what additional work would be required."
 - At no time indicates that nations would express their views at the INC as to whether or not the commitments are adequate.
- U.S. expression of its opinion that the commitments are or are not adequate is not responsive to the agenda or the issues to be discussed, as framed by the INC Secretariat. There is no justification for expressing judgments about adequacy of commitments when the issue before the INC is the process by which the COP should engage in its "review" of adequacy.

A VIEW THAT COMMITMENTS ARE INADEQUATE IS INAPPROPRIATE

- Because of lack of any new assessments from IPCC, there is no basis for informed judgment that the Article 4.2(a) and (b) commitments are "inadequate."
- The proposed U.S. statement of "inadequacy" would invite Convention amendments or protocols that create risk of efforts to enact domestic legislation that will be viewed with grave concern by industry. That U.S.-invited risk will chill the current, substantial, and voluntary efforts of industry to find cost-effective ways to constrain greenhouse gas emissions.
- Focus on alleged "inadequacy" of Annex I Parties' commitments ignores the real issue: the huge growth of emissions in other nations and their current lack of commitments.

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NATIONS

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16 December 1993

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INTERGOVERNMENTAL NEGOTIATING COMMITTEE
FOR A FRAMEWORK CONVENTION ON CLIMATE CHANGE
Ninth session
Geneva, 7-18 February 1994
Item 2 (d) of the provisional agenda

MATTERS RELATING TO COMMITMENTS**REVIEW OF ADEQUACY OF COMMITMENTS IN ARTICLE 4.2(A) AND (B)**Note by the interim secretariat**CONTENTS**

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I. INTRODUCTION

A. Committee mandate

1. The work plan adopted by the Committee at its sixth session included task A.4, "Review of adequacy of commitments in Article 4.2(a) and (b)" (A/AC.237/24, para. 44). The task was assigned to Working Group I. It was noted that issues to be considered would include:

- The nature and sources of information to be taken into account
- Requests for such information in time for the Conference of the Parties (COP) process
- The role of the Subsidiary Body for Scientific and Technological Advice (SBSTA)

2. It was also noted that the second assessment report by the Intergovernmental Panel on Climate Change (IPCC) would not be ready before September/August 1995 (now expected at the end of 1995), but that a special report would be prepared by the IPCC in mid-1994 (now expected in November 1994). The Committee would, however, be kept informed of progress in the work of the IPCC through the interim secretariat and the chairman of the IPCC.

3. The Committee, at its seventh session, decided not to include the review of adequacy of commitments in the list of priorities for Working Group I at the eighth session (A/AC.237/31, para. 49). However, that session saw some headway made in the consideration of the process for the communication and review of information, which also touched upon the review of adequacy of commitments (A/AC.237/41, paras. 57-66). As a result, the Committee asked the interim secretariat to provide additional information for the ninth session to facilitate discussion on the first review of the adequacy of commitments (A/AC.237/41, para. 64).

B. Convention provisions

4. Article 4.2(d) calls specifically on the COP (COP 1), at its first session, to review the adequacy of Article 4.2(a) and (b), which contains commitments by developed country Parties included in Annex I relating to the limitation of greenhouse gas emissions and the protection and enhancement of sinks and reservoirs. Article 4.2(d) further provides that "such review shall be carried out in the light of the best available scientific information and assessment on climate change and its impacts, as well as relevant technical, social and economic information. Based on this review, the Conference of the Parties shall take appropriate action, which may include the adoption of amendments to the commitments in [Article 4] subparagraphs (a) and (b)". Article 4.2(d) further stipulates that the second review of these subparagraphs shall take place not later than 31 December 1998, and thereafter at regular intervals determined by the COP, until the objective of the Convention is met.

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C. Scope of the note

5. The intention of the present note is to provide the Committee with information and suggestions on how to approach the first review of the adequacy of commitments in Article 4.2(a) and (b) (hereafter referred to as "review of the adequacy of commitments"). Section II outlines the working hypothesis for the scope of the review on which the interim secretariat has based the content of this note. Section III describes the various inputs to the review of the adequacy of commitments. Section IV presents possible options available to the COP for responding to the outcome of such a review.

6. This note draws upon the Convention and makes use of the documentation prepared for the eighth session, especially document A/AC.237/36 and Add.1. It also draws upon and reflects aspects of documents A/AC.237/44 on methodological questions, A/AC.237/45 on the first review of information and A/AC.237/46 on the roles of the subsidiary bodies.

