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FILES OF ROGER BALLENTINE,

DEPUTY ASSISTANT TO THE PRESIDENT

(prepared by Angie Mizeur)

Box 2 of 9
Submitted 12/22/2000

CLIMATE CHANGE (CONT)

Hill (cont)
DoC Requests/Hill Questions
Floor Debate
Riders
Votes/Vote Counts/Targets

International
BA Related
Clean Development Mechanism (CDM)/ Joint Implementaion (JI)
Canada
Chile
China
COP 5
COP 6 (personal notes, admin. schedule, agency memos, EU compliance, liability, NGO, internal Memos, sinks)
Developing Countries
Diplo. General

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December 7, 2000

The Honorable Frank E. Loy
Under Secretary of State for Global Affairs
U.S. Department of State
2201 C Street, NW
Washington, DC 20520

Dear Under Secretary Loy:

First, I want to express my appreciation for the courtesies you and others in the delegation extended to the Congressional contingent at The Hague last month. I also want to commend you for your efforts in heading the U.S. delegation in rather trying and difficult circumstances, particularly since security inside The Hague Conference Center obviously was not as good as it clearly should have been.

I particularly was pleased to see that you apparently stood up to efforts by the European Union (EU) to try to re-write, re-negotiate and re-interpret the Kyoto Protocol so as to deprive or seriously limit use by Umbrella Group members, including the United States, of the several flexible Articles of the Protocol that were adopted by COP-3 in Kyoto. Your remark on November 25 that your "negotiating partners . . . ignored the political reality that nations can only negotiate abroad what they believe they can ratify at home" is quite appropriate. Unfortunately, it is late in the making. I believe that remark should have been made and applied at Kyoto because that agreement lacked the details for implementing the flexible measures the U.S. now desperately needs. At COP-3, the U.S. unfortunately "ignored the political reality" that other Kyoto signing nations, like the EU and the G-77 and China, would try to leverage the U.S. and the Umbrella Group in hammering out the important details of the Protocol's flexible measures once they got their "pound of flesh" firmly in place, namely the EU bubble and the Berlin Mandate negative language on G-77 and China commitments. The Hague is another example of that.

In regards to the negotiations over the last 36 hours at COP-6, your November 25 statement you said:

> "The United States put forward a number of constructive proposals in hopes of arriving at a more positive outcome. We proposed a robust compliance regime with real consequences and penalties for non-compliance. We came forward with a creative plan to provide substantial new resources so developing countries can reach their sustainable development goals while they also fight climate change. We advanced rules to recognize the central role of forests and farmlands in the carbon cycle, while agreeing to dramatically reduce the amount of credit the United States could claim under Kyoto from carbon that is absorbed by U.S. forests — so-called carbon sinks.
>
> "We stressed — particularly with the EU — that the real focus of our discussions should be completing the architecture and rules that will allow all of us to truly meet this challenge over the long term. And in this vein, there is cause for optimism. The elements of an agreement were

> sitting on the table in plain sight. It included some of the toughest issues — sinks, compliance, and ensuring strong domestic action. We were ready to sign on to that agreement — others could not. But we stand ready to pick up where we left off."

As to the future, I understand from a number of articles of November 30 and December 3 that President Clinton is seeking to resume the negotiations this month with some EU members and has asked you to arrange it. In fact, *The Independent* of London stated on December 3:

> "President Clinton is extremely eager to finalise an agreement before he leaves office and has become increasingly concerned about climate change, partly as a result of lobbying by his daughter Chelsea. He raises the issue with almost every head of government he sees. The U.S. feels that the ball is now firmly in the EU's court.
>
> "Negotiators believe the U.S. made enormous concessions in the closing hours of the conference and these were not matched by movement by the EU. They are now looking to the EU to acknowledge how much the U.S. has moved, and to approve a deal."

Apparently, the UK is willing and according to a December 5 story by Agence France Presse, negotiations are starting as early as this week. That article said:

> "Without an accord, George W. Bush, a Republican who is a declared opponent of the Kyoto Protocol to fight global warming, will find it easier to walk away from the world's most important environment accord if he becomes the next incumbent in the White House, analysts said Tuesday.
>
> "Negotiators from the European Union, the United States, Australia, Canada and Japan will meet in Ottawa on Wednesday for two days of informal talks, and could reconvene next week in Oslo with other countries if there is progress, concurring sources said.
>
> "But the meeting has been so hastily arranged – less than two weeks after the failure of an international forum in The Hague which was to have wrapped up a deal on global warming – that exactly what they will discuss seems unclear and what can be achieved is limited."

Additionally, the United Press International (UPI) reported on December 5 that the talks will be for two days in Canada. The UPI article stated:

> "The talks in Ottawa will be far smaller than the massive conference at The Hague, and at a slightly lower diplomatic level. A delegation of EU states France, Germany, Britain, Belgium and Sweden will be headed by agricultural official Laurence Tubiana, with a grouping from the European Union itself to be led by Joseph Delbeke. EU members are represented both individually and as a unified entity in negotiating international agreements. The U.S. team will be led by David Sandalow, Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs."

However, this appears to be a replay of The Hague where a few EU members reached agreement with the Umbrella Group and then failed to sell it to the 15-member EU in a coordinating session.

Moreover, there are over 180 Parties to the Convention and most are not in the EU. Many are represented by the G-77 and China, which apparently is not included in the President's call for negotiations this month. The December 3 issue of *The Independent* added:

> "Even if the U.S. and EU do make a deal, they then have to persuade Third World countries to endorse it. The developing countries have always been suspicious of agreements made over their heads by world leaders."

The point is well taken. As I understand this hasty arrangement, the U.S. and the Umbrella Group will be negotiating with all or part of the EU outside the COP-6 process. That means if a deal is reached, it will have to be negotiated again with the excluded Parties, such as the G-77 and China. That is akin to negotiating with yourself, which is not helpful.

Just as importantly, Congress and the public do not know the precise nature of the "elements of an agreement" that at the end "were sitting on the table in plain sight," nor do we understand how and when such an agreement would be integrated into the texts that are still heavily bracketed and riddled with options. Some suggest that the so-called unfinished "agreement" on the table included:

- exclusion of nuclear and LULUCF "sinks" from the CDM

- definition of "supplemental" to mean a "considerable" or "primary" or "significant" portion or part of a Party's commitment must be met through domestic action"; and review of progress by 2005, with compliance by the "facilitative" branch of the compliance committee

- a cap on credits in the first period from forest management activities equal to 3% of a Party's assigned amount or a cap on tons per year by country; no limits on credits from soil carbon management activities

- a revised composition of the compliance body for enforcement purposes — equal Annex I and non-Annex representation

If that, or any part of that, is the nature of the deal, it appears that the U.S. lost more than it gained. It raises considerable questions as to what it means. It is not a cause for "optimism." It appears to leave unresolved many issues, such as seller liability, additionality for the CDM, baseline methodology, the make up of the CDM Executive Board, prompt start, Article 4 reallocations, consequences for non-compliance, Article 18 issues, the registries, large hydro projects, a priority or preferred list, coal and other projects, and, of course, the G-77 and China issues of funding, compensation and technology transfer, all of which were in the list of "political" issues identified by President Jan Pronk for the Ministers to resolve. In addition, the issue of commitments by developing countries is once again off the table, notwithstanding Senate Resolution 98.

What is the U.S. getting if sinks in the CDM are excluded, possibly in perpetuity, supplemental is defined in a vague way that could mean that 50% or more of actions in the U.S. must be domestic and there is a 3% cap on credits from forest management or a tonnage cap for the U.S., Canada, Japan and others? In the case of compliance, the proposed composition merely reflects the long-held EU/Umbrella Group view, which has not been shared by the G-77 and China. If they are not a partner in that deal, what makes anyone think they will agree?

I understand that when President Pronk proposed a 3% cap in his negotiating paper, the Umbrella Group, in a November 24 letter (copy enclosed) objected to limiting Article 3.4 activities to 3 percent of a Party's base year emissions for the first commitment period. What happened from November 24 to November 25 that would cause the Group to no longer have an objection? I certainly believe that there is strong reason to object, particularly in light of the following article in the November 28, 2000 issue of the *BNA Daily Report for Executives*, which indicates a huge "give" by the U.S. to placate the EU:

> "Despite the problems, most people involved with the talks marveled at how close to a deal negotiators came in the early hours of the final day. The U.S. delegation, which arrived in The Hague asking for its sink credits to total 300 million to 310 million metric tons per year, lowered the demand to 175 million and then 125 million tons in advance of Nov. 23.
>
> "On Nov. 23, according to U.S. delegates, President Clinton called several European leaders from Washington, including British Prime Minister Tony Blair, to try to create a compromise. The next day, British Deputy Prime Minister John Prescott attempted the same thing and late in the session of Nov. 24, Prescott reportedly helped convince the U.S. delegation to lower their demands to 75 million tons, and a final unanswered offer went as low as 40 million tons. Pronk's unpopular paper suggested a credit of 50 million tons."

Indeed, the U.S. began last August to scale back sink credits and after several more retreats toward the EU, the EU has yet to respond, except on the last day at The Hague, which was a rejection. Apparently, there has been no counterproposal except "No." That is not a meaningful negotiation.

Turning again to the G-77 and China, I understand that the Umbrella Group made the following two-part proposal; and asked the G-77 "to agree on the broad outlines of this new mechanism at The Hague and to launch a process to achieve consensus on its details at COP-7":

1. Annex II countries (developed countries, excluding economies in transition) would declare their intent at this Conference to provide immediate increases in funding for the Convention to assist developing countries with capacity building, technology transfer, adaptation, and mitigation. Assistance would be provided through both bilateral and multilateral sources, including the Global Environment Facility.

2. The Parties would declare their intent to establish a new mechanisms to provide a steady stream of funding — up to $1 billion in the first commitment period — to support developing country efforts. This new mechanism, perhaps managed through a new GEF "window" with policy guidance from the COP, would include two funds: one supporting adaptation; the other supporting mitigation (emissions abatement and sequestration). Technology transfer and capacity building needs, as determined by the COP, would be addressed by both funds.

Why is it that the Umbrella Group and the Clinton Administration want to repeat the mistakes of Kyoto by agreeing to generalities and leaving important details to future negotiations, which, in this case, would have to be done by the next Administration? Also, what is the U.S. share of the fund?

I believe it is not in the interests of the United States to try to fashion hastily what might be described as a "Christmas gift" for the European Union in the few weeks before the new President takes office. A "deal" outside the COP-6 process that does not include all significant groups of Parties at the bargaining table and cover, at a minimum, <u>all</u> issues among Annex I Parties should, in my view, have little currency when the new President takes office and has time to review it, as I am sure he will. There is no urgency for such negotiations and a deal now. The Administration knew before COP-5 that time would not be a friend at COP-6 and sought postponement of COP-6 until next year. Your vision obviously was 20-20. The EU, the G-77 and China and others should have listened. They didn't. Their mistake is the gain for the integrity of the Protocol as negotiated in Kyoto from an environmental and economic flexibility standpoint. Let the next Administration address the matter as you wanted at COP-5. The EU can wait.

Finally, I understand that at the close of COP-6 at The Hague, the Convention Secretariat released a "Technical Paper" (FCCC/TP/2000/2, dated November 25, 2000) on "Tracing the Origins of the Kyoto Protocol: An Article-by-Article Textual History." The paper, which is not a COP document, states that it was reviewed by some unidentified "key negotiators," but is the "responsibility of the author." Nevertheless, I am concerned to what extent there might be reliance on this "Technical Paper" by the President, the Secretariat, the Subsidiary Bodies, and the COP in interpreting the Protocol and would like to know your understanding of the status of this under the Convention and its rules, if and when the Protocol enters into force.

I look forward to your timely response to this letter, as well as to my letter of October 4, 2000.

Sincerely,

F. JAMES SENSENBRENNER, JR.
Chairman

FJS/hlw

Enclosure

cc: The Honorable Ralph M. Hall, Ranking Minority Member, Committee on Science, U.S. House of Representatives
The Honorable Ken Calvert, Chairman, Subcommittee on Energy and Environment, Committee on Science, U.S. House of Representatives
The Honorable Eddie Bernice Johnson, U.S. House of Representatives
The Honorable Lynn Rivers, U.S. House of Representatives
The Honorable Joe Barton, Chairman, Subcommittee on Energy and Power, Committee on Commerce, U.S. House of Representatives
The Honorable Jo Ann Emerson, U.S. House of Representatives
The Honorable Joe Knollenberg, U.S. House of Representatives
The Honorable Tom Bliley, Chairman, Committee on Commerce, U.S. House of Representatives

The Honorable John Dingell, Ranking Minority Member, Committee on Commerce, U.S. House of Representatives

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The Honorable Chuck Hagel, Chairman, Subcommittee on International Economic Policy, Export, and Trade Promotion, Committee on Foreign Relations, U.S. Senate

The Honorable Jesse Helms, Chairman, Committee on Foreign Relations, U.S. Senate

The Honorable John McCain, Chairman, Committee on Commerce, Science, And Transportation, U.S. Senate

The Honorable Robert C. Byrd, Ranking Minority Member, Committee on Appropriations, U.S. Senate

The Honorable Joseph R. Biden, Jr., Ranking Minority Member, Committee on Foreign Relations, U.S. Senate

The Honorable Dan Glickman, Secretary, U.S. Department of Agriculture

The Honorable David B. Sandalow, Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs

Mr. John D. Podesta, Chief of Staff to the President

Mr. Roger Ballentine, Deputy Assistant to the President for Environmental Initiatives

Mr. David M. Gardiner, Executive Director of the White House Climate Change Task Force

HE Mr Jan Pronk
President of the Sixth Conference of the Parties

Dear Minister Pronk

On behalf of the Umbrella Group, I would like to thank you for your hard work during this Sixth Conference of the Parties. While the Parties arrived in The Hague with fundamental differences, you have been tireless in your efforts to help us overcome them.

As you requested, we have given careful consideration to the informal note you circulated yesterday evening. You will be aware that the Umbrella Group operates under the maxim "working together but not bound together". Accordingly, what follows is a series of views each of which is held by some or all of us. Although we truly appreciate your sincere efforts to create a balanced proposal that would serve as a basis for serious discussion, the document is, for some of us, flatly inconsistent with fundamental elements of our mandates and a document with major flaws. Some of us have grave doubts about whether we can reach an acceptable outcome from this extremely unbalanced text. Others believe the text is a useful starting point.

Your paper is doubly unbalanced. Firstly, the paper imposes an unconditional obligation on Annex I Parties to provide substantial additional resources with no linkage to developing country mitigation action. It further gives a significant role to non-Annex I Parties in deciding how Annex I Parties will be allowed to meet their Kyoto targets. Secondly, the paper ignores the need to meet those targets in the most cost-effective way by reflecting a position favouring concrete ceilings and the extension of the share of proceeds.

It should be emphasized that in many instances we believe that the text that Parties have carefully negotiated since September more accurately reflects national positions and interests and has more promise for successful progress than the text that you have presented to us. In some instances, the Parties have already proceeded beyond the positions reflected in your text.

Furthermore, the enclosed paper is an incomplete list of serious concerns. It was drafted very quickly, in light of the exigencies of tonight schedule. The absence of any items from this list should not be interpreted to mean that some Umbrella Group members do not consider it a matter of serious concern.

Issues identified by Umbrella Group members

Umbrella Group members have some significant concerns arising from your paper. Some of the more important of these concerns have been identified by some or all members of the Umbrella Group as follows. This is not an exhaustive list of issues that cause difficulties to Umbrella Group members. As you will be aware, Umbrella Group members do not have identical views on all of the issues under negotiation, including on some of the listed issues.

<u>Box A: Capacity building, technology transfer, implementation of Articles 4.8/4.9; 3.14, finance</u>

Engaging developing countries in a process that could lead to concrete action to address climate change is very important to future consideration of ratification by many Umbrella Group countries. In our view, any significant new funding mechanism for developing countries must be linked to real actions to mitigate climate change. On 22 November, the Umbrella Group presented a proposal for substantial new funding for developing countries with a modest requirement for developing country mitigation action. Your proposal for mandatory contributions by Annex II Parties, calculated on the basis of their assigned amount, with no linkage to mitigation action by developing countries is of significant concern.