D. Possible action by the Committee

7. As this will be the first opportunity to consider the review of the adequacy of commitments, the Committee may wish to have a thorough exchange of views on the issue. Preliminary conclusions on the scope of the review, expected inputs and their timing and scheduling, and on institutional responsibilities relating to the delivery of products needed at the first session of the COP would be useful. In this regard, the Committee's decision regarding possible interim arrangements to carry out the tasks of the subsidiary bodies prior to COP 1 will be of particular importance for the process of reviewing the adequacy of commitments. The Committee may wish to give indications of whether COP 1, based on current work programmes and schedules, will have sufficient information in time to carry out a meaningful review of the adequacy of commitments, and if not, what additional work would be required. In the latter case, it would be important to indicate who should undertake the work and when the results should be available. The Committee may also wish to consider possible scenarios for COP 1, in particular the type of decisions that could result from the review and any follow-up actions that might be initiated. Some attention will have to be paid to ensuring consistency between conclusions on this document and on relevant aspects of document A/AC.237/46 on the roles of the subsidiary bodies.

II. SCOPE OF THE REVIEW

8. In preparing this note, the interim secretariat has been guided by the following working hypothesis on the scope of the review. The subject of the review would be the adequacy of subparagraphs (a) and (b) of Article 4.2 in their entirety, with particular attention to the commitments contained therein. The primary point of reference for the review has been assumed to be the ultimate objective of the Convention contained in Article 2 and the progress towards its achievement. In this hypothesis, the process for the review of the adequacy of commitments is assumed to be separate from the review of the implementation of these commitments although the aggregate assessment resulting from the latter review would be

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relevant to the consideration of possible follow-up action. It has also been assumed that the reviews to be undertaken by the COP in fulfillment of its responsibilities under Article 7.2(a) and (e), namely, to examine periodically the implementation of the Convention as a whole, the obligations of the Parties and the institutional arrangements, are distinct from the reviews of the adequacy of Articles 4.2(a) and (b) and will be undertaken at future sessions of the COP.

III. INPUTS TO THE FIRST REVIEW OF THE ADEQUACY OF COMMITMENTS IN ARTICLE 4.2(A) AND (B)

9. As concluded at the eighth session, the review of the adequacy of commitments would be based primarily on a compilation and a synthesis of information on the global situation (A/AC.237/41, para. 63). A technical analysis and a compilation and synthesis of the information in national communications would also contain input, particularly with regard to the aggregate effect of measures, relevant to the consideration of any follow-up actions.

10. The sources of the inputs to the first review of the adequacy of commitments are considered in document A/AC.237/46 on the roles of the subsidiary bodies. That document recommends that the main responsibility for the function of supporting the COP in the review of the adequacy of commitments should rest with the Subsidiary Body for Implementation. The Committee's decision on how the work of the subsidiary bodies should be carried out prior to COP 1 will be particularly relevant to the process for the first review of the adequacy of commitments.

A. Information on the global situation

11. Article 4.2(d) provides that the review of the adequacy of commitments in Article 4.2(a) and (b) shall be carried out in the light of scientific, technical, social and economic information -- referred to here as information on the global situation. COP 1, and any forum undertaking preparatory work in the interim, would have available to it information on the global situation from competent scientific bodies, notably:

- (a) The IPCC first assessment report (1990);
- (b) The supplement to the IPCC first assessment report (1992);
- (c) The special report of the IPCC to be available in November 1994 which is expected to include updated information on carbon dioxide and the carbon cycle, other trace gases and atmospheric chemistry, atmospheric aerosols, radiative forcing, the relative importance of emissions of different greenhouse gases, emissions scenarios and sensitivity studies; and
- (d) Any compilation and synthesis of the above information prepared under the authority of the interim SBSTA or the Committee acting on its behalf, as decided by the Committee pursuant to its consideration of document A/AC.237/46.

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12. Other sources of information on the global situation could also be taken into account. It is not clear, however, whether the interim arrangements and the time-frame leading up to COP 1 would allow for their consideration; even a compilation and synthesis of information from the IPCC on the global situation might be difficult to achieve and to make available in the official languages in time for COP 1. In this respect, an early decision on the actions to be taken prior to COP 1, including any role for interim subsidiary bodies or for the Committee, as well as any supporting work by the interim secretariat would help lay the groundwork for the review of the adequacy of commitments.

13. In reviewing the information on the global situation, special attention might be paid to the following (to the extent that it is available):

(a) The science of climate change, including the trends in atmospheric concentrations of greenhouse gases, the sensitivity of global mean surface temperatures to doubling of CO₂, and trends in the global mean surface temperature;

(b) Scientific developments regarding impacts, especially regional impacts, sensitivities of ecosystems, vulnerability of food production and impacts on sustainable economic development;

(c) Knowledge of greenhouse gas sinks;

(d) Technical and/or economic developments related to response options either to mitigate or to adapt to climate change; and

(e) Scientific judgements of key uncertainties.

14. The Committee may wish to provide further guidance on the type and format of the information on the global situation that should be provided to COP 1 for its review of the adequacy of commitments. Any areas requiring additional work would have to be identified as a matter of priority.

B. Information communicated by Annex I Parties

15. It may be assumed that, in accordance with Article 10.2(b), COP 1 would have at its disposal relevant information from national communications in a form appropriate to its needs. In addition to the national communications themselves, it would have before it an analysis of national communications and a compilation and synthesis of the information provided, including the overall effects of policies and measures (see A/AC.237/41, paras. 61 and 62 and A/AC.237/45). The synthesis report transmitted to the COP should consider, in particular, how the effects of the steps taken by Parties relate to the benchmarks set out in Article 4.2(a) and (b) and to the objective of the Convention. This information would be especially relevant to any consideration of possible follow-up to the review of adequacy of commitments.

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16. The Committee may wish to provide further guidance on the type and format of the information to be included in the analysis, compilation and synthesis documents.

IV. POSSIBLE FOLLOW-UP TO THE REVIEW

17. COP 1 could conclude, in the light of the available information, that:

(a) Article 4.2(a) and (b) is adequate and that

- (i) No further action is required at COP 1, or
- (ii) COP 1 should establish the date for the second review.

(b) Article 4.2(a) and (b) is not adequate and some follow-up action is required.
Decisions along the following lines could be envisaged:

(i) Amendments to Article 4.2(a) and (b), or amendments to add relevant new provisions to the Convention, are necessary and should be:

- considered, and possibly adopted, at COP 1, or
- negotiated through a process initiated at COP 1.

(ii) A protocol to the Convention is necessary and should be negotiated through a process initiated at COP 1;

(iii) A resolution by the Parties should be adopted.

18. These options are reviewed below. An option under which the Parties are unable to reach agreement on the adequacy of commitments is not considered here. The option of negotiating an annex to the Convention is also not pursued because of the provisions of Article 16.1 limiting annexes to "lists, forms and any other material of a descriptive nature that is of a scientific, technical, procedural or administrative character." In addition, the note does not address the specific content of possible amendments or protocols.

A. Article 4.2(a) and (b) is adequate

19. COP 1 may conclude that the information on the science of climate change and the relevant technical, social and economic information, do not necessitate any adjustment in the commitments contained in Article 4.2(a) and (b). This could result in a decision to conclude the agenda item or, alternatively, to fix a date for the second review. The Convention requires that the second review take place "not later than 31 December 1998". On the assumption that the COP continues to meet annually, such a review could take place at COP 2 (1996), COP 3 (1997) or COP 4 (1998). The release of the second assessment report by the IPCC in late 1995 could be relevant in this regard. There would also have to be coordination with the decision on the periodicity of subsequent national communications and their review (see A/AC.237/45).

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B. Article 4.2(a) and (b) is not adequate -- further action required

20. The following paragraphs review a number of considerations relevant to each option including legal issues and timing.

1. Amendment of the Convention

21. COP 1 could decide that the best way to address any perceived inadequacies in Article 4.2(a) and (b) and to agree on further steps would be through a process of amending the Convention. Amendments to the Convention are dealt with in Article 15, the key provisions of which are as follows:

- (a) Any Party may propose amendments;
- (b) Amendments shall be adopted at an ordinary session of the COP;
- (c) The text of any proposed amendment shall be communicated to the Parties by the secretariat at least six months prior to the meeting at which it is proposed for adoption; and
- (d) Adoption shall be by consensus or, failing that, by a three-fourths majority vote of the Parties present and voting.

22. Amendments can, in general, take the form of minor adjustments to the text of an agreement designed to clarify certain provisions or to add additional provisions. Alternatively, they can take the form of entire new articles or sections that would bring additional new substantive provisions to an agreement. When an agreement is composed of many interrelated sections that have been negotiated to establish a balance between them, amendments should take into account this integration. Depending on the prevailing political climate, amendments can take considerable time to develop, adopt and accept. Amendments also have the potential to develop different regimes among Parties to the Convention because only those Parties which accept the amendments are bound by them.

23. In the context of COP 1, it is conceivable that a Party, on the basis of its own analysis of available information on the global situation, could propose an amendment in time for consideration by COP 1. This would mean that the text of the proposed amendment would have to be available and circulated to Parties six months before COP 1, that is, around mid-September 1994. Even though there are no qualifications in the Convention with respect to the basis for proposing an amendment, it would be expected that any proposal would be based on solid information and justification. Although the COP would not have met to effect a review of the adequacy of commitments at the time the amendment is proposed, an analysis of information on the global situation could indicate the desirability of the Parties adopting measures to amend the commitments in Article 4.2(a) and (b). It could be expected that any proposed amendment would be considered in the context of the interim arrangements to carry out the functions of the subsidiary bodies prior to COP 1.

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24. In this scenario, any proposed amendments would be considered at COP 1 immediately after completion of the review of the adequacy of commitments. This could result in a decision to adopt the proposed amendments, to reject the proposed amendments, or to give them further study. The latter scenario could entail one of the subsidiary bodies, or some other ad hoc open-ended body under the Convention, being asked to examine the proposals and report back to the next session of the COP.