Umbrella Group members also have difficulty with the proposal that Annex II Parties be required to contribute to a fund to USD 1 billion per year or be penalized with a levy on international emissions trading and/or joint implementation. The Umbrella Group opposes the application of a levy on these two mechanisms.

The funding of Stage III adaptation projects proposed under the Adaptation Fund will require further debate.

<u>Box B: Mechanisms</u>

While the Umbrella Group favours a prompt start for the CDM, it has long held the position that parallel progress is essential, ie none of the Kyoto Mechanisms should take effect until the rules for all of the Mechanisms have been established. Umbrella Group members also have significant concerns with the proposals that the rules for international emissions trading be established by the COP/MOP, when the Protocol states clearly that the Conference of the Parties to the Convention should elaborate such rules.

With respect to fungibility, your paper is ambiguous as to whether CERs, ERUs and AAUs will be fungible. Moreover, Umbrella Group members note that further discussion will be necessary on several of your proposals in this section, including that "certified emissions reduction units to be generated through the CDM could be used for the purpose of contributing to compliance with a Party's Article 3 commitments without affecting that Party's assigned amount pursuant to its commitments ascribed in Annex B".

While Umbrella Group members support fast tracking small projects in order to promote equitable distribution and reduce transaction costs, they are concerned about preferential treatment for certain types of projects. Some Umbrella Group members see no reason to single out nuclear projects for exclusion from the Clean Development Mechanism.

Your proposal on trading modalities and liability appears to describe a system of seller liability, and sets limits for it. However, seller liability as such is not affirmed clearly and in order to avoid future doubts, seller liability should be explicitly included in the text. Umbrella Group members also feel that the statement in your text that reporting, review and a strong and enforceable compliance regime are not sufficient to prevent Parties from overselling" does not reflect the constructive spirit and good faith in which Parties have engaged in negotiations and in which Parties will carry out their international obligations.

Umbrella Group members would like clarification of your proposal that Annex I Parties shall meet their commitments "primarily" through domestic action. This statement could be interpreted as a quantitative requirement, which the Umbrella Group strongly opposes. Furthermore, the text fails to make clear that reallocations under Article 4 are not domestic aciton. Umbrella Group members object to the concept that compliance with this principle should be judged by the facilitative branch of the compliance committee.

The proposed composition of the CDM Executive Board, to be determined according to United Nations regional groupings, is of concern.

Box C: Land use, Land use change and forestry

Umbrella Group members note significant flaws in the structure of the Article 3.4 proposal. The US/Canada/Japan proposal on sinks contains critical elements that are not found in your paper. The approach you propose does not come close to meeting the meeds of some members. Umbrella Group members also have difficulty with limiting Article 3.4 activities to 3 per cent of a Party's base year emissions for the first commitment period, and with your proposal for a 30 per cent discount in relation to additional cropland and grazing land management activities and an 85 discount on additional forest management.

Umbrella Group members would like clarification of your proposal for full crediting of Article 3.3 debit. The accounting anomaly under Article 3.3 for short-rotation new forests has not been dealt with, although other similar anomalies have. The current proposal on Article 3.7 creates needless and problematic ambiguity and uncertainty.

The exclusion of activities to prevent deforestation as well as agricultural soils from the Clean Development Mechanism, apparently in perpetuity, is problematic for Umbrella Group members.

Box D: Policies and measures, compliance, accounting, reporting and review

Umbrella Group members have great difficulty with the proposed composition of the enforcement branch of the compliance committee. Parties whose actions are to be judged by the compliance committee should have fair representation on that committee, particularly where non-compliance has binding consequences. Umbrella Group members also consider it inappropriate that the compliance committee should have a mandate to approve a Party's compliance action plan.

Umbrella Group members also note that the proposed "penalty rate" for non-compliance is significantly higher than necessary to provide incentives for compliance and as such could be counter-productive. Group members have advocated in the past a compliance regime that facilitates compliance by providing a range of options rather than a punitive regime that intrudes on national sovereignty and could discourage Parties from participating in the Protocol. In this regard, we note the absence of any reference to the true-up period and a voluntary compliance fund. Umbrella Group members are also concerned about the lack of an appeals procedure in the proposed compliance regime.

Special Treatment for Article 4

As a general comment, Umbrella Group members note that your proposal does not make clear the implications of the various elements of your proposal for those Parties covered by Article 4.4 of the Protocol.

As we have assured you previously, we remain committed to making COP-6 a success for all parties and we look to you for guidance about how we should proceed under the circumstances. We are prepared to continue to meet with others in good faith in an effort to reach positive conclusions and we would welcome your efforts to facilitate discussion of the major issues dividing the Parties.

Yours sincerely

Robert Hill

Robert Hill
24 November 2000

U.S. HOUSE OF REPRESENTATIVES

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December 6, 2000

The Honorable Neal F. Lane
Assistant to the President for Science and Technology and
Director, Office of Science and Technology Policy
Eisenhower Executive Office Building, Room 424
Washington, DC 20502

Dear Dr. ~~Lane~~ Neal

Since writing to you on October 19 and 28, 2000 about the Third Assessment Report (TAR) now undergoing government review preliminary to line-by-line approval of the Summaries for Policymakers (SPM) at sessions of the three Working Groups beginning next month, the Sixth Session of the Conference of the Parties (COP 6) to the Framework Convention on Climate Change (FCCC) in The Hague ended without reaching any conclusion regarding implementation of the Kyoto Protocol and certain Articles of the FCCC. I attended COP 6, as did my staff.

One of the speakers at the opening of the session on November 13 was Dr. Robert T. Watson, Chair of the Intergovernmental Panel on Climate Change (IPCC), who spoke on the status of the science of climate change. However, his oral presentation made no reference to the fact that the three working group reports, including the SPM for each, under the "Procedures for the Preparation, Review, Acceptance, Adoption, Approval and Publication of IPCC Reports" have no status other than they are drafts subject to the second review by governments(see section 4.2.4.2 of Procedures). Dr. Watson spoke on the science as if the drafts had been approved by the IPCC, and he did not, for example, include in his oral statement the following paragraph from his enclosed written remarks:

> "This presentation, which briefly describes the current state of understanding of the Earth's climate system and the influence of human activities; the vulnerability of human health, ecological systems, and socio-economic sectors to climate change; and approaches to mitigate climate change by reducing emissions and enhancing sinks, is based on accepted and approved conclusions from the IPCC Second Assessment Report (SAR) and a series of Technical Papers and Special Reports (e.g., the Special Reports on Emissions Scenarios; Land-Use, Land-Use Change and Forestry; and Methodological and Technological Issues in Technology Transfer) and, supplemented by recent information that is being assessed in the draft IPCC Third Assessment Report (TAR). The Working Group I and II reports of the TAR have already been distributed to governments for final review, while the Working Group III report will be distributed to governments for final review within a couple of weeks. The Working Group Reports will be approved/accepted at a series of plenary meetings between January and March, 2001. The Synthesis Report of the TAR, which addresses a series of policy-relevant questions, will be approved/adopted in September 2001. None of the conclusions presented in this report are taken

from the TAR, but are consistent with the draft conclusions, which are subject to change until final government approval and acceptance early next year."

Even that statement leaves the impression that his "conclusions" while not "taken from the TAR," are nevertheless "consistent with the draft conclusions." That implies that the draft "conclusions" have some status under the IPCC, which they do not.

Of greater concern are recent media articles quoting Dr. Watson during the course of sensitive negotiations by Ministers in the second week of COP-6. For example, in a November 21 interview in the U.K. paper, a *Guardian* article notes that Dr. Watson "undermined" the U.S. position on forest management when he said (see Attachment 1):

> "The U.S. claim for credits for planting and managing forests is based on policies in place well before 1990, the period from which the calculations on saving carbon are supposed to be made.
>
> "On that basis it is fair to say that the US will be doing nothing extra than was being done in the ordinary course of events. There will be some savings, obviously, but it would have happened without the climate treaty. If they do get credit for that it will be a political decision."

Then on November 24, a Reuters article entitled "Top UN Climate Scientist Worried by Forests Plan" quotes Dr. Watson as follows (see Attachment 2):

> " 'Using forests to fight global warming without environmental and social safeguards is absolutely unacceptable,' Robert Watson, an American who heads the U.N. Intergovernmental Panel on Climate Change, told reporters.
>
> " 'It's a very serious concern,' added Watson, who is also the World Bank's senior scientist, speaking on the sidelines of a U.N. conference trying to agree ways of cutting emissions of greenhouse gases implicated in climate change.
>
> "The conference grouping 180 nations was examining the proposal on Friday.
>
> " 'Replacing virgin forest with plantations would have serious consequences for water resources, soils and for indigenous people,' Watson said.
>
> "A former expert at the U.S. National Aeronautics and Space Administration, he is the world's most authoritative and influential figure on climate change, diplomats and technical experts at the U.S. talks in The Hague say."

It is my understanding of the U.S. position, as explained to us before COP 6, that reliance by the U.S. on provisions of Article 3.4 of the Protocol, which was negotiated by the U.S. in 1997 to meet its Article 3.1 target by 2012, would include "safeguards". Indeed, I really wonder what, Dr. Watson had in mind by his reference to "safeguards." Whatever his purpose, I fail to understand why, after the first week of COP 6, Dr. Watson continued to be in the Hague when only the Ministers met and why he apparently felt compelled to give press interviews on negotiations for which he had no role as chair of the IPCC or as a

World Bank official—particularly interviews that undercut the U.S. negotiating position. I would hope that he had better things to do, consistent with his duties at the World Bank and the IPCC, than to use his position with either organization to try to influence, through the media, the negotiations and at the same time, be critical of the positions on sinks advocated by the U.S. and the Umbrella Group.

As Reuters pointed out, Dr. Watson is an American. Nevertheless, he seemed to be engaged in indirectly criticizing the negotiation positions of the State Department and Under Secretary Loy under the cloak of IPCC Chairman and apparently helping the European Union in those negotiations.

I understand that Dr. Rosina Bierbaum of your office was also at COP 6 and I was surprised that she apparently did not object to Dr. Watson's ventures into COP 6 negotiations and policy matters. Indeed, I think the OSTP should communicate with Dr. Watson about his statements. They certainly do not appear helpful to the U.S. delegation.

I request your views on this matter, as well as your reply to my October 19 and October 28 letters.

Sincerely,

F. JAMES SENSENBRENNER, JR.
Chairman

FJS/hlw

Enclosures

Attachments

cc: The Honorable Ralph M. Hall, Ranking Minority Member, Committee on Science, U.S. House of Representatives
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The Honorable John McCain, Chairman, Committee on Commerce, Science, And Transportation, U.S. Senate

The Honorable Robert C. Byrd, Ranking Minority Member, Committee on Appropriations, U.S. Senate

The Honorable Joseph R. Biden, Jr., Ranking Minority Member, Committee on Foreign Relations, U.S. Senate

Dr. Robert T. Watson, Chairman, Intergovernmental Panel on Climate Change (IPCC)

The Honorable Dan Glickman, Secretary, U.S. Department of Agriculture

The Honorable Frank E. Loy, Under Secretary of State for Global Affairs

The Honorable David B. Sandalow, Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs

Mr. Roger Ballentine, Deputy Assistant to the President for Environmental Initiatives

Mr. David M. Gardiner, Executive Director of the White House Climate Change Task Force

Dr. Rosina Bierbaum, Associate Director for Environment, Office of Science and Technology Policy

Attachment 1

Climate

US concession fails to please experts

America stung by criticisms
Special report: global warming

Paul Brown in the Hague
Guardian

Tuesday November 21, 2000

There were few visible signs of progress at the climate talks yesterday, although the US made late concessions on the most contentious issue - its insistence that it can compensate for its own carbon emissions by removing carbon from the atmosphere by planting forests.

Its chief negotiator, Frank Loy, said that rather than insisting on all the carbon captured in forests being counted, it would ask for only 20% plus one third of whatever more than that could be scientifically verified.

The EU welcomed the concession, and Michael Meacher, the British environment minister, said: "It is a good sign; we will study the details carefully."

Mr Loy and his 150 delegates have clearly been stung by the international media's repeated portrayal of the Americans as unwilling to make domestic cuts in carbon dioxide emissions. It has accused them of using "loopholes" in the agreement to plant forests at home and abroad to absorb carbon instead of cutting fossil fuel burning at home.

Mr Loy, the undersecretary of state for global affairs, said: "In recognition of concerns expressed by some countries we are willing to reduce the scale of credit we think we should be entitled to. We were talking about real cuts and real carbon tonnes but if it means coming closer to agreement we are prepared, we will ask for less than intended."

He went on to stress President Clinton's close personal interest in reaching a deal.

"The president raises the issue of climate change with every head of state he meets. He is extremely concerned and fully understands the issues. He has instructed us to do our best to get an agreement."

Earlier John Prescott, the deputy prime minister, had predicted it would be tomorrow night before the 37 points points of major disagreement between the parties were whittled down to a manageable number. "All sides are still involved in long distance shelling," he added.

In a speech to the conference Jacques Chirac, the French president, demanded action from Mr Clinton, saying that the average American created three times as much greenhouse gas as the average French resident.

"Europe is resolved to act and has mobilised to fight the greenhouse effect. Europe calls upon the other industrialised countries to join with us in this fight. The time has come for action," he said.

The US position was undermined by Robert Watson, the chairman of the 3,000 scientists who make up the UN intergovernmental panel on climate change.

"The US claim for credits for planting and managing forests is based on policies in place well before 1990, the period from which the calculations on saving carbon are supposed to be made.

"On that basis it is fair to say that the US will be doing nothing extra than was being done in the ordinary course of events. There will be some savings, obviously, but it would have happened without the climate treaty. If they do get credit for that it will be a political decision."

John Lanchbery, the climate officer for the RSPB, said: "The new US proposals are out of Alice in Wonderland. Their original claim was prepos terous, they are merely asking for less of something that was not real in the first place."

Yesterday climate change was on the agenda when Tony Blair flew to Moscow to meet President Vladimir Putin.

Russia has "saved" millions of tonnes of carbon since 1990 because of the collapse of its economy.

Under the terms of the treaty being negotiated in the Hague, Moscow may be able to add up the savings and sell them to the US and other countries for cash.

Mr Blair reportedly wants to ensure that this money does not simply disappear, but is earmarked for a "green" fund to be used for energy efficiency measures and building cleaner power stations.

News Football Cricket Film

Friday November 24 7:26 AM ET

Top UN Climate Scientist Worried by Forests Plan

THE HAGUE (Reuters) - The United Nations (news - web sites)' top climate scientist expressed serious concern on Friday about a U.S.-backed plan to use forests to fight global warming, saying it would harm indigenous peoples and the environment.

``Using forests to fight global warming without environment and social safeguards is absolutely unacceptable," Robert Watson, an American who heads the U.N. Intergovernment Panel on Climate Change, told reporters.

``It's a very serious concern," added Watson, who is also the World Bank's senior scientist, speaking on the sidelines of a U.N. conference trying to agree ways of cutting emissions of greenhouse gases implicated in climate change.

The conference grouping 180 nations was examining the proposal on Friday.

``Replacing virgin forest with plantations would have serious consequences for water resources, soils and for indigenous people," Watson said.

A former expert at the U.S. National Aeronautics and Space Administration, he is the world's most authoritative and influential figure on climate change, diplomats and technical experts at the U.N. talks in The Hague say.

The talks are stalled over steps to implement a 1997 pact agreed in

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- U.S. Department of State, Office of International Information Programs: Climate Change - fact sheets, articles, and statements regarding U.S. participation at the COP-6 conference.

Kyoto, Japan, that set a five percent average cut in developed nations' 1990 levels of emissions by 2010.

The conference also seeks to help poor nations avoid becoming big emitters themselves as they develop, for example by adopting clean energy technologies or planting forests to soak up the greenhouse gas carbon dioxide.

But green groups say compromise proposals tabled on Thursday would in effect provide incentives to clear virgin forests worldwide and to replacement them with monoculture plantations.

The proposals go a long way toward meeting U.S. demands to allow both itself and developed nations to count carbon dioxide soaked up by forests, so-called carbon sinks, against emission reduction targets set in Kyoto, experts say.

``Using the world's forests is a good way to fight global warming but only if it is done with safeguards to protect biodiversity," said Watson, adding that safeguards had to be agreed.

Watson's panel coordinates and reviews climate research by top government and private institutes around the world to help members of the United Nations formulate climate policy.

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October 19, 2000

The Honorable Neal F. Lane
Assistant to the President for Science and Technology and
Director, Office of Science and Technology Policy
Old Executive Office Building, Room 424
Washington, DC 20502

Dear Dr. Lane: Neal

Next year, the Intergovernmental Panel on Climate Change (IPCC) is scheduled to release its Third Assessment Report (TAR) and a related Synthesis Report (SR). In this connection, I understand that the draft TAR reports and Summaries for Policy Makers (SPMs) will be sent to Governments for review later this month and early next month with comments due at various times before the new Administration takes office next January 20. I also understand that the first plenary meeting to approve the Working Group I SPM and accept the underlying report is scheduled for January 17-19, 2001, while the meetings regarding the other two SPMs and related reports are scheduled for middle and late February, after the new Administration takes office. As to the Synthesis Report, I understand that a writing team has been assembled and that work has begun on the SR.

Enclosed are questions about the TAR and SR process and related climate and Kyoto Protocol matters. I request your response to them by November 9, 2000. To the extent necessary, please consult with others in the Administration, including the State and Energy Departments, and the IPCC secretariat to ensure a complete and timely reply. In addition, please provide a copy of each of the Working Group drafts for Government review when received from each such group and also provide a copy of the U.S. submissions when provided to each group.

Sincerely,

Jim

F. JAMES SENSENBRENNER, JR.
Chairman

FJS/hlw

Enclosure

cc: The Honorable Ralph M. Hall, Ranking Minority Member, Committee on Science, U.S. House of Representatives

The Honorable Bill Richardson, Secretary of Energy

The Honorable Frank E. Loy, Under Secretary of State for Global Affairs

The Honorable D. James Baker, Administrator, National Oceanic and Atmospheric Administration and Under Secretary for Oceans and Atmosphere, U.S. Department of Commerce

Mr. Roger Ballentine, Deputy Assistant to the President for Environmental Initiatives

<u>Third Assessment Report (TAR) and Related Synthesis Report (SR) Reports and Process</u>

Q1. I believe it is in the interests of the United States that both Presidential candidates are fully aware of the Third Assessment Report (TAR) and related Synthesis Reports (SRs) and process. Consequently, I would like to know what steps the Administration has taken or plans to make available to the candidates copies of the working group drafts for Government review when made available to the U.S. and to consult the transition team of the President elect in the development of comments on each draft, particularly since the new Administration will be in office when Working Groups II and III meet.

Q2. It has been reported that if Governor Bush is elected President, he will send representatives of his transition team as observers to the Sixth Session of the Conference of the Parties (COP6) to the UN Framework Convention on Climate Change (FCCC). What arrangements have been made to ensure that can happen and will the Administration make similar arrangements for such attendance at the Intergovernmental Panel on Climate Change (IPCC) Working Group I Plenary in January?

Q3. As you know, the Second Assessment Report (SAR) and the related Synthesis Report (SR) were considered together by the IPCC in Rome in 1995. I understood that at its 1999 plenary in Costa Rica the IPCC discussed the TAR and related SR schedule with the understanding that the reports would be accepted/approved together in August or September 2001. I now understand that it is planned to have two IPCC plenaries in 2001: one in early April of about 2 or 3 days to accept the reports and SPMs of the Working Groups, which, at that stage, is nearly a *pro forma* exercise; and one in September of a week or more to approve and accept the SR. The April meeting apparently is in Kenya and the September meeting is in London. That appears to be an unnecessary and costly duplication of IPCC meetings.

Q3.1 Please explain why the U.S. has apparently agreed to two IPCC plenaries for the TAR process when one was adequate for the SAR process in 1995.

Q3.2 Please explain when and how this decision was made by the IPCC.

Q3.3 What was the cost to the United States, including contributions thereof to the IPCC, of the SAR and related SR plenary?

Q3.4 What are the expected costs of two plenaries for the TAR and related SR?

Q4. In Costa Rica, the IPCC adopted a series of "Policy-Relevant Scientific, Technical and Socio-Economic Questions" for the SR. My understanding is that the answers to the questions are to be drawn from the scientific assessment material in the TAR. This new "top-down" SR process appears to assume that the material for answering the questions will emerge from the normal "bottom-up" scientific assessment process.

Q4.1 Is that the understanding of the U.S. government?

Q4.2 Are you satisfied with this process to date and do the draft responses adequately provide these answers?

Q4.3 Please provide a copy of the U.S. comments for the Government Expert review on each working group "2nd draft."

Q5. I understand that the attached "Proposed Schedule and Approach for the Preparation and Peer-review of the Synthesis Report and its SPM," which is dated June 23, 2000, has been revised once again.

Q5.1 Please provide the latest version, together with the list of members of the core and extended writing team and their country and indicate any that are from business, labor, agriculture or the environmental sectors.

Q5.2 Please provide the "analysis" referenced in "Step 1" of the enclosure.

Q5.3 I also understand that as a result of "Step 2" new figures and tables—such as on weather extremes, disasters, and the projection of impacts on some countries—have been or are under, preparation for inclusion in one or more Working Group drafts for the Government review, and for use in the SR that were not in the earlier Government/Expert review drafts. Please provide your understanding of the need for such figures and tables, what "key messages" they illustrate, what questions they address, and the basis for them.

Hansen *et al* Paper—Global warming in the twenty-first century: An alternative scenario

Q6. A recent paper by Dr. James Hansen of the NASA Goddard Institute for Space Studies and his colleagues, entitled "Global warming in the twenty-first century: An alternative scenario" (Hansen, J., Sato M., Ruedy R., Lacis A. and Oinas V. (2000) *Proc. Natl. Acad. Sci.* 97, 9875-9880), has drawn considerable attention, both with regard to its scientific and policy-relevant recommendations. What is the view of the Clinton Administration of this paper? Do you agree with the recommendations and that the paper should be considered in the TAR process? Please explain.

National Assessment Synthesis Report

Q7. Thank you for your reply of August 11, 2000 to my further inquiry about public participation in the National Assessment Synthesis Report. I continue to disagree with your view about the adequacy of the public review process and note that the process has resulted in a lawsuit.

Q7.1 What is the latest schedule for the report, taking into consideration that lawsuit?

A7.2 An August 11, 2000 Abstract of comments on the draft report by the "Joint Program on the Science and Policy of Global Change," Massachusetts Institute of Technology is as follows:

> "The U.S. National Assessment has succeeded in bringing attention to impacts of climate change as an essential element of climate policy analysis. However, there are serious problems in the Public Review draft of the National Assessment Overview. Our comments focus primarily on the treatment of uncertainty in the Assessment. These concerns call for substantial revisions to the document. Our main points are the following:
>
> (1) The two climate scenarios do not span a plausible range of climate outcomes. This problem should be corrected by inclusion of more graphics from other climate scenarios to provide better balance in the presentation.
>
> (2) The two climate scenarios are not equally plausible. In many respects, the Canadian Climate Center scenario is an outlier whereas the Hadley Center model is more representative of the central range of climate model results. This fact needs to be discussed in the document.
>
> (3) The National Assessment did not conduct a rigorous and scientific assessment of uncertainty. The inferences in the text that lead the reader to believe that such an analysis was undertaken should be eliminated.

(4) There is no basis for the likelihood statements presented in the text. These statements should be rewritten to clearly indicate that the scenario analyses identify possible outcomes but that the National Assessment was unable to carry out the analysis needed to establish probabilities.

"Finally, formal uncertainty analyses should be pursued in future Assessments of this type, and the lack of such in this Assessment was a major weakness. Analysis to support likelihood statements should be an integral part of future assessments rather than a casual and *ad hoc* exercise in the write-up phase of the report."

I request your response to each of the four "points" indicating what action was taken to respond fully to the criticisms.

Attachment

Revised schedule: June 23, 2000

Proposed Schedule and Approach for the Preparation and Peer-review of the Synthesis Report and its SPM

Step 0: *June:* Finalize the selection of the core writing team (4-6 lead authors per Working Group) and the extended writing team (one lead author per chapter from each Working Group), and submit the names to the Bureau for information.

Step 1: *June/July/August:* Extended writing team members perform a stocktaking exercise to identify which paragraphs/sections in each chapter of their Working Group Report are relevant to the ten policy-relevant questions, and to identify gaps in each of the three Working Group reports. This analysis will then be presented at each of the Working Group lead authors meetings to assess whether these gaps can be filled.

Step 2: *July 28/29, August 12/13 and August 26/27:* A series of two-day meetings at the end of the Working Group I, II and III lead authors meetings attended by about one lead author per chapter (the "extended writing team") to: (i) finalize the stock-taking exercise, which identifies which paragraphs/sections in each chapter are relevant to the ten policy-relevant questions and the gaps in the Working Group reports and provides a final assessment of whether these gaps can be filled; (ii) initial assessment of the likely messages for each question from each Working Group; and (iii) an initial assessment of whether the WG figures and tables will suffice for the Synthesis Report or whether we will need to develop new figures and tables to illustrate the key messages.

Step 3: *July/August to November:* Extended writing teams provide a series of bullets per question as input for discussion at the first meeting of the core writing team. Submission of inputs to Watson by November 1, distribution by Watson to the core writing team by November 8.

Step 4: *November 14-17:* The core writing team will meet during COP-6 in the Netherlands to debate and agree on the messages to be developed for each question, and then draft a zero-order text, including figures and tables, for each question. A small team of lead authors would then be assigned to each question or set of questions given that there is overlap among the questions, e.g., questions 1,3 and 4 are connected, as are questions 5, 6 and 7.

Step 5: *November 18 – December 6:* The lead author teams would produce first-order drafts, including figures and tables, for each question, i.e., a first-order draft of the Synthesis Report, that could be sent for informal review.

Step 6: *December 11 – January 5:* Informal review of first-order draft by limited number of internal (will include the members of the expanded Working Group writing teams) and external experts (IPCC Bureau members will receive these drafts for information). In parallel Watson would use these first-order drafts to produce the zero-order draft of the five to ten page SPM (most likely will be closer to the 5 page length because of the difficulties of line-by-line approval of a longer document), which would then be circulated to the core writing team for review prior to a series of teleconferences between January 10-12.

Step 7: *January 10-12:* A series of teleconferences, supported by e-mail exchanges, among core team members to discuss the review comments on the Synthesis Report and the SPM, especially focussing on cross-cutting issues. These reviews will act as input to revising the Synthesis Report at the Working Group I, II and III meetings between January and March. These reviews and revisions will in turn lead to revisions of the SPM.

Step 8: *January 22-24, February 18-20 and March 4-6:* A series of three-day meetings at the end of the Working Group I, II and III plenary meetings in China, Argentina and Ghana, respectively, to discuss how to revise the relevant sections of the Synthesis Report and its SPM in light of the review comments, the teleconference discussions, and the changes made to each of the Working Group Summaries for Policymakers during the final approval process. Each meeting would devise a blueprint of how to revise the Synthesis Report and the SPM and re-write to the extent possible during the meeting. Further redrafting could take place after the Working Group meetings prior to the March meeting of the core writing team, recognizing the limited time after the Working Group III meeting. Revised text should be sent to Watson for distribution to the core writing team by March 14. Only the authors from the relevant Working Group would attend, i.e., the extended Working Group writing teams. Working Group Bureau members are invited to attend as observers, but not to participate in the preparation of the Synthesis Report or its SPM given their important role as review editors.

Step 9: *March 19-24:* A five day meeting (Washington DC or Geneva) of the core writing team to finalize the government/expert review version of the Synthesis Report and its Summary for Policymakers.

Step 10: *April 3-May 29:* The Synthesis Report and its Summary for Policymakers will be available in English for an eight week expert/government review per the approved principles and procedures.

Step 10bis: *April 3-15:* Translation of Summary for Policymakers into UN languages. The translated versions of the SPM will then be sent on April 15 to the appropriate governments to assist them in their review process, recognizing that all review comments must relate to the English version and must be sent in English.

Step 11: ***May 30- June 11:*** Collation of expert and government review comments, which will be distributed to the core writing team and IPCC Bureau members as review editors.

Step 12: ***June 18-22:*** Core writing team meeting to revise Synthesis Report and its Summary for Policymakers (location to be decided).

Step 13: ***July 6-August 31***: Final eight week government review of Synthesis Report and its Summary for Policymakers.

Step 13bis: ***July 6-17***: Translation of Summary for Policymakers into UN languages. The translated versions of the SPM will then be sent on July 18 to the appropriate governments to assist them in their review process, recognizing that all review comments must relate to the English version and must be sent in English.

Step 14: ***September 1-14:*** Collation of government comments, which will be distributed to the core writing team and IPCC Bureau members as review editors.

Step 15: ***September 22/23:*** Core writing team meeting to evaluate government comments and consider amendments, overseen by the Bureau as review editors.

Step 16: ***September 24- 29:*** Plenary meeting of the Panel in the UK to adopt/approve the Synthesis Report and its Summary for Policymakers.

Step 17: ***October/November:*** Translate and print Synthesis Report and its SPM

Step 18: ***October/November:*** Deliver copies of the Synthesis Report and the SPM to COP-7 (published books may be available, but cannot be promised due to the short time between the IPCC Plenary and COP-7 – if published books are not available Xeroxed copies in English will be distributed)

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October 4, 2000

The Honorable Frank E. Loy
Under Secretary of State for Global Affairs
U.S. Department of State
2201 C Street, NW
Washington, DC 20520

Dear Under Secretary Loy:

Thank you for meeting with me on September 28 and briefing me on your plans for COP-6 at The Hague.

Enclosed are additional questions growing out of the Department's reply of August 16 to my letter of May 4 and the recent sessions of the FCCC's subsidiary bodies in Lyon, France. I request a complete reply by November 1, 2000, so that these responses can be distributed to members of the Speaker's delegation in a timely fashion prior to their departure for The Hague. I also presume that a full reply to my June 29 letter will come before that date.

Sincerely,

Jim Sensenbrenner

F. JAMES SENSENBRENNER, JR.
Chairman

FJS/hlw

Enclosure

cc: The Honorable Ralph M. Hall, Ranking Minority Member, Committee on Science, U.S. House of Representatives
The Honorable Ken Calvert, Chairman, Subcommittee on Energy and Environment, Committee on Science, U.S. House of Representatives
The Honorable Jerry F. Costello, Ranking Minority Member, Subcommittee on Energy and Environment, Committee on Science, U.S. House of Representatives

The Honorable Ben Gilman, Chairman, Committee on International Relations, U.S. House of Representatives

The Honorable Jo Ann Emerson, U.S. House of Representatives

The Honorable Joe Knollenberg, U.S. House of Representatives

The Honorable John E. Sununu, U.S. House of Representatives

The Honorable Jesse Helms, Chairman, Committee on Foreign Relations, U.S. Senate

The Honorable Chuck Hagel, Chairman, Subcommittee on International Economic Policy, Export, and Trade Promotion, Committee on Foreign Relations, U.S. Senate

The Honorable Larry Craig, U.S. Senate

The Honorable Robert C. Byrd, Ranking Minority Member, Committee on Appropriations, U.S. Senate

The Honorable David B. Sandalow, Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs

Mr. Roger Ballentine, Deputy Assistant to the President for Environmental Initiatives

COP-6 Agenda Issues

Q1. The State Department's reply to my May 4th Question Q9 stated: "Progress on key issues, including those in the Buenos Aires Plan of Action and those related to developing country participation would constitute success for the COP and the United States." However, I do not know if the word "participation" is intended by you to be a synonym for the word "commitment" (as used in the Byrd-Hagel Resolution, S. Res. 98) or to have some other meaning. I noted in May 4th question Q1 that the Executive Secretary planned last April to defer consideration of the COP-6 agenda until the beginning of the second week at The Hague. In fact, the Executive Secretary published the COP-6 "Provisional Agenda and Annotations" on August 31, 2000 (see FCCC/CP/2000/1) affirming that plan. In May 4th question Q1.1, I asked the reasons for this deferral because it seemed to have the effect of "putting off any possible opportunity" for the U.S. to amend the agenda to deal with developing country commitments and I asked if the U.S. "agreed to this deferral." The Department's reply was that the planned deferral would "allow" the FCCC's current Bureau "to continue to serve through the week of subsidiary body meetings." The reply also included a comment "that a number of items on the COP-6 agenda address developing country participation." Unfortunately, the Department's reply to question Q1.1 did not identify those "items."