25. In the event that no amendments are submitted prior to COP 1, the Parties could still, on the basis of a determination that Article 4.2(a) and (b) is not adequate and that further steps were required, consider amending the Convention. In this case, the COP could ask one of the subsidiary bodies, or some other ad hoc open-ended body under the COP, to consider or negotiate possible amendments for consideration at COP 2. The six-month circulation provision would have to be borne in mind.

2. Negotiating a protocol

26. COP 1 could decide that the best way to address any perceived inadequacies in Article 4.2(a) and (b) and to agree on further steps would be through the negotiation of a protocol to the Convention rather than by opening the text of the Convention. (Although technically possible for COP 1 to adopt a protocol proposed by a Party, this option is not considered here.) Protocols are dealt with in Article 17, the key provisions of which are that:

- (a) The COP may adopt protocols at any ordinary session;
- (b) The text of any protocol shall be communicated to the Parties at least six months before a session;
- (c) The requirements for entry into force of any protocol shall be established by that instrument; and
- (d) Decisions under any protocol shall be taken only by the Parties to that protocol.

27. Protocols enable Parties to elaborate on important issues in an agreement without renegotiating the text of that agreement. They can establish new commitments or address the timing of implementation. They can be focused on a particular problem, gas, policy instrument or sector and have the advantage of allowing the Parties to deal with the subject in some detail. The negotiation and adoption of protocols, however, can take as long as, or longer than, the negotiation of a convention. This is particularly true because protocols are normally more detailed and technical and can therefore take considerable time to ratify. They are legally binding only upon the Parties ratifying, accepting or approving them. Thus, as with amendments, there is the potential for the development of different regimes among Parties.

28. If COP 1 were to decide that the negotiation of a protocol should be initiated it would have to decide on the appropriate forum for such negotiations. Options include one of the subsidiary bodies or an ad hoc open ended working group. It would also have to agree on the

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mandate of the forum. For example, it could be asked to develop options for consideration by the COP or actually to negotiate a draft protocol. The COP would also have to provide guidance on when results should be reported back to it. Most important, the COP would have to decide on the subject matter of any protocol. It could also provide guidance on how the institutional frameworks of the Convention and a protocol should relate to one another.

C. Adoption of a resolution by the Parties

29. COP 1 might conclude that the best way to address any perceived inadequacies in Article 4.2(a) and (b) would be through the adoption of a resolution that would clarify or interpret the relevant text, provide guidance to the Parties in implementing the Article, or reflect a political statement of will by the Parties. Such a resolution would be adopted in accordance with the decision-making procedures laid down in the rules of procedure and would be included in the report of COP 1. It would not, however, be legally binding.

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Agency

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U.S. House of Representatives
Committee on Energy and Commerce
Room 2125, Rayburn House Office Building
Washington, DC 20515-6115

February 2, 1994

ALAN J. ROTH, STAFF DIRECTOR AND CHIEF COUNSEL
DENNIS B. FITZGIBBONS, DEPUTY STAFF DIRECTOR

Ms. Eleanor G. Constable
Assistant Secretary of State
for Oceans and International
Environmental and Scientific Affairs
Department of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Ms. Constable:

This week Mr. Rafe Pomerance and others from the State Department briefed the staff of the Committee on Energy and Commerce and others concerning the United States' position on the agenda of the Ninth Session of the International Negotiating Committee for a Framework Convention on Climate Change beginning next week in Geneva, Switzerland. I understand that the briefing was very helpful and informative.

In general, the Administration's approach is reasonable and sound, particularly in supporting joint implementation. However, one area of concern to me relates to an agenda item regarding the adequacy of commitments in Article 4.2(a) and (b) of the United Nation's Framework Convention on Climate Change. I understand that this agenda item stems from the provisions of Article 4.2(d), which states:

The Conference of the Parties shall, at its first session, review the adequacy of subparagraphs (a) and (b) above. Such review shall be carried out in the light of the best available scientific information and assessment on climate change and its impacts, as well as relevant technical, social and economic information. Based on this review, the Conference of the Parties shall take appropriate action, which may include the adoption of amendments to the commitments in subparagraphs (a) and (b) above. The Conference of the Parties, at its first session, shall also take decisions regarding criteria for joint implementation as indicated in subparagraph (a) above. A second review of subparagraphs (a) and (b) shall take place not later

Ms. Eleanor G. Constable
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than 31 December 1998, and thereafter at regular intervals determined by the Conference of the Parties, until the objective of the Convention is met.

Reportedly, the proposed position is that the U.S. will agree that paragraphs (a) and (b) are inadequate for the next century, but the U.S. will not make any recommendation for changing them. I have some difficulty with that position, particularly at this early stage of the implementation of the Convention. I understand that these paragraphs may be inadequate because they fail to impose any specific commitments on non-Annex I countries and thus are not truly global in nature. However, I understand that the U.S. is reluctant to highlight this serious failure for fear of the sensitivities of some countries, even though your Department recognizes that such global action is key to solving this problem. While I appreciate that reluctance, I am concerned that the proposed U.S. position will give Europe and other countries a political advantage. I fear that they will take the opportunity to focus criticism on the U.S. for not supporting Convention changes at this time, in order to take the spotlight off their shortcomings.