Q1.1 Are the words "participation" and "commitment" intended by the Department to be synonymous from the standpoint of S. Res. 98?

Q1.2 What are those specific items in the Executive Secretary's note of August 31 that "address developing country participation"?

Q1.3 How does the U.S. intend to make progress on developing country participation in light of the September 11, 2000 opening statement in Lyon by the Chairman of the G-77 and China, Mohammad Barkindo of Nigeria? That statement said, in part, the following:

> " . . .we applaud the statement of the distinguished head of the delegation of the United States, who, as we understood his remarks during the stock-taking session on Thursday, said in effect that the highest priority is that we leave no issue behind.
>
> "He also was heard to caution against introduction of what were called 'extraneous issues' that might be viewed as 'distractions.' Mr. Chairman, I must emphasise on behalf of the developing countries that **an assured distraction from our goal taking decisions to implement the Buenos Aires Plan of Action would be any attempt to introduce in any guise at COP-6 the clearly extraneous notion of future negotiations on any kind of understandings or actions of developing countries beyond those specified in our Convention and the Kyoto Protocol. I trust that I need not repeat the full statement of the Group of 77 and China on these matters, made at the joint meeting of the SBI and the SBSTA during their 12th session. I can summarize our views by recalling we said that 'nothing has happened to modify in any respect the 'no new commitments' pledge in the Berlin Mandate.'** " (*Emphases in original*)

Q1.4 I note Assistant Secretary Sandalow's September 14 remarks at Lyon in identifying "these key issues" that "must be resolved to achieve a ratifiable international agreement" included the following:

> "The **third** issue is participation by developing countries. Climate change is a global problem that requires a global solution. Industrialized countries must take the lead, but other countries must also contribute in ways that promote their sustainable development. Many developing countries are already making significant strides to improve energy efficiency, slow deforestation and otherwise stem their emissions growth. The Clean Development Mechanism will provide the means for many countries to take additional action while growing their economies." (*Emphasis in original*)

Is it now the State Department's contention that such "strides" and the Clean Development Mechanism meet the conditions of the S. Res. 98 or do you agree that such efforts, including agreements with India and China, are useful but are not equivalent in any way to the "commitments" referred to in the Berlin Mandate or S. Res. 98? Please explain.

Q2. I understand that at the close of the joint session of the Subsidiary Bodies (SB) in Lyon, Subsidiary Body for Implementation (SBI) Chairman John Ashe noted objections by some Parties to postponing adoption of the agenda to the second week in The Hague and proposed an SB conclusion that the normal COP practice be followed of adoption of the agenda at the beginning of The Hague session. I also understand that conclusion was adopted by consensus.

Q2.1 Is that conclusion binding on the Executive Secretary and the FCCC President under the Rules as applied?

Q2.2 Does the U.S. delegation now plan to amend, directly or indirectly, the agenda to include consideration of developing country commitments or, to use the Department's phrase, "to address developing country participation," in order to obtain the progress on this "key" issue that the State Department says it wants at COP-6 or will the delegation continue to rely on the other agenda items, and under either, what results do you expect.?

Q2.3 What was the effect of SBI Chairman Ashe's action on the agenda proposal regarding election of the Bureau?

Q2.4 Please provide a list of the "current Bureau" members and their countries.

Q2.5 With these elections, will the United States, China and India be represented on the Bureau? If not, please explain why.

Q2.6 How long may a Party elected to the Bureau as a Vice President, chairman of the Subsidiary Bodies, Rapporteur, or Bureau member from one of the five regional groups and the small island developing states serve on the Bureau? Are the representatives of the Party that serve as Bureau members serving in an individual capacity or as representatives of the Party?

Q2.7 Included in the "package" of decisions of the Buenos Aires Plan of Action (BAPA) are proposals regarding Articles 4.5, 4.8, and 4.9 of the FCCC and Articles 2.3 and 3.14 of the Kyoto Protocol (KP), which, as noted by the Chairman of the G-77 and China in his September 11 statement, are of "deep concern" to that group. His statement calls for developed country "governments" to "commit to specific amounts of financial resources — on an ongoing basis" in the case of technology transfer under Article 4.5 as well as "meaningful implementation" of the other Articles referenced above. In the case of technology transfer, the G-77 and China proposed a "Developing Countries' Technology Transfer Fund" to be financed by (x) billions of dollars annually by the United States and other Annex II Parties to the FCCC according to a to be determined formula (see FCCC/SBSTA/2000/MISC.9). I understand such funding is also proposed for the other Articles. Fortunately, the U.S. delegation has not "caved" to these outrageous demands of the G-77 and China.

Despite this resolve so far by the delegation, I are concerned that some "deal" might result at The Hague over these controversial issues and that if and when it occurs, the U.S. will lose leverage with developing countries on commitments as required by S. Res. 98. Has the U.S. a plan to condition any, temporary or permanent, resolution of the above-referenced Articles to "key" developing countries agreeing in turn to "commitments" as required by S. Res. 98? Please explain.

Q3. As you know, only 29 countries have ratified the KP and none are developed countries. However, a June 22nd European Union (EU) statement says that "[t]he discussion on what additional action is required to meet the ultimate objective of the Convention should begin at CoP7 in the light of the IPCC Third Assessment Report which is to be released in 2001" even through the Protocol has not entered into force and Article 3.9 of the Protocol does not call for such negotiations until after such entry into force.

Q3.1 Is it premature to start such a discussion and/or negotiations when there is still a huge question of U.S. ratification at any time, when the U.S. doesn't know yet whether and how it will organize to even try to meet the target and schedule of the first commitment period, when, to my knowledge, no transparent effort has been undertaken to predict what such a target and schedule might be or when it would begin, or whether the U.S. will be able to meet the Article 3.1 commitment fully and on time? Please explain.

Q3.2 Will you oppose such discussions and/or negotiations for 2001 and for any period prior to U.S. ratification and entry into force, which, of course, may never occur?

Q3.3 If such discussions and/or negotiations were to be initiated prior to entry into force of the Protocol, would you agree that they should also address the developing country issue (and possibly a way to modify the first commitment period requirements) and that, most importantly, they should be resolved before the Senate is asked to consider the Protocol under the Constitution? Please explain.

<u>Institutional and Process Issues</u>

Q4. I understand that at SB-12 and SB-13 various texts were proposed to establish new institutions within the framework of the FCCC and the KP. One, of course, is an "executive board" which, according to Article 12.4 of the KP, is to supervise the "clean development mechanism," subject to the "authority and guidance of the Conference of the Parties serving as the meeting of the Parties [COP/moP]" I understand there are also proposals in the mechanism texts, which are not supported by any provision in the KP, to expand this board's activities to include matters under Articles 6 and 17. There also are proposals in the compliance context to establish a compliance institution—the Compliance Committee—with, as urged by the U.S. delegation, two branches.

I also understand that Decision 20/CP.1 established an "ad hoc open-ended working group of technical and legal experts" for a process under Article 13 of the FCCC—the Ad Hoc Group on Article 13 (AG-13)—which ultimately resulted in Decision 10/CP.4. Decision 10/CP.4 approved the AG-13 "text of the multilateral consultative process," with the exception of bracketed provisions on the "Constitution" of the "standing Multilateral Consultative Committee." Footnotes to the Decision explain that the G-77 and China "uphold the principle of 'equitable geographical distribution' " and "strongly objected" to the brackets around this phase "by some Parties," while other Parties said that the phrase "was not acceptable" and "that 'equitable geographical distribution' was not a well-established practice and was not applicable in this context."

The institutions of the executive board, the Compliance Committee, and the two compliance branches include the same issues of "Constitution" that are bracketed in the case of the AG-13 text, which remains in limbo.

Q4.1 Is the concept of "equitable geographical distribution" applicable under Rule 22 of the FCCC organizational rules, as applied, to the FCCC Bureau? If yes, why was it agreed to by Annex I Parties and what is the basis for the Annex I view that this is not a "well-established" U.N. practice?

Q4.2 Will the U.S. delegation to The Hague continue to find unacceptable and oppose, as I believe should be the case, the G-77 and China position of "equitable geographical distribution" for the AG-13 Multilateral Consultative Committee and all of the new proposed institutions for the Protocol? Is this a "line-in-the-sand" position? If not, please explain why.

Q4.3 There are also proposals for the members of these institutions to be nominated by Parties and "serve in their personal capacity." The AG-13 Multilateral Consultative Committee apparently does not provide that the members serve in their personal capacity. Yet I understand that the U.S. delegation prefers this approach for all of these institutions. I would like your explanation as to why the delegation supports this approach for (1) the board and (2) each of the compliance institutions.

Q4.4 I understand that during the discussion of the compliance text under KP Article 18 at Lyon, India and Brazil raised a question as to whether the compliance institutions are subsidiary bodies. Presumably, the same question arises for the executive board. In the case of the latest compliance text (FCCC/SB/2000/CRP.10/Add.1), there is a bracketed proposal for the Compliance Committee to be established as an "administrative and subsidiary body of the COP/MOP" and another provides that it "shall constitute a Bureau." As to the proposed branches, the text is silent. I note that the FCCC expressly provides for two subsidiary bodies and Article 15 of the KP provides that they serve in a similar capacity for the KP. I understand that the AG-13 Multilateral Consultative Committee has not been established as a subsidiary body pursuant to Article 7.2 (i) of the FCCC.

Q4.4.1 What is the U.S. delegation's view as to whether or not all or some of these proposed new institutions should be subsidiary bodies or bureaus and if they are not a bureau or subsidiary body, what are they?

Q4.4.2 What are the advantages and disadvantages for the U.S. of designating them or not designating them as subsidiary bodies or bureaus?

Q4.5 I am quite concerned—particularly in the case of the compliance branch, but also in the case of the CDM executive board and possibly other matters—that such institutions could make what appear to be "decisions" involving such important matters as suspension of the use of one or more mechanisms or compliance with commitments and approval and disapproval of CDM or other projects and baselines for such projects. A few persons who may not be Parties and who may not include any representation by the United States could make such decisions that would affect governments and in many instances have political or policy aspects. It is my understanding that the AG-13 Multilateral Consultative Committee is not empowered to make decisions and that the subsidiary bodies under FCCC Articles 9 and 10 (*i.e.*, SBSTA and SBI, respectively) can only make recommended decisions. Only the COP makes decisions or, in the case of the KP, the future COP/moP. I also understand that Brazil raised the issue of decisionmaking in regard to the compliance institutions.

Q4.5.1 What is the basis in either the FCCC or the KP, absent an amendment to the FCCC, for giving to any of these new institutions anything more than decisionmaking recommendation authority, particularly if there is no review by, or appeal to, the COP or COP/moP and in light of the provisions of Article 7.2 of the FCCC?

Q4.5.2 How would such decisionmaking authority be established without such an amendment?

Q4.5.3 Why is it in the interests of the U.S. to confer such authority to a subordinate body that may not even be a subsidiary body and not have representation by the Parties?

Q4.5.4 Would such decisions be viewed as binding on a Party, such as the U.S., and is that in the interest of the U.S.?

Q4.5.5 Recognizing that the COP and the COP/moP can meet more frequently than once annually, why is it appropriate for either to authorize decisions by these new institutions? Would such decisions be final?

Q4.6 How can COP-6 be considered a success of any kind if these issues about <u>all</u> of these institutions are still unresolved when COP-6 ends, noting that the AG-13 Committee only exists on paper because the issue of "Constitution" is still unresolved?

Q5. Between the Bonn and Lyon meetings, the former Assistant Secretary of State, Eileen Claussen, in a June 20 speech in London, provided what she described as "A Realistic Assessment" of the Protocol, saying "that a 7 percent reduction [below 1990 levels] is overly ambitious in a country where emissions already have *grown* to more than 11 percent above 1990 levels and are likely to continue to rise." She noted that there is "nothing wrong with ambitious targets," but added that they "have to be grounded in reality," which she questioned. She also raised the issue that the targets and timetable may need renegotiation. While I am sure you disagree with these comments, she also talked about the "administrative process," saying:

> "Yet another factor in the ability of the U.S. to meet the Kyoto targets is the thorny issue of administrative process. Even if we saw a profound shift in Washington on the topic of climate change in the next one or two years (and I am not optimistic that this can happen), the United States would not be able to achieve the Kyoto targets as they are currently drawn for a very simple reason: administrative process in our country is enormously time-consuming.
>
> "For the Kyoto Protocol to become U.S. law, the President would have to submit it to the Senate; the Senate would have to grant its advice and consent; both Houses of Congress would have to pass implementing legislation that would then have to be signed by the President; and a designated agency would have to draft rules and regulations that would have to go through formal notice and comment procedures before they could be finalized and then put in place. Given that such legislation and regulation would clearly result in regional and sectoral economic impacts, the odds of all this activity occurring in enough time to enable the U.S. to meet the Kyoto target are very small indeed."

While I recognize that technically the U.S. does not actually have to meet its target until 2012, I presume that realistically the U.S. must be on its way to the target far earlier than 2012 and the KP Article 3.2 provides for "demonstrable progress" by 2005—progress that at least one text emerging from Lyon seeks to define. Thus, Ms. Claussen's comments do not appear to be far off the mark.

I also note that a September 6, 2000 Reuters article reported that Deputy Assistant to the President Roger Ballentine, said in London on September 5 that he was "confident there would be progress" at the sixth session of the Conference of the Parties (COP-6) in The Hague, but that the session will not likely finish every issue as there "is too much work left to be done to wrap up in November." I note you made similar comments in a June 20 London speech to the Annual Conference of the American Bar Association when you said that the "international community" has "reaffirmed" its "resolve to tie up as many outstanding issues as possible" at The Hague, but obviously not all. I am not surprised by this Administration caution about expectations at The Hague after seeing the results of the Bonn and Lyon sessions and reading Assistant Secretary Sandalow's remarks of September 14 that the "pace of progress" on issues other than capacity building and compliance "is lagging behind." Unlike the period prior to Kyoto where there essentially was one text and in reality only a handful of issues for ministers to negotiate (since much of the "underbrush" had been addressed in the ad hoc group prior to Kyoto), several new texts emerged at Lyon and the ever changing mechanisms text grew to over 150 pages. The delegates now have separate, uncoordinated texts on sinks, mechanisms, compliance, a package of guidelines under Articles 5, 7 and 8 of the KP (all of which significantly impact several other texts, like compliance and mechanisms), technology transfer, Articles 4.8 and 4.9 of the FCCC and Articles 2.3 and 3.14 of the KP, capacity building, and policies and measures. Most, if not all, contain new material and are heavily bracketed.

Even with but one text at Kyoto, the result was a Protocol that not only failed the test of the Byrd-Hagel Resolution, which passed the Senate six months earlier by a vote of 95-0, but also resulted in an unfinished Protocol. You confirmed this in your London speech, when you said the Kyoto Conference "left unanswered a number of absolutely critical questions" about such matters as the mechanisms, sinks and compliance as well as a "range of particularly politically charged questions relating to the role of developing countries . . .". It appears from the above London remarks of Mr. Ballentine and yourself that piecemeal results can be expected at The Hague, primarily because the rush to decision is not based on adequate and transparent preparation of a single consolidated, albeit bracketed text, that addresses the "critical questions" and the "politically charged questions" in total.

Yet given the fact that the new texts at Lyon are so complex, controversial, and involve many cross-cutting issues that need resolution in a way that is consistent with both the Protocol and S. Res. 98, decisions at COP-6 in order to meet the "ambitious" results of negotiations that occurred in 1997 are according to your predictions in London and those of Mr. Ballentine, not likely to be sufficiently comprehensive to begin this "administrative process" for some time. However, in the case of mechanisms and Articles 5 and 7 of the Protocol, the U.S. delegation appears to be making proposals that would require or encourage actions by the U.S. that are dependent on this "administrative process" being started and completed early in this decade.