That would be unfortunate, particularly since the Clinton Administration deserves great credit for having developed and made public its National Action Plan several months ago. Except for Ireland, the other countries in Europe and elsewhere lag far behind the United States in this regard. In fact, I understand that some are resisting the idea of open reporting of their emissions and other data important to measuring the effectiveness of countries' policies and programs for curbing emissions.

The State Department's November 16, 1993, reply to the letter of July 29, 1993, from Subcommittee Chairman Phil Sharp and me clearly shows in the enclosed table the laggard implementation by the OECD and other countries. In that letter, the Department said it was "considering alternatives for establishing a process to review the Convention commitments" and that the Administration, at that time, had no "specific proposals regarding modification" of the Convention. Obviously, the situation has not changed.

I urge that the Administration reconsider the proposed position for Geneva. The Convention will not go into force until later this year and the Parties have not yet met. Many actions under the Convention have not been taken by the Europeans or others. In fact, the Europeans are high on rhetoric, but short on action. The U.S. has taken a commanding lead under President Clinton, and the focus should be on the other Annex I countries who, thus far, have not followed our example.

Ms. Eleanor G. Constable
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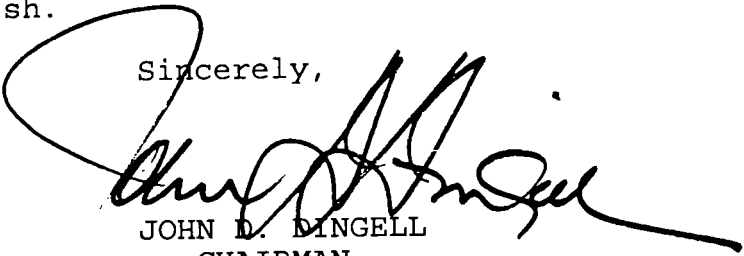
It may well be that with some experience we will find that the Convention is inadequate for reasons beyond the lack of global commitments for all countries, but I do not believe it is wise for the United States to lead with its chin on this matter at this time, particularly since the U.S. lacks specific proposals regarding modification of the Convention commitments. After all, international agreements are heavily dependent on the goodwill and performance of the Parties. Much under the Convention can be achieved now without engaging at this early stage in trying to change the document. Moreover, "appropriate action" under Article 4.2(d) may not be the adoption in 1995 of amendments to the Convention by Protocol or otherwise. The Convention does not require amendments or Protocols as the only way to deal with any inadequacy.

Rather than agreeing that the existing paragraphs are inadequate, why not merely suggest that a process be established to review the adequacy of the commitments to see what, if any, appropriate action in 1995 or 1998 is needed. That process should look at commitments for non-Annex I countries as well. Further, it is not clear to me that a review of the best scientific information and technical, social and economic information by the U.S., as required by Article 4.2(d), has been done by the U.S. or others.

When your Department, in consultation with other agencies, is prepared to develop proposals for appropriate action of any kind, I request that you broadly consult with this Committee, labor, business, environmentalists, consumers, and others.

With every good wish.

Sincerely,



JOHN D. DINGELL
CHAIRMAN

Enclosure

cc: The Honorable Carlos J. Moorhead, Ranking Minority Member
Committee on Energy and Commerce

The Honorable Philip R. Sharp, Chairman
Subcommittee on Energy and Power

The Honorable Michael Bilirakis, Ranking Minority Member
Subcommittee on Energy and Power

Ms. Eleanor G. Constable
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The Honorable Warren Christopher, Secretary
Department of State

The Honorable Mike Espy, Secretary
Department of Agriculture

The Honorable Hazel R. O'Leary, Secretary
Department of Energy

The Honorable Ronald H. Brown, Secretary
Department of Commerce

The Honorable Lloyd Bentsen, Secretary
Department of the Treasury

Mr. Robert E. Rubin, Assistant to the President
for Economic Policy

Mr. Anthony Lake, Assistant to the President
for National Security Affairs

Dr. John H. Gibbons, Assistant to the President
for Science and Technology

Mr. Rafe Pomerance, Deputy Assistant Secretary
of State for Environment and Development

Ms. Kathleen A. McGinty, Deputy Assistant to
the President and Director of the White House
Office on Environmental Policy

6. At the May hearing, Mr. Wirth also said the administration is committed to seeing the Convention promptly implemented and, if necessary, strengthened. Does the U.S. now have a proposal to change or strengthen the Convention?