While I note your reply to May 4th question Q14.1 in which you contend that adequate authority exists to comply with Article 5.1 of the KP and the so-called "mandatory" guidelines, I assume without quarreling with that reply now, you agree that much more will be required if and when the Protocol is ever ratified. If yes, then please explain why the U.S. delegation proposes or appears to agree to any provision—particularly in the development of mandatory/non-mandatory guidelines under KP Articles 5, 7 and 8—that could result in any mandate on the U.S. to take any non-voluntary action before the commitment period begins or before the period prescribed in KP Article 5.1.

Q6. In reply to May 4th question Q14.2.5, the Department said that Administration officials "have an ongoing, active outreach program to the Congress, business community, environmental groups" and others. The reply notes that a "number of issues were discussed with" Senate Committee staff, "including those related to the nature of rules and guidelines, prior to the Bonn climate change" session last June.

First, while I encourage discussions with Congressional staff, they do not have election certificates. Moreover, such discussion or "outreach" with Members and staff and others are often of little value when provided after the Administration has already made decisions or submissions. Second, I raised questions about so-called "mandatory" guidelines in my May 4 letter (*see questions 13 and 14*) prior to Bonn and no one from the Administration engaged in "outreach" with me or my staff. Third, the delegation has made recent, significant proposals to the Secretariat and the Parties without any apparent effort toward "outreach" to Congress or others prior to doing so. For example, in the case of sinks, the U.S. first announced its latest proposal that apparently sought to placate the EU in mid-July in Poland with no vetting in the U.S. to my knowledge. Similarly, in the case of compliance, the U.S. proposed its 1.3 ton penalty for a Party's non-compliance with its commitment after 2012 and at Lyon proposed its three options to address Article 18 issues and in each case, there was no prior outreach.

Q6.1 I would like to know why, particularly since none of these three proposals were made in the midst of negotiations and there was no prior "outreach" in each case with the Congress and others.

Q6.2 In the case of the sinks proposal, please provide the analysis or other documentation and a narrative explanation of the anticipated or expected impact of the proposal on the United States and the reasons why the U.S. delegation made this proposal as early as the July workshop and apparently without any vetting of it with the members of the Umbrella Group or preliminary discussions with the EU.

Q6.3 In the case of compliance, please explain the reasons why the U.S. proposed a deduction of 1.3 times the excess tons of a Party's assigned amount for the second commitment period as a binding consequence for failure to meet its first commitment period. The explanation should include any analysis made by the Administration prior to, and since, the submission as to its potential economic impact on the United States, taking into account the U.S. proposal on sinks and the fact that no negotiations have even begun for a second commitment period target and schedule.

Q6.4 Also, in the case of compliance, the U.S. proposed "at least three ways to adopt the COP-6 results on compliance," which are in (FCCC/SB/2000/CRP.10/Add.1). Please explain why that proposal was not vetted prior to its presentation at Lyon.

Mechanisms, Compliance and Article 5, 7 and 8 Mandatory and Non-mandatory Guidelines

Q7. For the clean development mechanism (CDM), I understand that the issues of (1) eligibility criteria for projects and (2) methodologies determining baselines in order to determine how much emissions reduction credits can be derived from the projects are critical for energy sector projects and forestry projects—particularly in view of the early credit provision of Article 12.10. I also understand that industry has pointed out that early decisions on these issues at COP-6 would appear necessary if KP Article 12.10 is to have any meaning, while recognizing that entry-into-force of the Protocol may be a long way off, if ever. However, the U.S. delegation proposal in FCCC/SB/2000/MISC.4/Add.1 appears to defer all of these issues to the Article 12 executive board that may not be established for some time to come and which, as noted earlier in this enclosure, has unresolved institutional and decisionmaking issues. Please explain why the U.S. delegation is not insisting on these matters, which clearly involve political considerations, being decided at COP-6 as an essential part of the decision on all three mechanisms.

Q8. Secretarial document FCCC/SB/2000/MISC.4/Add.2/Rev.1, dated September 14 (Paper No. 2), proposed an amendment to the mechanisms text to establish an executive board to "facilitate a prompt start "of the CDM, as well as operational entities, that the COP "assume the responsibilities" of the COP/moP, and that the proposal be "effective immediately upon adoption", presumably at COP-6. Several countries, including the U.S. delegation submitted the proposal. As I understand the proposal it would appear to authorize CDM activities by Parties, including the U.S., prior to the KP entering into force and when and if that occurs for affirmation of those activities by the COP/moP. This would appear to have the Administration asking the COP to authorize implementation of Article 12 activities by Parties before the President submits the Protocol to the Senate for advise and consent to ratification and thus circumvent the Constitutional role of the Senate.

Q8.1 Do you agree and, if so, explain why the U.S. delegation joined in submitting this amendment to the mechanism text prior to such submittal of the Protocol to the Senate.

Q8.2 Please also explain how the United States could legally implement such a provision if adopted by the COP prior to ratification of the Protocol. In responding, please include an explanation as to whether the U.S. could implement Article 12.10 prior to such ratification. Also, please explain what Executive Branch agency could implement the proposal and Article 12.10.

Q9. The August 31 proposed agenda for COP-6 includes the issue of Activities Implemented Jointly (AIJ). The Department's letter in reply to May 4th question Q5.1 said this issue would be considered in Lyon "with a view to developing a decision to be taken at COP-6," which I think is appropriate. However, at Lyon there seemed to be a suggestion that through a "fast gavel" the matter about credits for AIJ projects was deferred until next year. I hope that the U.S. did not agree to such a deferral and that it is still on the agenda for COP-6. If not, the U.S. should move to add it. I request your explanation of the status of the matter and your plans for a COP-6 decision.

Q10. Is it still the "line-in-the-sand" view of the U.S. delegation that a decision on the mechanisms must cover all three mechanisms, not just Article 12, and that it must be complete? If not, what details of any of the mechanisms could be left to future COPs, remembering that process and technical details often trump substance?

Q11. The U.S. has gone on record as opposing quantitative limits, both individually and collectively, for the market mechanisms (emissions trading, JI and the CDM). Yet at the Poznan, Poland workshop this past summer and in its August submission to the FCCC Secretariat, the U.S. in effect conceded a quantitative limitation on another flexibility mechanism, KP Article 3.4 land use, land-use change and forestry (LULUCF) activities, by proposing phase-in options during the first commitment period, namely, a discount rate and a threshold level. As I noted earlier, that was done without "outreach" to Congress and others.

Q11.1 In the LULUCF area, why is the U.S. giving away in negotiations what it is fighting so hard to keep in the market mechanisms area and what it bargained for so hard in the Protocol? Has the U.S. received anything in return for agreeing in concept to a quantitative limitation for Article 3.4 LULUCF activities?

Q11.2 I understand that under the Protocol the U.S. can legally report 312 million metric tons of carbon for the first commitment period (288 million for forest management, 16 million for cropland management and 8 million for grazing land management) under KP Article 3.4, which is, of course, an environmental treaty and which was negotiated in 1997 with this provision included as another flexibility mechanism that was not considered in the 1998 economic analysis of the Protocol but was noted as an additional economic tool. In short, the U.S. negotiators at Kyoto contemplated such reporting and utilization by the Party. There should be no claim of surprise. Do you agree that such tons could be reported and, if so, why is the U.S. delegation apparently willing to trade or give up for COP-6 negotiations any portion of this amount. Will this increase the cost of compliance for the U.S., its citizens and industry, and require more costly policies and measures?

Q11.3 What specific discount rate does the U.S. favor as a phase-in option for the first commitment period under KP Article 3.4? Does 5 percent (the figure cited in FCCC/SBSTA/2000/L.6/Add.1) appear to be a reasonable number?

Q11.4 What specific threshold level does the U.S. favor as a phase-in option for the first commitment period under Article 3.4? Do 0.5 tonnes C/ha-yr for forest land and 0.1 tonnes C/ha-yr for grassland (the figures cited in FCCC/SBSTA/2000/L.6/Add.1) appear to be reasonable numbers?

Q11.5 Assuming for the sake of argument that a phase-in option, or options, are adopted for the first commitment period under Article 3.4, do you agree that there should be no quantitative limitations or phase-in options for subsequent commitment periods?

Q11.6 Regardless of whether any phase-in option is adopted for the first commitment period relating to Article 3.4, do you agree that there should be no quantitative limitations or phase-in options for CDM forestry projects under Article 12 for the first and subsequent commitment periods?

Q12. In the case of emissions trading, I understand that the U.S. delegation has been negotiating with the EU about so-called "eligibility" requirements and apparently has reached at least a partial deal which, I understand, is set forth as Option B (paras. 5 to 8 of FCCC/SB/2000/CRP.14/Add.1 (Vol.3) "Advanced, Unedited Version").

Q12.1 Is my understanding correct, and if so, what other Parties are also included in this agreement and what Parties or groups of Parties are not in agreement?

Q12.2 As I understand the agreement, it is heavily dependent on the outcome of negotiations on Articles 5, 7, and 8 of the KP, as well as a resolution of compliance issues. Is the U.S. committed to the agreement whatever the results of negotiations on these other matters?

Q12.3 As I also understand the agreement, the U.S. would be unable to utilize the Article 17 mechanism until it not only reports that it meets all the requirements of paragraphs 5 (a) -(g) (after the "administrative process" referenced in an earlier question in this enclosure is complete), but also must wait a "specified time period," which apparently is still under negotiation, "to allow" the yet to be negotiated Article 8 process to conduct a review and the compliance enforcement branch, details of which are also not yet negotiated, "to identify and rule upon any problems." I also understand under the compliance proposal (FCCC/SB/2000/CRP.10/Add.1) that if there are "problems," the enforcement branch is to conduct an expedited review under a procedure that also appears to be awaiting negotiation and that the Article 8 review process is in FCCC/SBSTA/6.7/Add.3 which is extremely detailed and heavily bracketed, indicating a lack of completed negotiations.

Given the heavy reliance placed on Article 17 by the Administration at and since Kyoto, I am concerned about the uncertainties associated with this eligibility requirement and the potential delay that could result from this process in use of Article 17 which was relied upon heavily in 1998 in the preparation of the Administration's economic analysis of the unfinished Protocol.

Q12.3.1 What is the "specified time period" for this review that the U.S. believes appropriate and does failure of the review to be completed within the time period terminate that review and allow the U.S. to use Article 17 without fear of the compliance process calling a halt?

Q12.3.2 Assuming that the U.S. complies with this eligibility process and begins use of Article 17, under what circumstances could such use be later suspended through the compliance process and how would that be triggered?

Q12.3.3 Is suspension of mechanisms a binding consequence under KP Article 18 and what is the proposal and process for curing the suspension in a timely fashion?

Q13. In the case of compliance, I understand that it is proposed that "questions of implementation" that might initiate the compliance process could be "submitted" by any single Party, including a developing country Party that is Party to the Protocol, which is to be examined on a preliminary basis by the compliance institution. In either situation, an enforcement decision could result. I find it very difficult to accept the view that a single Party that is a developing country could initiate such a process even though, under the Protocol, that Party has no commitments. Does the U.S. delegation support this approach to enforcement? Please explain.

Q14. The compliance text includes as possible "binding consequences" financial penalties and a compliance fund, which Australia and Japan oppose. What is the U.S. delegation position on these, taking into consideration the role Congress would have to play in regards to either if and when the Protocol is ratified?

Q15. Secretariat document FCCC/SBSTA/2000/L.7/Add. 3 uses the term "first order problems" that seems to be related to compliance and several items therein are proposed to be so designated as first order problems. Some include references to [x] percentages as apparent tests of what constitutes a problem. As a whole, they are quite vague and uncertain for purposes of enforcement. It is unclear how these percentage will be developed and how arbitrary they may be. Please explain this concept, how it relates to compliance issues, what it triggers, and what could be the result..

Q16. As the Department noted in reply to May 4th Question Q14.1, data for inventories are collected by "several different agencies" and used in the preparation of the inventory. In many cases, the data are provided voluntarily and by interagency agreement. Current statutory law, such as the Global Climate Protection Act of 1987, does not authorize or mandate the collection. As the answer points out, the 1997 Act does no more than authorize coordination by the EPA in preparing the inventory.

It is my understanding that some data used for the inventory are subject to confidentiality requirements to protect trade secrets and confidential business financial and commercial information and Federal employees must protect such data subject to 18 U.S.C. 1905. However, I understand that the proposed guidelines under Articles 5 and 8 (and possibly Article 7) could result in such data being revealed to the Article 8 review teams and persons within the secretariat. While those guidelines may seek to protect the data from nondisclosure, such protections do not appear to have "teeth" like that in 18 U.S.C. 1905, as there are no similar provisions in the FCCC or KP or in other U.N. documents to my knowledge.

Q16.1 How is this problem to be addressed by the COP and could Congress, notwithstanding KP Article 26, preclude EPA and others from disclosing such data by statute since these guidelines are not part of the Protocol?

Q16.2 The Freedom of Information Act is a full disclosure statute, subject to exemptions. However, I believe that as a general rule when any record of a agency is disclosed in an authorized manner to any member of the public it is available for disclosure to all members of the public. This would include communications or disclosure of materials to the Secretariat or the Article 8 team, which presumably would have the same status as disclosure to the public, unless, of course, EPA's statute provides otherwise.

Q16.2.1Does EPA have authority to make available confidential information that is part of the U.S. annual inventory under the FCCC to the Secretariat or any review team? If yes, please provide the statutory authority in consultation with EPA, and does such disclosure make the data available to any member of the public that requests the data?

Q16.2.2Are the persons and/or agencies making such data available for the inventory made aware by EPA of this possible disclosure under the FCCC and the Protocol? How is this possible problem addressed under these guidelines?

Q17. Included on in the latest compliance text provisions related to the "Adoption of procedures and mechanisms relating to compliance" are several options that were proposed by the U.S. delegation at Lyon (see FCCC/SB/2000/CRP.10/Add.1, p. 20). I understand that these are in addition to other proposals to amend the Protocol after it enters into force.

Q17.1 The first U.S. option (see para. 5), as explained in the U.S. paper "Options for Adoption," would be a COP-6 decision recommending that the COP/moP adopt a "compliance decision" that "would not involve binding consequences from non-compliance." I am unclear why the U.S. offered this approach as an option because I thought it was the U.S. view that the gap in the Protocol regarding enforcement of a Party's commitments needed to be filled and the U.S. has proposed binding consequences discussed in this enclosure. Please explain the U.S. purpose in offering this option.

Q17.2 The second option (paras. 8 and 9) is explained to include the COP-6 decision referenced in option 1, plus a further recommendation that the Cop/moP "include the compliance decision" in any amendment to the Protocol concerning a "second commitment period for quantified targets." Apparently, this approach would defer any binding consequence for failure of a Party to comply with its commitments until a second commitment period amendment is not only adopted by the COP/mop, but also enters into force. I note that the U.S. expects that such an amendment will enter into force before the start of the second period "and, therefore, be in place in time to address non-compliance with first commitment period targets." Of course, that possibility is, at best, a guess. At this juncture, the U.S. delegation does not know if the Protocol will enter into force, be ratified by the U.S., when a second period will be negotiated and adopted, or when that period will begin, let alone know if all this will be timely enough to "address" first period non-compliance. However, an even greater problem is that some of the Protocol Parties may not opt to ratify such an amendment, particularly if they are not in compliance with the commitments of the first period. In fact, this could be a problem for the United States. If my evaluation is accurate, I again would like to know why the U.S. delegation apparently believes this Article is in any way better than the first option.

Q17.3 The third U.S. option (para. 7) was explained by the U.S. delegation as follows:

"• Option 3 is for the COP, before the Protocol enters into force, to adopt a legal instrument containing the COP 6 compliance results. Such a modifying instrument would enter into force at the same time as the Protocol and would be an integral part thereof. (It would not, strictly speaking, be an "amendment" to the Protocol, because an amendment is a modification <u>after</u> entry into force.)

• Like the second option, such an approach would effectuate binding consequences for non-compliance.

• This option could be achieved, for example, by calling the compliance decision an "Agreement" and adding final clauses. The final clauses would provide for tacit adherence (through signature) by Parties that have already ratified the Protocol and for affirmative adherence by other Parties.

• There are at least two precedents under international law for modifying a treaty before its entry into force — the agreement implementing Part XI of the Law of the Sea Convention and MARPOL 73/78."

Q17.3.1 As to the precedents, it is my understanding that in the case of the Law of the Sea Convention that the Senate has not acted on the agreement. In any event, I request a more detailed explanation as to why the delegation believes these, are "precedents" for your third option for the Kyoto Protocol.

Q17.3.2 It is my understanding that the FCCC provides for the COP to adopt protocols and amendments to the FCCC. However, I do not find any reference in the FCCC for the COP to adopt "an agreement" that is "not" an "amendment" to the Protocol and that adopts "binding consequences" under Article 18, which only references an amendment. What is the basis in the FCCC for such a option and would this "agreement" have to be ratified, subject to advice and consent of the Senate to ratification?

<u>**Other BAPA Issues**</u>

Q18. I understand that the Buenos Aires Plan of Action also includes two decisions that relate to the Global Environmental Facility (GEF), which funds developing country climate activities and that could be described as a "sleeper" issues in the grand scheme of things for COP-6. It relates to providing "additional guidance" to the GEF and review of the mechanism. It is my understanding that at Lyon no contact group was formed regarding these matters until the end of the session when the SBI concluded that one was needed to be co-chaired by the SBI Chair John Ashe and Mr. Kerry Groves of Australia (see FCCC/SBI/2000/CRP..9). That group is to consider a draft decision (FCCC/SBI/2000/CRP..9/Add.1) that is heavily bracketed, which proposes to provide "guidance" to the "operating entity" of the GEF, as well as new submissions by the Parties to be made by September 22, 2000. The draft decision appears to be largely based on a submission by the G-77 and China of September 11, 2000 (see FCCC/SBI/2000/MISC.1).

Q18.1 Why did the SBI wait so long to establish a contact group on this BAPA issue?

Q18.2 What has been the annual contributions by all nations to the GEF for the years 1995 to the present and what portion of those amounts have been used in each such year for climate activities of the developing countries? Also, what has been the actual contribution to the GEF by the United States in those years?

Q18.3 The draft decision refers to the "launch of negotiations on the third replenishment of GEF" and urges developed countries to "[increase]" their contributions to the GEF Trust Fund. Please explain the nature and purpose of these negotiations and provide your views on such an increase to the Fund, taking into consideration what the Administration has promised to the GEF and what the Congress has appropriated.

Q18.4 Please explain the U.S. position on the proposed draft, indicating what, if any, bracketed provisions the U.S. delegation has concerns about and also please provide a copy of any submission made by the delegation prior to, and since, Lyon.

FACSIMILE TRANSMITTAL SHEET

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TO: ROGER BALLENTINE (VIA MITEAR), J. ANDERSON,

FAX: 6-1736, 395-8311 VOICE:

FROM: MIKE RODEMEYER

DIRECT LINE: 456-6015

DATE: 8/11/99 # of Pages (including this cover page): 3

Should you have difficulties receiving this fax in its entirety, please call (202) 456-6202.

COMMENTS:

MURKOWSKI LETTER

United States Senate

WASHINGTON, DC 20510

August 6, 1999

Honorable Neil Lane
Assistant ~~to the~~ President for Science and Technology
Office of Science and Technology Policy
Old Executive Office Building
Washington, DC 20502

Dear Dr. Lane:

The U.S. National Assessment of the Potential Consequences of Climate Variability and Change is intended to provide a detailed understanding of the consequences of climate change for the nation. We understand that this assessment will also provide important input for the Third Assessment of the Intergovernmental Panel on Climate Change (IPCC).

In an effort to ensure that the National Assessment is based on the best science and worthy of the public's confidence, it must be conducted in a transparent, participatory manner—consistent with the established scientific practice of peer review.

According to the National Assessment Synthesis Team, Congress is the "primary audience" for the report. In order that we might have confidence in its findings, we ask that the following guidelines be strictly adhered to in the development of the assessment:

1. All scientific papers used in the assessment should be subjected to peer review through publication in respected, refereed scientific journals prior to their use.

2. All papers, data, assumptions used in models, and other information used for the assessment and model evaluation should be available to the public on the World Wide Web. In addition, the assessment should contain an evaluation of the use of different general circulation models, including a discussion of the relative strength and weaknesses of U.S. taxpayer-funded models, and a justification for the use of any non-U.S. models in the National Assessment.

3. Synthesis of the data should take place in electronic form (in the form of an "electronic docket") on the World Wide Web, in full public view. In other words, the data should not disappear into a "black hole" of deliberation, only to emerge as a finished assessment with no indication of how the data relate to the conclusions.

8/10

Honorable Neil Lane
August 6, 1999
Page 2

4. The range of possible outcomes should be expressed in probabilistic terms. This assessment should neither be tilted toward a discussion of worst case outcomes nor the beneficial results of climate change. Rather, it should reflect the best assessment of the most likely outcomes, complete with probabilistic estimations of those outcomes.

5. Any materials used by the National Assessment that have been made available to the IPCC for their Third Assessment Report, including any material that has not been published in refereed scientific, peer review literature, should be posted on the World Wide Web.

6. Finally, to provide necessary context for Congress and the public to evaluate the assessment, the National Research Council should independently assess and describe gaps in science, modelling and observations related to global climate pertinent to the National Assessment, including assessments completed in 1998.

We appreciate your adhering to these guidelines, which we believe will go a long way in assuring that the Congress, and the public, has confidence in this National Assessment.

We ask that you inform us of your willingness to adhere to these guidelines.

Sincerely,

JAMES M. TALENT, MISSOURI
CHAIRMAN

Steven Reich
65073

NYDIA M. VELÁZQUEZ, NEW YORK

Received
5/24/99
9AM

Congress of the United States
House of Representatives
106th Congress
Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515-6315

May 24, 1999

Honorable Janet L. Yellen
Chair
Council of Economic Advisors
OEOB
17th & Pennsylvania Ave., N.W.
Washington, D.C. 20500

Dear Dr. Yellen:

Thank you for testifying at the Committee's hearing on the Kyoto Protocol. I appreciate your willingness to explain the Administration's Economic Analysis published after the Committee's June 4, 1998 hearing.

Enclosed please find a copy of your testimony and a standard edit letter. Please review the edit letter and your testimony and make any necessary grammatical, punctuation, and/or spelling corrections. Substantive additions or deletions to the actual testimony are not permitted. I would appreciate receiving your corrections by June 11, 1999.

Likewise, enclosed please find follow-up questions from Committee members in attendance at the hearing. I am forwarding these questions with your testimony as they attempt to clarify your responses to questions posed to you and request materials identified in your testimony. In order to timely publish and complete the hearing transcript, I would also appreciate receiving your responses to these questions and all documents requested by June 18, 1999.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact Roger Keller or Paul Denham of the Committee staff at (202) 225-5821.

Sincerely,

Jim Talent

James M. Talent
Chairman

Questions for the record and requests for documents by Chairman James M. Talent for Dr. Janet L. Yellen, Chair, Council of Economic Advisors

1. Is the July 1998 "Kyoto Protocol and the President's Policies to Address Climate Change: Administration Economic Analysis" the only analysis, economic or otherwise, published by the Administration with regard the Kyoto Protocol's economic effects?

   a. Please provide the anticipated amount of greenhouse gas emissions and reduction obligations as published in the Administration's July 1998 analysis for each country from 2008 to 2012 identified in attached **<u>Chart A</u>**.

   b. Please provide the anticipated amount of credits the Administration's July 1998 published analysis assumes each country from 2008 to 2012 identified in **<u>Chart B</u>** will supply or demand.

   c. Complete the anticipated domestic baseline costs, e.g., without any flexibility measures, the Administration's July 1998 analysis assumes will be necessary for each country from 2008 to 2012 identified in **<u>Chart C</u>** to meet its Kyoto Protocol obligations.

2. If your response to question 1 is negative, identify and produce any additional analysis, economic or otherwise, published by the Administration. If any additional analyses are produced, provide the same information for each analysis as requested in question 1.

3. Has the Administration published an analysis, economic or otherwise, that demonstrates the Kyoto Protocol's effects on U.S. jobs?

4. If your response to question 3 is yes, identify and produce all analysis, economic or otherwise, published by the Administration.

5. Identify and produce all Administration documents used to prepare the United States delegates to the Conference of the Parties (COP-3) in Kyoto, Japan in December 1997.

   a. Please identify and produce any quantitative economic analysis the Administration made before the Kyoto Protocol that analyzes the Protocol's effect on the United States' economy.

6. Identify and produce all Administration analyses after December 10, 1997 that analyzes, either economically or otherwise, the obligations assumed by the United States at the Conference of the Parties (COP-3) in Kyoto, Japan in December 1997.

a. Complete the anticipated amount of greenhouse gas emissions and reduction obligation each analysis identified in your response to question no. 6 assumes for each country from 2008 to 2012 listed in attached **Chart A**.

b. Complete the anticipated amount of credits each analysis identified in your response to question no. 6 assumes each country from 2008 to 2012 identified in **Chart B** will supply or demand.

c. Complete the anticipated domestic baseline costs, e.g., without any flexibility measures, each analysis identified in your response to question no. 6 assumes will be necessary for each country from 2008 to 2012 identified in **Chart C** to meet its Kyoto Protocol obligations.

7. Identify and produce all Administration analyses, either economic or otherwise, prior to December 10, 1997 that demonstrates the effect on the U.S. economy of reducing greenhouse gas emissions to 1990 levels.

a. Complete the anticipated amount of greenhouse gas emissions and reduction obligation each analysis identified in your response to question no. 7 assumes for each country from 2008 to 2012 identified in attached **Chart A**.

b. Complete the anticipated amount of credits each analysis identified in your response to question no. 7 assumes each country from 2008 to 2012 identified in **Chart B** will supply or demand.

c. Complete the anticipated domestic baseline costs, e.g., without any flexibility measures, each analysis identified in your response to question no. 7 assumes will be necessary for each country from 2008 to 2012 identified in **Chart C** to meet its Kyoto Protocol obligations.

8. Identify and produce all Administration analyses, either economic or otherwise, after December 10, 1997 that demonstrates the effect on the U.S. economy of reducing greenhouse gas emissions to 1990 levels.

a. Complete the anticipated amount of greenhouse gas emissions and reduction obligation each analysis identified in your response to question no. 8 assumes for each country from 2008 to 2012 identified in attached **Chart A**.

b. Complete the anticipated amount of credits each analysis identified in your response to question no. 8 assumes each country from 2008 to 2012 identified in **Chart B** will supply or demand.

c. Complete the anticipated domestic baseline costs, e.g., without any flexibility measures, each analysis identified in your response to question no. 8 assumes will be necessary for each country from 2008 to 2012 identified in **Chart C** to meet its Kyoto Protocol obligations.

9. Identify and produce all Administration analyses, either economic or otherwise, prior to December 10, 1997 that demonstrates the effect on the U.S. economy of reducing greenhouse gas emissions to 7% below 1990 levels.

a. Complete the anticipated amount of greenhouse gas emissions and reduction obligation each analysis identified in your response to question no. 9 assumes for each country from 2008 to 2012 identified in **Chart A**.

b. Complete the anticipated amount of credits each analysis identified in your response to question no. 9 assumes each country from 2008 to 2012 identified in **Chart B** will supply or demand.

c. Complete the anticipated domestic baseline costs, e.g., without any flexibility measures, each analysis identified in your response to question no. 9 assumes will be necessary for each country from 2008 to 2012 identified in **Chart C** to meet its Kyoto Protocol obligations.

10. Identify and produce all Administration analyses, either economic or otherwise, after December 10, 1997 that demonstrates the effect on the U.S. economy of reducing greenhouse gas emissions to 7% below 1990 levels.

a. Complete the anticipated amount of greenhouse gas emissions and reduction obligation each analysis identified in your response to question no. 10 assumes for each country from 2008 to 2012 identified in **Chart A**.

b. Complete the anticipated amount of credits each analysis identified in your response to question no. 10 assumes each country from 2008 to 2012 identified in **Chart B** will supply or demand.

c. Complete the anticipated domestic baseline costs, e.g., without any flexibility measures, each analysis identified in your response to question no. 10 assumes will be necessary for each country from 2008 to 2012 identified in **Chart C** to meet its Kyoto Protocol obligations.

11. Identify and produce all Administration analyses, either economic or otherwise, prior to December 10, 1997 that demonstrate the effect on the U.S. economy of reducing greenhouse gas emissions any amount.

a. Complete the anticipated amount of greenhouse gas emissions and reduction obligation each analysis identified in your response to question no. 11 assumes for each country from 2008 to 2012 identified in **Chart A**.

b. Complete the anticipated amount of credits each analysis identified in your response to question no. 11 assumes each country from 2008 to 2012 identified in **Chart B** will supply or demand.

c. Complete the anticipated domestic baseline costs, e.g., without any flexibility measures, each analysis identified in your response to question no. 11 assumes will be necessary for each country from 2008 to 2012 identified in **Chart C** to meet its Kyoto Protocol obligations.

12. Identify and produce all Administration analyses, either economic or otherwise, after December 10, 1997 that demonstrate the effect on the U.S. economy of reducing greenhouse gas emissions in any amount.

a. Complete the anticipated amount of greenhouse gas emissions and reduction obligation each analysis identified in your response to question no. 12 assumes for each country from 2008 to 2012 identified in **Chart A**.

b. Complete the anticipated amount of credits each analysis identified in your response to question no. 12 assumes each country from 2008 to 2012 identified in **Chart B** will supply or demand.

c. Complete the anticipated domestic baseline costs, e.g., without any flexibility measures, each analysis identified in your response to question no. 12 assumes will be necessary for each country from 2008 to 2012 identified in **Chart C** to meet its Kyoto Protocol obligations.

13. Identify and produce all Administration analyses, either economic or otherwise, prior to December 10, 1997 that demonstrate the effect on U.S. jobs of reducing greenhouse gas emissions to 1990 levels.

14. Identify and produce all Administration analyses, either economic or otherwise, after December 10, 1997 that demonstrates the effect on U.S. jobs of reducing greenhouse gas emissions to 1990 levels.

15. Identify and produce all Administration analyses, either economic or otherwise, prior to December 10, 1997 that demonstrates the effect on U.S. jobs of reducing greenhouse gas emissions to 7% below 1990 levels.

16. Identify and produce all Administration analyses, either economic or otherwise, after December 10, 1997 that demonstrates the effect on U.S. jobs of reducing greenhouse gas emissions to 7% below 1990 levels.

17. Identify and produce all Administration analyses, either economic or otherwise, prior to December 10, 1997 that demonstrates the effect on U.S. jobs of reducing greenhouse gases any amount.

18. Identify and produce all Administration analyses, either economic or otherwise, after December 10, 1997 that demonstrates the effect on U.S. jobs of reducing greenhouse gases any amount.

19. Complete the anticipated amount of greenhouse gas emissions and reduction obligation the Kyoto Protocol assumes for each country from 2008 to 2012 identified in **Chart A**.

a. Complete the anticipated amount of credits the Kyoto Protocol assumes each country from 2008 to 2012 identified in **Chart B** will supply or demand.

b. Complete the anticipated domestic baseline costs, e.g., without any flexibility measures, the Kyoto Protocol assumes will be necessary for each country from 2008 to 2012 identified in **Chart C** to meet its Kyoto Protocol obligations.

20. At the April 29, 1999 hearing, you testified some analyses conclude that the permit price for a ton of carbon dioxide will be less than $14 to $23 per ton. Identify, by author, date of analysis, location of analysis, and produce all analyses which conclude that the permit price for a ton of carbon dioxide is less than the Administration's $14 to $23 per ton.

21. At the April 29, 1999 hearing, you testified some analyses conclude that the permit price for a ton of carbon dioxide will be more than $14 to $23 per ton. Identify, by author, date of analysis and location of the analysis, and produce all analyses which conclude the permit price for a ton of carbon dioxide is more than the Administration's $14 to $23 per ton.

22. Please produce all documents reviewed when responding to these questions.

23. The Administration identified the recent energy restructuring bill's effect on various groups and sectors of the nation. Please provide the same information for the Kyoto Protocol, including, but not limited to, the following:

a. the Council of Economic Advisors estimates regarding increased costs for an average household in key regions of the country. This should include estimates for oil (heating and gasoline), natural gas, and electricity for a typical household in the Northeast, Southeast, South, Mid-West, Northwest and Southwest regions of the United States;

b. the Council of Economic Advisors estimates regarding increased 2010 living costs for a senior citizen living on social security;

c. the Council of Economic Advisors estimates regarding increased 2010 living costs for an individual living on welfare;

d. the Council of Economic Advisors estimates regarding operating costs for an average small business of 50 employees. This should includes estimates for oil (heating and gasoline), natural gas, and electricity for a typical small business in the Northeast, Southeast, South, Mid-West, Northwest and Southwest regions of the United States.