A. THE CONFERENCE OF THE PARTIES IS TO CONSIDER, AT ITS FIRST SESSION (NOW SCHEDULED FOR LATE MARCH 1995 IN BERLIN), THE ADEQUACY OF THE COMMITMENTS UNDER THE CONVENTION. A FIRST FORMAL DISCUSSION ON THIS ISSUE IS PLANNED FOR THE NINTH SESSION OF THE INC, IN FEBRUARY 1994, AND THE ADMINISTRATION IS CURRENTLY CONSIDERING ALTERNATIVES FOR ESTABLISHING A PROCESS TO REVIEW THE CONVENTION COMMITMENTS. HOWEVER, WE DO NOT AT THIS TIME HAVE SPECIFIC PROPOSALS REGARDING MODIFICATION OF THE CONVENTION COMMITMENTS. THE ADMINISTRATION DOES ACKNOWLEDGE THAT RECENT SCIENTIFIC INFORMATION INDICATES THAT THE PROBLEM OF CLIMATE CHANGE CONTINUES TO BE EXTREMELY SERIOUS, AND THAT IT IS LIKELY ADDITIONAL STEPS, BEYOND THOSE CURRENTLY CONTAINED IN THE CONVENTION, WILL BE NEEDED TO ADDRESS THE PROBLEM ADEQUATELY.

8. Mr. Wirth testified at the Subcommittee's hearing that industrialized countries will have to take the lead in implementing the Convention's commitments. We understand that prior to signing the Convention, the EC and other industrialized nations announced commitments to reduce emissions. Nevertheless, we understand that implementation is lagging in many countries. For example, the EC proposed a burden sharing plan and an energy tax, but both have apparently stalled. What are the commitments of the OECD countries and Japan and what is the status of implementing those commitments today?

What is the history of OECD and other countries actually following the U.S. lead by subsequently adopting and enforcing stringent environmental policies, such as in the case of air and water pollution, to the same extent as the U.S.?

A. THE FOLLOWING TABLE INDICATES, IN BRIEF FORM, THE COMMITMENTS OF OECD COUNTRIES, AND THE PROGRESS TOWARD MEETING THEM.

AUSTRALIA. COMMITTED TO STABILIZE AT 1988 LEVELS BY 2000, AND TO REDUCE BY 20 PERCENT BY 2005. PREPARED AN INITIAL REPORT ON ACTIONS LAST YEAR; EXPECT A FURTHER REPORT BY END OF 1993. 1992 REPORT SHOWS THEY WILL BE 23% ABOVE 1988 LEVELS IN THE YEAR 2005 (WITH A 117 MMTC GAP AT THAT TIME). LOOKING ONLY AT "NO REGRETS" OPTIONS AT THIS TIME.

AUSTRIA. TARGET: 20 PERCENT REDUCTION IN CO2 BY 2005 FROM 1988 LEVELS. AIMING FOR NATIONAL REPORT TO DESCRIBE MEASURES BY END OF 1993, BUT MAY REQUIRE PARLIAMENTARY APPROVAL. RECOGNIZES NEED FOR MORE GOVERNMENT ACTION; MEASURES WILL FOCUS PRIMARILY ON CO2 AND ENERGY.

BELGIUM. TARGET: REDUCE CO2 5 PERCENT FROM 1990 LEVELS BY 2000. HOWEVER, EMISSIONS ARE PROJECTED TO GROW 15 PERCENT BY 2000 WITHOUT ADDITIONAL ACTIONS. MAY HAVE NEW REPORT ON PROPOSED MEASURES FROM MINISTRY OF ENVIRONMENT BY END OF YEAR. BELGIUM CURRENTLY LOOKING AT ASSESSING COMBINATION OF ADMINISTRATIVE, FISCAL, AND VOLUNTARY MEASURES.

CANADA. TARGET: STABILIZE GHG IN 2000 AT 1990 LEVELS. CURRENT GAP 8-9%. DRAFT REPORT EXPECTED BY OCTOBER 1; FINAL REPORT TO INC BY END 1993. STILL LOOKING FOR FURTHER MEASURES TO CLOSE GAP.

DENMARK. TARGET: 20% CO2 REDUCTION 2005; ABOUT 5% REDUCTION EXPECTED FOR 2000. NO TARGET YET FOR OTHER GHGS.

FINLAND. ORIGINAL TARGET WAS TO STABILIZE CO2 EMISSIONS AT 1990 LEVELS. NOW ANNOUNCING THAT ITS GOAL IS TO STOP GROWTH IN ENERGY IN 2ND HALF OF 1990'S, ESPECIALLY IN ENERGY [NOTE: THIS WOULD NOT LEAD TO STABILIZATION OF EMISSIONS]. CURRENTLY WORKING ON INTERNAL PROPOSALS, BUT A REPORT WILL NOT BE AVAILABLE BEFORE THE END OF 1993. HAS CREATED COMMISSION TO DEVELOP CONCRETE PLAN -- LOOKING AT ALL GHGS, SOURCES, SINKS AND JOINT IMPLEMENTATION; ALREADY HAS CARBON TAX BUT THIS WILL BE RAISED. PARTICULAR PROBLEMS IN ADDRESSING PEAT USE (5% OF TOTAL ENERGY).