CHART A

Country	Anticipated Emissions	Reduction Obligation
Australia		
Austria		
Belgium		
Bulgaria		
Canada		
Croatia		
Czech Republic		
Denmark		
Estonia		
Finland		
France		
Germany		
Greece		
Hungary		
Iceland		
Ireland		
Italy		
Japan		
Latvia		
Liechtenstein		
Lithuania		
Luxembourg		
Monaco		
Netherlands		
New Zealand		
Norway		
Poland		
Portugal		
Romania		
Russian Federation		
Slovakia		
Slovenia		
Spain		
Sweden		
Switzerland		
Ukraine		
United Kingdom		
United States		
China		
India		
Mexico		
South Korea		

Chart B

Country	Credits Supplied	Credits Demanded
Australia		
Austria		
Belgium		
Bulgaria		
Canada		
Croatia		
Czech Republic		
Denmark		
Estonia		
Finland		
France		
Germany		
Greece		
Hungary		
Iceland		
Ireland		
Italy		
Japan		
Latvia		
Liechtenstein		
Lithuania		
Luxembourg		
Monaco		
Netherlands		
New Zealand		
Norway		
Poland		
Portugal		
Romania		
Russian Federation		
Slovakia		
Slovenia		
Spain		
Sweden		
Switzerland		
Ukraine		
United Kingdom		
United States		
China		
India		
Mexico		
South Korea		

Chart C

Country	Domestic Cost	Kyoto Obligation
Australia		
Austria		
Belgium		
Bulgaria		
Canada		
Croatia		
Czech Republic		
Denmark		
Estonia		
Finland		
France		
Germany		
Greece		
Hungary		
Iceland		
Ireland		
Italy		
Japan		
Latvia		
Liechtenstein		
Lithuania		
Luxembourg		
Monaco		
Netherlands		
New Zealand		
Norway		
Poland		
Portugal		
Romania		
Russian Federation		
Slovakia		
Slovenia		
Spain		
Sweden		
Switzerland		
Ukraine		
United Kingdom		
United States		
China		
India		
Mexico		
South Korea		

JAMES M. TALENT, MISSOURI
CHAIRMAN

JOHN J. LAFALCE, NEW YORK

Damid
Dirk
Shelly
Wes
Katie
Dinah
Judy
Robert

Congress of the United States
House of Representatives
105th Congress
Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515-6315

March 2, 1998

The Honorable Kathleen A. McGinty, Chair
Council on Environmental Quality
Executive Office of the President
360 Old Executive Office Building
Washington, DC 20500

Dear Ms. McGinty:

As you are aware, the Third Session of the Conference of Parties to the UN Framework Convention on Climate Change (COP-3) was held in Kyoto, Japan from December 1-11, 1997. On December 11, COP-3 adopted the Kyoto Protocol to the United Nations Framework Convention on Climate Change (UNFCCC), which sets binding greenhouse gas (GHG) emissions targets for developed nations.

Due to the potential economic impact of this Protocol, the House Committee on Small Business is reviewing this agreement, pursuant to its oversight jurisdiction, based on the accord's perceived economic impact on small business.

Please provide the Committee with the following information regarding the Kyoto Protocol:

1. Any and all regulatory impact or economic analyses performed by federal agencies, contractors or grantees regarding the implementation of the Kyoto Protocol in the United States; CEA
2. Any and all activities and/or plans for federal agency implementation of the Kyoto Protocol; State
3. Any and all evidence, documentation, or scientific bases for the existence of the phenomenon described as Global Warming; OSTP
4. Any known or perceived specific time frame for signing of the Kyoto Protocol by the President of the United States: and

State

5. Copies of any side agreements, memoranda, protocols or other documents concerning the Kyoto Protocol entered into or contemplated between the Executive Branch and other nations, parties or non-governmental entities.

Please deliver these materials to the Committee on Small Business, Room 2361 Rayburn House Office Building, by March 18, 1998.

If you have any questions regarding this request, please contact Peter Brechtel of the Committee staff at 225-5821.

Thank you for your prompt attention to this matter.

Sincerely,

James M. Talent
Chairman

QUESTIONS FOR THE RECORD FROM DIRECTOR FRANKLIN D. RAINES AND CHAIRMAN KATHLEEN A. McGINTY FOR CHAIRMAN DAVID M. McINTOSH

IMPLEMENTATION WITHOUT RATIFICATION

"We have no intention through the back door or anything else, without Senate confirmation, of trying to impose or take any steps to impose what would be binding restrictions on our companies, on our industry, on our business, on our agriculture, on our commerce, or on our country, until and unless, the Senate of the Unites States says so."

Statement of the Honorable Stuart E. Eizenstat
Under Secretary of State for Economic, Business, and Agriculture Affairs
Before the U.S. Senate Committee on Foreign Relations
February 1998

"Whether there is an agreement in Kyoto or not, the United States is prepared, under President Clinton's leadership, to unilaterally take steps that we believe should be taken in order to deal with this problem."

Statement of Vice President Gore
December 1997

Unilateral Executive Actions on a Global Issue.

QUESTION 1 Given that the Kyoto Protocol seeks to address a global issue, isn't it harmful to U.S. interests to proceed without the full participation of developing countries?

ANSWER 1 As Undersecretary of State Stuart Eizenstat testified before Congress recently, the President will not seek to implement the Kyoto Protocol without the advice and consent of the U.S. Senate. The President has made it clear that the Protocol does not yet include the meaningful participation of key developing countries. Until it does, he will not submit it for Senate approval.

QUESTION 2 Besides being unconstitutional, isn't it also premature and possibly counterproductive for the United States to take unilateral executive branch action, without ratification, when the Administration has characterized the Protocol as a "work in progress"?

ANSWER 2 The President indicated in his October 22, 1997 announcement of his policy (see enclosures) that he believes it is in the best interest of the U.S. to begin taking long-term steps to reduce domestic emissions without regard to the achievement of a climate change agreement. Towards that end, he proposed a five year, $6.3 billion Climate Change Technology Initiative (CCTI) in the FY 1999 budget to enhance U.S. research and development, technology development, and deployment for a variety of energy intensive sectors. This initiative has the benefits of improving basic economic productivity, reducing dependence on foreign energy, enlarging our competitiveness, and reducing greenhouse gas emissions without in any way relying on binding domestic obligations.

A Budget Request without Justification or Ratification.

QUESTION 3 **How can the Administration claim that its proposed Climate Change Technology Initiative (CCTI) is not intended to implement the Kyoto Protocol, when this initiative has been made an intergral part of the President's Global Climate Change Initiative, and the initiative is specifically deisgned to alter market behavior in futherance of the treaty's emissions reductions targets?**

ANSWER 3 Please refer to Answer 2.

QUESTION 4a **In a hearing before the Senate Foreign Relations Committee on February 11, 1998, Under Secretary of State Eizenstat testified that the tax incentives and research funding that the President requested in his Fiscal Year (FY) 1999 Budget proposal are necessary to place the U.S. in a "position where we will be further down the road and won't have to make the kind of drastic reductions that otherwise might be called for." Please provide all of the economic data and analyses upon which the Administration relied for this determination. As to any analysis, please identify who prepared it and provide all records containing comments by other federal agencies on the drafts.**

ANSWER 4a Dr. Janet Yellen, Chair of the Council of Economic Advisers (CEA), provided congressional testimony recently on this issue and we have enclosed a copy of her testimony for your information. We are producing information concerning your request. Some other information implicates the confidentiality of Executive Branch deliberations and decision-making and has been referred to the Counsel to the President of the United States.

QUESTION 4b **Explain why the President decided to request $6.3 billion in his budget proposal instead of the $5 billion that he stated he would seek at the time that he announced his Climate Change Action Proposal on October 22, 1997. Was this decision affected by the fact that the Administration agreed at Kyoto to commit the U.S. to reducing greenhouse emissions by 7% below 1990 levels rather than stabilizing emissions at 1990 levels?**

ANSWER 4b As indicated in response to question number 2, the President's $6.3 billion CCTI request is based on the benefits of unilateral domestic action, and is not tied to Kyoto.

QUESTION 5a Article 3.2 of the Kyoto Protocol states: "Each Party included in Annex I, by 2005, shall have made demonstrable progress in achieving its commitments under this Protocol." Please explain how the Administration is interpreting this provision of the treaty.

ANSWER 5a The U.S. opposed efforts by some nations to mandate early control actions by 2005. It is our position that the article 3.2 provision regarding "demonstrable progress" is a general and non-binding provision.

QUESTION 5b Does the Administration believe that its Global Climate Change Initiative, including the CCTI, will enable the U.S. to make demonstrable progress in achieving its commitments under the Kyoto Protocol?

ANSWER 5b As stated by the President in his October 22, 1997 policy announcement, the CCTI is a domestic initiative that is both good for our economy and good for the environment. It will enhance our economic productivity while helping the U.S. reduce greenhouse gas emissions and reduce economic and environmental risks associated with inaction.

QUESTION 5c Please provide and document the Administration's annual performance measures for its 5-year Climate Change Technology Initiative (CCTI). In this regard, provide the following: the 1990 U.S. emissions level, data on actual emissions reductions for Fiscal Year 1997, and then projected emissions reduction beginning with Fiscal Year 1997 and then for each year up to and including Fiscal Year 2003.

ANSWER 5c The President's 1999 Budget Request and an attached fact sheet by the Office of Management and Budget (OMB) contain details about the CCTI as do submissions by the various Federal department and agencies responsible for pieces of the CCTI.

QUESTION 5d Please specify the annual greenhouse gas emissions reductions that the Administration estimates will occur between FY 1999 and FY 2005 from implementing each element of its Global Climate Change Initiative

ANSWER 5d We anticipate the ability to answer such questions after Congress has enacted the President's program and it is in place. Analysis of this sort prior to achieving consensus on this program would be premature.

QUESTION 6a The Administration has maintained that the CCTI is a "no-regrets" proposal; that is, regardless of whether or not there is a real threat of global warming, this proposal is justified on its own merits as good energy and environmental policy. In view of this claim, please demonstrate the need for this initiative based on reasons other than facilitating green house gas emissions reductions.

ANSWER 6a Significant improvements in economic productivity and national energy security would obviously be of benefit to the U.S. and therefore worthy of consideration, whether that be in association with climate change actions or independent of them. Voluntary activities under the existing Climate Change Action Plan are estimated to result in energy savings of $50 billion annually in 2010 along with reductions in greenhouse gas emissions of 170 million metric tons of carbon equivalent.

QUESTION 6b In this regard, provide the environmental and economic data and analyses that support this request.

ANSWER 6b Please see Answer 5d.

QUESTION 6c Can the Administration point to a significant market failure or demonstrate a compelling public need that necessitates $3.6 billion of new tax incentives and a 73 percent increase in funding to accelerate the development and diffusion of more energy efficient technology? According to OECD data, U.S. energy efficiency since 1980 has improved more than that of most industrialized countries.

ANSWER 6c Increasing the productivity of and reduced costs for American industries and taxpayers cannot help but benefit the U.S. economy. Opportunities to enhance our economic well-being through increased energy R and D are detailed in a recent report on this topic prepared by the President's Committee of Advisors on Science and Technology.

QUESTION 6d Please provide a detailed explanation of and produce all records indicating the alternative policy options that the Administration analyzed, including more broadly based options, such as integrated pollution prevention, performance-based regulation, and multi-media regulation. In this regard, did the Administration evaluate whether existing regulation may be a significant barrier to improving energy efficiency and the environment?

ANSWER 6d OMB and CEQ did not analyze, nor do we have records on, the specific alternative policy actions listed above. Various Departments and agencies have programs in the additional areas you mention and may have supporting documentation for these programs. The Administration would be delighted to receive the Committee's ideas on additional or alternative methods to clean the environment and improve energy efficiency.

QUESTION 6e Please explain in detail and fully document the cost-effectiveness of the Administration's proposal when compared to other available options for improving energy efficiency and the environment.

ANSWER 6e Please see Answer 6d.

QUESTION 6f Please explain in detail and fully document the opportunity costs of committing such a significant amount of our nation's resources in this manner.

ANSWER 6f Please see answers to Question 6a, 6c, 6d and 6e.

QUESTION 6g As to any analysis provided, identify who prepared it and provide all records of comments by other federal agencies.

ANSWER 6g N/A

QUESTION 7 How realistic and achievable are the targets and timetables that the U.S. delegation agreed to at Kyoto, if it is necessary to take unilateral executive branch actions prior to Senate ratification in order "to get us in a position where we will be further down the road and won't have to make the kind of drastic reduction that otherwise might be called for"?

ANSWER 7 The Administration believes strongly that the targets and timetables agreed to at Kyoto are both realistic and achievable, especially because the targets are accompanied by flexible compliance measures that have the benefits of significantly reducing compliance costs (please see Dr. Yellen's testimony). Once again, actions now to reduce emissions or increase efficiency will reduce future costs and are justified on their own merits as exemplified by the over 5,000 U.S. industries, public organizations, and state and local governments participating in voluntary action and advocating investments in efficiency and new technology development.

QUESTION 8 Under section 102 of the National Environmental Policy Act, the federal government is required to provide a detailed environmental impact statement (EIS) and to follow specified procedures for review and comment whenever it is recommending to Congress legislation that "affects the quality of the human environment". Please provide any EIS (or draft EIS, if not finalized) that was prepared in connection with the Administration's requests for tax incentives and research funding to facilitate greenhouse gas emissions reductions. With respect to any EIS, identify who prepared the document and provide all records of written and oral comments from other federal agencies.

ANSWER 8 Under section 102 of the National Environmental Policy Act, "all agencies of the Federal Government shall . . . include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on --(I) the environmental impact of the proposed action . . . . " Therefore, "federal agencies" must prepare NEPA documents for "proposals for legislation and other major Federal actions." While all federal agencies are subject to NEPA, the NEPA regulations clearly state that the President is not. (See 40 CFR 1508.12, which provides that a "federal agency" does not mean "the Congress, the Judiciary, or the President.") The NEPA regulations further define the types of "legislation" intended to be subject to NEPA. "Legislation" includes "a bill or legislative proposal to Congress developed by or with the significant cooperation and support of a Federal agency, but does not include requests for appropriations." 40 CFR 1508.17.

The Inescapable Regulatory Backdoor.

<u>QUESTION 9</u> **In its 1997 U.S. Climate Action Report under the current Framework Convention on Climate Change, the Administration made this statement: "Recognizing that even the most draconian measures would likely be insufficient to reverse the growth in greenhouse gases and return U.S. emissions to their 1990 levels by the year 2000, new U.S. efforts are focusing most intensively on the post-2000 period." Based on this assessment, how can the President assert that the U.S. commitments under the Kyoto Protocol are achievable with minimum economic costs? Provide any economic and legal analyses that demonstrate that U.S. obligations can be met without constraining U.S. economic growth and without imposing onerous and costly regulation. Also, please provide two copies of the 1997 U.S. Climate Action Report.**

<u>ANSWER 9</u> The statement in the Climate Change Action Report referred to the year 2000, well before the 2008 - 2012 timetable set out in the Kyoto agreement. Please refer to Dr. Yellen's testimony. Two copies of the 1997 U.S. Climate Action Report are attached. The Report is also available on the internet at *www.state.gov/www/global/oes/97climate_report/*.

<u>QUESTION 10a</u> **In testimony before the Senate Foreign Relations Committee on February 11, 1998, Ambassador Eizenstat stated that the only legislation that would be required to enable the U.S. to abide by the Kyoto Protocol would be legislation authorizing emissions trading; otherwise, he indicated that the U.S. could rely on existing legislation . In this regard, please proved all legal and policy analyses performed by the State Department and other federal agencies on whether, and to what extent, new implementing legislation would be required to meet the U.S. commitments under the Kyoto treaty and provide all comments thereon by other agencies.**

<u>ANSWER 10a</u> CEQ and OMB have no such analysis.