FRANCE. TARGET OF STABILIZATION FO CO2 AT 2.0 METRIC TONS PER CAPITA BY 2000. NEW REPORT SENT TO EC (FRENCH LANGUAGE ONLY) IN MARCH 1993 ON POSSIBLE ACTIONS. RECENT ANALYSIS INDICATES U.S. DOLLAR 80 PER TON CARBON TAX IS NEEDED ON TRANSPORTATION. LOOKING INTO POSSIBLE TRIPLING OF FOREST SUBSIDY, AS WELL AS NEW PROGRAMS IN ENERGY EFFICIENCY, BUILDING EFFICIENCY. UNLESS AN OECD-WIDE TAX IS IMPOSED, WILL FOCUS ON VOLUNTARY MEASURES ONLY.

GERMANY. TARGET: 25-30% CO2 REDUCTION BY 2005 FROM 1987 LEVELS. NATIONAL PLAN PRESENTED TO INC IN AUGUST AT 8TH SESSION CATALOGS ALL MEASURES, BUT LACKS DETAILS ON SPECIFIC EFFECTS OF MEASURES. MEASURES INCLUDE: REVISED RATES FOR HOUSEHOLD ENERGY USE, DEVELOPMENT OF WIND-POWER GENERATION; WAITING FOR EC APPROVAL FOR CO2 ENERGY TAX. TOTAL EFFECT OF MEASURES INDICATE EMISSIONS DOWN 14.5 PERCENT FROM 1987 LEVELS.

GREECE. TARGET: AGREED TO E.C. TARGET IN 1990; NO RECENT INFORMATION REGARDING PROGRESS TO MEETING GOAL.

ICELAND. TARGET: STABILIZE AT 1990 LEVELS BY 2000. NO RECENT INFORMATION REGARDING PROGRESS TO MEETING GOAL.

IRELAND. TARGET: AGREED TO E.C. TARGET OF STABILIZATION AT 1990 LEVELS BY 2000 -- NOTING THAT OTHERS WOULD NEED TO MAKE GREATER REDUCTIONS BECAUSE IRISH EMISSIONS WOULD GROW DURING ECONOMIC GROWTH. RELEASED REPORT AT INC 8 INDICATING GROWTH OF 11 PERCENT IN NET CO2 EMISSIONS BY 2000 (EVEN WITH AFFORESTATION EFFORTS WHICH, WHEN INCLUDED, REDUCE GROWTH FROM 22 PERCENT).

ITALY. TARGET: STABILIZE CO2 IN 2000 AT 1990 LEVELS. PRELIMINARY PLAN DISTRIBUTED AT AUGUST INC MEETING; PLAN WITH DETAILED MEASURES WILL FOLLOW. CURRENT PLAN STILL LEAVES THEM SHORT OF TARGET, THEY HAVE ANNOUNCED THEY WILL NEED INTERNATIONAL CO2 TAX TO STABILIZE. ALSO LOOKING AT NATIONAL TARGETS FOR METHANE AND NITROUS OXIDE.

JAPAN. TARGET: PER CAPITA STABILIZATION OF CO2 IN 2000 AT 1990 LEVELS, AND ALSO TOTAL GHG EMISSIONS AT 1990 LEVELS BY 2000. REPORT SUBMITTED TO INC 8 IN AUGUST, LISTED PROGRAMS AND FINANCIAL COMMITMENTS TO THESE, BUT DID NOT PROJECT GREENHOUSE GAS EMISSIONS REDUCTIONS RESULTING FROM PROGRAMS. HOWEVER, THE REPORT NOTED THAT EMISSIONS HAVE INCREASED BETWEEN 1990 AND 1991 BY 1.6 PERCENT PER CAPITA.

LUXEMBOURG. TARGET: WILL FOLLOW EC TARGET. NO INFORMATION REGARDING PROGRESS TOWARD MEETING GOAL.

NETHERLANDS. TARGET: 3-5% CO2 REDUCTION IN 2000. REVISED PLAN DUE BY END OF 1993. SEARCHING FOR NEW MEASURES WHICH COULD INCLUDE LONG-TERM VOLUNTARY INDUSTRY PROGRAMS, ADMINISTRATIVE AND REGULATORY ACTIONS, AND ENERGY TAXES; CURRENT MEASURES YIELD "UNFAVORABLE" RESULTS. CURRENTLY TREAT CO2 AS A "POLLUTANT" IN DOMESTIC ENVIRONMENTAL LAWS.

NEW ZEALAND. TARGET: REDUCE CO2 20 PERCENT FROM 1990 LEVELS BY 2000. ANNOUNCED (AT INC 8) THAT GOAL REMAINED IN PLACE, AND THAT COUNTRY IS PURSUING A COMPREHENSIVE SET OF OPTIONS.

NORWAY. TARGET: STABILIZE CO2 BY 2000 AT 1989 LEVELS. NATIONAL PLAN ADDRESSING ALL GHGS DUE EARLY IN 1994. CURRENT EMISSIONS ARE DOWN 5% SINCE 1989, BUT INCREASES ARE EXPECTED WITHOUT NEW MEASURES. HAS CO2 TAX ON OIL, NATURAL GAS AND COAL.

PORTUGAL. TARGET: AGREED TO E.C. TARGET, BUT IS LIKELY TO ACHIEVE TARGET ONLY THROUGH HIGHER REDUCTIONS ELSEWHERE IN COMMUNITY.

SPAIN. TARGET: AGREED TO EC TARGET. NATIONAL COMMISSION EXPECTED TO COMPLETE REPORT OF MEASURES BY END OF 1993.

SWEDEN. TARGET: STABILIZE EMISSIONS (MADE BY SWEDISH PARLIAMENT IN MAY 1993). CURRENT PROJECTIONS INDICATE THAT WITHOUT ADDITIONAL MEASURES, EMISSIONS MAY GROW 5-10% IN 10 YEARS. GOVERNMENT IS INTERNALLY ANALYZING OPTIONS. POLICY INSTRUMENTS IN USE INCLUDE A CARBON TAX. HAVING DIFFICULTY ESTIMATING SINKS.

SWITZERLAND. TARGET: STABILIZE CO2 IN 2000 AT 1990 LEVELS. PRELIMINARY REPORT BY END OF SEPTEMBER; ACTION PLAN BY END OF YEAR. BETWEEN 75-90% OF ALL GHG EMISSIONS ARE FROM CO2 (DEPENDING ON WHETHER CFCS ARE INCLUDED OR NOT). NO EMISSIONS FROM UTILITY SECTOR, THEREFORE ENTIRE BURDEN FOR REDUCTIONS WILL FALL ON RESIDENTIAL/TRANSPORT SECTORS. HAVING DIFFICULTY IN DEVELOPING REDUCTIONS MEASURES (BOTH CO2 TAX AND GAS TAX ARE IN TROUBLE).

TURKEY. TARGET: NONE. HAS OBJECTED TO BEING INCLUDED IN ANNEX I, AS IT BELIEVES IT WILL BE UNABLE TO MEET CONVENTION REQUIREMENTS.

UNITED KINGDOM. TARGET: RETURN CO2 TO 1990 LEVELS BY 2000. CURRENTLY ESTIMATE GAP IN 2000 IS 10 MMT (1990 LEVELS 160 MMT, RISING TO 170 MMT WITHOUT ADDITIONAL ACTIONS BY 2000). USING "WORKSHOP" PROCESS (SIMILAR TO THAT UNDER WAY IN U.S.), HAS ALREADY DEVELOPED MEASURES AND IS 2/3 OF WAY TO FILLING GAP. MEASURES INCLUDE THOSE IN ENERGY AND TRANSPORT; ALSO LOOKING AT OTHER GREENHOUSE GASES AND PLANNING BEYOND YEAR 2000 HORIZON. FULL REPORT EXPECTED BY END OF 1993; REPORT WILL CONTAIN SCENARIOS PROJECTING EMISSIONS TO 2020.

E.C. COMMUNITY-WIDE GOAL OF STABILIZATION AT 1990 LEVELS BY 2000. WITHOUT ADDITIONAL ACTIONS, WILL FACE AN EC-WIDE GAP OF 11% IN CO2 EMISSIONS ABOVE 1990 LEVELS IN 2000. FIRST REPORT AVAILABLE WITHIN SIX MONTHS.

THE UNITED STATES HOLDS ITS STRONG POSITION OF LEADERSHIP IN THE INTERNATIONAL ENVIRONMENTAL ARENA THROUGH ITS DEMONSTRATED WILLINGNESS TO ACT ON ITS BELIEFS DOMESTICALLY -- AS STRONGLY INDICATED IN THE U.S. CLIMATE CHANGE ACTION PLAN. IN AREAS SUCH AS WATER AND AIR POLLUTION, MANY OF THE ENVIRONMENTAL STANDARDS SET BY THE UNITED STATES HAVE, AFTER SOME DELAY, ALSO BECOME THE STANDARDS IN OTHER OECD COUNTRIES. SIMILARLY PROGRAMS DEVELOPED HERE ON TOXIC WASTES, AND ON THE TRANSPORT OF HAZARDOUS SUBSTANCES ALSO SET THE STANDARD FOR INTERNATIONAL TREATMENT OF THESE ISSUES. THE STATE DEPARTMENT BELIEVES THAT WE ARE IN THE STRONGEST POSITION TO LEAD INTERNATIONALLY WHEN WE CAN DEMONSTRATE CONVINCING COMMITMENTS AND FOLLOW-THROUGH DOMESTICALLY.