<u>QUESTION 10b</u> **Also, please provide any and all legal and policy analyses developed by the State Department or other federal agencies regarding the applicability and availability of existing legislation to implement the Protocol and all comments thereon by other agencies.**

<u>ANSWER 10b</u> CEQ and OMB have no such analysis. We are aware of an EPA legal opinion on the authority to regulate pollutants emitted by electric power generation sources and understand that this document was provided to you by EPA.

<u>QUESTION 11</u> **To the extent that the analyses have been performed, describe any differences between the legislation and regulations that would have been needed to implement the President's October 1997 Climate Change Action Proposal and that which would be needed to implement Kyoto Protocol.**

ANSWER 11 N/A

QUESTION 12 Is there an agency or interagency group that is developing recommendations on the need for implementing legislation? If so, please identify the persons who have been charged with coordinating this effort and the names of the agency representatives who are participating.

ANSWER 12 The Administration has no plans to submit legislation or regulations that would be aimed at implementing the requirements contained in the Protocol prior to its submission to the Senate for its advice and consent.

QUESTION 13a Please identify all environmental and energy regulations that are being developed, have been proposed, or have been issued since 1992 that have or will have the effect of reducing greenhouse gas emissions (whether or not that is the intended purpose of the particular regulation). As to those regulations that are being developed or that have been proposed, provide an estimated timetable for each stage of rulemaking.

ANSWER 13a To our knowledge, there is not a consolidated list of regulations issued since 1992 that have or will have the effect of reducing greenhouse gas emissions.

QUESTION 13b Has OMB or any other federal agency prepared, contracted to have prepared, or considered any studies that : (1) Have calculated the potential cumulative costs of environmental and energy regulations that are presently planned or being developed, have been proposed, or already have been issued since 1992 that have or will have the effect of reducing greenhouse gas emissions (whether or not this is the intended purpose of the regulation); and (2) Have assessed the cumulative effects of these regulations, or any combination of them, on the U.S. energy system and economy? If so, please provide any such analyses and all federal agency comments on any drafts. If not, please indicate why this has not been done. This Subcommittee believes that this information is vitally needed and is requesting that such an analysis be performed.

ANSWER 13b We are not aware of any studies of the cumulative costs of environmental and energy regulations that reduce greenhouse gas emissions. It is possible that such studies may exist at agencies, or outside organizations may have performed their own analysis of specific environmental or energy regulations that have the effect of reducing greenhouse gas emissions.

QUESTION 13 c Please provide any analyses that have been performed or considered by the Administration concerning the potential combined effects on the U.S. economy and energy systems of such Clean Air Act regulations, as the recently issued National Ambient Air Quality Standards for particulate matter and ozone, and regional haze proposal; the Administration's proposed measures for implementing the requirements of the Kyoto Protocol; and its planned legislative proposal for restructuring the electrical industry.

ANSWER 13c CEQ and OMB have no such analyses.

POLICIES WITHOUT ECONOMIC ANALYSES

> "By providing incentives for early action to reduce emissions, attacking domestic energy inefficiencies, and putting in place a market-based emissions trading system, we can reach [our emission reduction targets] with minimum economic costs."
>
> Statement of President Clinton
> Climate Change Proposal
> October 1997

The Administration's Repeated Failure to Conduct Economic Analysis.

QUESTION 14a **Given the significant economic costs projected by private sector studies, why did the Administration abandon a year and a half-long effort to develop cost estimates of the President's proposed policies to reduce greenhouse emissions? In testimony before the House Subcommittee on Energy and Power on July 15, 1997, the Chair of the Council of Economic Advisers, Dr. Janet Yellen, stated that President Clinton's top priority since his first days of office, "has been revitalizing the U.S. economy, creating jobs, and investing in people and technology to enhance long-term growth."**

ANSWER 14a Please refer to Dr. Yellen's testimony.

QUESTION 14 b **How can the Administration defend its policy actions based on the results of climate models that must take into account significant uncertainties surrounding the effects of human activities on the climate, yet nevertheless consider economic modeling to be "futile" (Dr. Yellen' s expression at the House Commerce hearing on July 15, 1997)?**

ANSWER 14b Acting in the face of uncertainty is an affliction of the human condition, but we, at least, have put to rest our doubts about the merits of pursuing economically sound, voluntary actions that have multiple benefits for the economy and the environment as part of a "no regrets" strategy to begin to prepare for the future.

15a In testimony before the House Commerce Committee in 1997, former Under Secretary of the State Timothy Wirth stated that an interagency "economics team" was formed to analyze the impacts of climate change policies.

QUESTION 15b **Please provide the following background information regarding that group: when it was formed, the names of the participants and their agencies, the head of the team, the scope of the group's responsibilities, and to whom the group reported.**

ANSWER 15b The team to which former Undersecretary Wirth may have been referring was called the Interagency Analytic Team, a group composed of a variety of members designated by various federal agencies. There is no formal list of members but we have included meeting attendance lists found in our files.

QUESTION 15c **Please produce records of all meetings of this group and information on any workshops conducted. Also, produce all analyses performed by the group and provide all records of written or oral comments from other federal agencies on the team's analyses and advice.**

ANSWER 15c We are producing information responsive to your request. Some other information implicates the confidentiality of Executive Branch deliberations and decision-making and has been referred to the Counsel to the President of the United States.

QUESTION 16 **In developing its positions for the Conference in Kyoto, did the Administration at any point renew its efforts to estimate the costs of various polices to reduce greenhouse gas emissions? If so, please provide all economic analyses that were prepared for the Administration and the U.S. delegation to review. As to each analysis, please indicate who prepared the analysis and provide all record containing comments from other federal agencies. If not, please explain fully why not.**

ANSWER 16 In preparing for Kyoto the Administration did consider various issues and relied on reports from agency analysts to respond to specific questions. We are producing information responsive to your request. Some other information implicates the confidentiality of Executive Branch deliberations and decision-making and has been referred to the Counsel to the President of the United States.

QUESTION 17 **Is there currently in place an interagency body that is analyzing the economic impacts on the U.S. of the mandatory restrictions specified in the Kyoto Protocol and evaluating alternative domestic policies to achieve those requirements? If so, please provide the same type of information about this group, as well as produce the same type of documents, which were requested in question number 15 above with respect to the "economics team."**

ANSWER 17 There is no such group.

QUESTION 18 **During its deliberations prior to Kyoto, did the Administration consider whether an agreement to stabilize emissions at 1990 levels or to reduce emissions below 1990 levels would result in lower economic growth? If so, how much lower economic growth did the Administration consider as acceptable in exchange for a treaty that would have at best only a marginal impact on reducing emissions? Please produce all record of such deliberations and all economic analyses and comments thereon (from federal agencies and private parties) that the Administration considered.**

ANSWER 18 The Administration was well aware that details of any global warming agreement have economic ramifications. That is why the Administration worked hard to implement the considerable number of flexibility mechanisms now in the Kyoto Protocol. Please refer to the economic analysis contained in Dr. Janet Yellen's testimony for an analysis of the outcome achieved by the inclusion of the flexibility mechanisms contained in the Protocol combined with the binding targets and timetable of the Protocol. In addition, we are producing information responsive to your request. Some other information implicates the confidentiality of Executive Branch deliberations and decision-making and has been referred to the Counsel to the President of the United States.

QUESTION 19 If the Administration did not prepare cost estimates of the impacts on the U.S. economy and the American people, how did the Administration determine its policy position first to stabilize emissions at 1990 levels by 2008-2012 and then later to deviate with confidence from that position and commit the U.S. to reducing emission s by 7 percent below 1990?

ANSWER 19 The U.S. drew from a broad body of public information concerning its current and future potential emissions and the costs associated with making such reductions. As Dr. Yellen has emphasized in her testimony, no one model, study, or analysis could serve as the basis for these decisions.

QUESTION 20 At what point prior to or during the negotiations, did the Administration decide that emissions reductions below 1990 baseline were acceptable? Who in the Administration and in Congress were consulted in making this decision? Did the Administration examine any public or private analyses in reaching this decision? If so, identify and provide the analyses upon which the Administration relied, with all comments that were submitted by any federal agency.

ANSWER 20 The Administration consulted broadly with Congress and within the Administration both before and after the President's October 22, 1997 policy announcement and in Kyoto. Indeed, meetings with a variety of interested parties continued up to and including the meeting of the Conference of the Parties. It would be impractical, if not impossible, to attempt to assemble the specifics of these numerous conversations and consultations.

QUESTION 21 If economic analyses were prepared internally to support positions that the Administration intended to take at the Conference, why weren't these analyses made available to Congress and the American public, who all have a right-to-know the potential economic consequences of the President's climate change policies?

ANSWER 21 CEQ and OMB have no such economic analysis other than the staff-level analysis prepared by the Interagency Analytic Team (IAT) which did not represent the Administration's economic analysis and was not relied on to support the Administration's position at the Kyoto Conference. Copies of the draft IAT analysis were made available to Congress in advance of the

Conference.

<u>QUESTION 22</u> **Did the Administration review any private sector analyses completed prior to Kyoto? If so, please provide all records of comments thereon by federal agencies.**

<u>ANSWER 22</u> Analyses by private sector and non-profit organizations on climate change were provided to us for information purposes. Copies of those studies are attached.

<u>QUESTION 23</u> **The Clinton Administration indicated its recognition of Senate Resolution 98 (the Byrd-Hagel Resolution). Please describe in detail and document the steps that the Administration already has taken and intends to take to assure compliance with each provision of that Resolution.**

<u>ANSWER 23</u> The Administration respects and supports Senate Resolution 98. We fully intend to provide supporting documentation related to potential impacts in the context of sending the treaty to the Senate and we have an extensive effort underway to advance our goal of achieving meaningful participation by key developing countries. The President's recent joint statement with his counterpart in Chile in support of this position is an example of the types of efforts currently underway.

No Cost/Benefit Analysis of the Kyoto Treaty.

<u>QUESTION 24a</u> **Please provide any and all analyses that the Administration or any federal agency prepared (or is preparing) of the costs and benefits of imposing on the U.S. the binding targets and timetables set forth in the Kyoto Protocol for reducing greenhouse gas emissions, taking into account the global implication of the way in which this agreement is structured. Also, please analyze and document the following:**

<u>ANSWER 24a</u> Dr. Jellen, Chair of the Council of Economic Advisers, provided congressional testimony on this issue and we have enclosed a copy of her testimony for your information. At such time as any further analysis is prepared, we will supply it to your Subcommittee.

<u>QUESTION 24b</u> **Whether the benefits of implementing this Protocol are justified by the costs;**

<u>ANSWER 24b</u> Please refer to the answer to question 24a.

<u>QUESTION 24c</u> **Evaluate the effectiveness of this agreement by comparing the marginal abatement costs of the most plausible alternative scenarios for meeting the Kyoto targets, given the way in which this agreement is structured, with the marginal costs of other reasonable alternative compliance schemes;**

<u>ANSWER 24c</u> Please refer to the answer to question 24a.

QUESTION 24d With respect to each scenario that is analyzed, identify the assumptions used, explain any uncertainties concerning the assumptions, and examine the sensitivity of net benefits to the different compliance strategies, using a range of plausible assumptions about future economic development and about fundamental climate processes;

ANSWER 24d Please refer to the answer to question 24a.

QUESTION 24e Evaluate the opportunity costs of pursuing the Administration's strategy for the abatement of greenhouse gas emissions under the terms of the treaty; and

ANSWER 24e Please refer to the answer to question 24a.

QUESTION 24f Evaluate how the benefits and burdens of complying with this treaty would be distributed on the national and household levels, describing among other things, the disparate regional and industrial sector impacts, and the effects on different income levels.

ANSWER 24f Please refer to the answer to question 24a.

25a In evaluating the alternative scenarios, please examine the following:

25b Compare the economic and environmental effects of not including developing countries in the effort to reduce global emissions (with the potential for binding developed countries to even greater obligations, without limiting developing countries) against the effects of addressing greenhouse gas mitigation on a global scale by the international community.

25c Compare the economic and environmental effects of complying within the time frames set forth in the Kyoto Protocol with the effects of complying over a longer time period.

25d Compare the impacts of reducing greenhouse emissions using international emissions trading, joint implementation, and the Clean Development Mechanism with the impacts of relying upon domestic emissions permit trading. In this regard, evaluate alternative international trading scenarios: trading only between Annex I countries, trading that extends to a number of "key" developing countries, and trading in which all countries are fully participating.

ANSWERS 25a-d No such comparisons exist. Please refer to Answer 24a.

QUESTION 26 With respect to any analysis provided, please identify and explain the basis for assumptions used regarding such factors as the rate of improvement in energy efficiency, the effectiveness of market incentives in increasing the market share of fuels that emit less carbon, and economic and demographic growth. Also, explain fully any assumptions on how emissions reductions will be achieved, as for example, through the

early retirement of coal plants or nuclear plant life extensions.

ANSWER 26 Please refer to the answer to questicn 24a.

QUESTION 27 In considering the opportunity costs, evaluate the extent to which the Administration's climate change strategy will require the diversion of funds from savings and/or investments which would have provided other benefits, such as saving social security, or more funding for education, health care, etc.

ANSWER 27 Please refer to the answer to question 24a.

QUESTION 28 In assessing the impacts on the U.S. of complying with the Kyoto targets and timetables, please explain in detail the potential effects on the following indicators of economic performance: gross domestic product (GDP), per capita GDP, unemployment, income and real wages, trade competitiveness, and energy prices.

ANSWER 28 Please refer to the answer to question 24a.

QUESTION 29 In assessing the benefits of complying with the Kyoto treaty, please evaluate fully the potential offsetting negative effects of exempting developing countries and of "carbon leakage." Also, if the economies of developed countries experience reductions in economic growth, evaluate the impact that this will have on the ability of emerging countries with export markets to transition to more energy efficient technologies.

ANSWER 29 Please refer to the answer to question 24a.

QUESTION 30 President Clinton has suggested that the U.S. economy can continue to grow under this agreement. Please indicate at what rate the Administration expects that the economy will continue to grow during the next ten to 20 years if the treaty is ratified and at what rate it is expected to grow if the treaty is not ratified.

ANSWER 30 Please refer to the answer to question 24a.

QUESTION 31 Have any of the cost/benefit analyses performed by the Administration or any agency been peer-reviewed? If so, please identify the reviewers and provide their comments on the analyses. If not, does the Administration plan to do so? Please describe fully the steps the Administration plans to take.

Answer 31 Please refer to the answer to question 24a.

QUESTION 32 Please describe in detail the strengths and weaknesses of the methodology of any economic models used. Also, indicate the differences between the models used in any of the cost/benefit analyses performed post-Kyoto and those used in any prior analyses

performed by the Administration.

ANSWER 32 Please refer to the answer to question 24a.

QUESTION 33 In connection with these cost-benefit analyses, fully explain how the baseline(s) against which costs and benefits were calculated was determined.

ANSWER 33 Please refer to the answer to question 24a.

QUESTION 34a Please provide all records of written or oral comments from other federal agencies on each of the cost/benefit analyses that were performed.

ANSWER 34a Please refer to the answer to question 24a.

QUESTION 34b Please provide all records of comments submitted by federal agencies on Dr. Janet Yellen's draft testimony about the economics of Kyoto for the hearing before the House Commerce Committee on March 4, 1998.

ANSWER 34b This information implicates the confidentiality of Executive Branch deliberations and decision-making and has been referred to the Counsel to the President of the United States.

International Emissions Trading: Not a Panacea

QUESTION 35 As a practical matter, until the Conference of the Parties makes all of the decisions that it is empowered to make under Article 17 of the Kyoto Protocol concerning the establishment of rules and procedures for international emissions trading, isn't it premature for the Administration to forecast definitively that the agreement would result in, at most, modest energy price hikes?

ANSWER 35 Clearly, a failure to attain effective emissions trading would raise compliance costs with a ratified and implemented Protocol. That is why getting the "rules of the road" in place and working hard on the diplomatic front are such important U.S. priorities.

QUESTION 36a With respect to the rules and procedure for international emission trading that have yet to be developed, what are the minimum requirements that the Administration is seeking to assure an efficient and effective system for lowering the costs of emissions reductions?

ANSWER 36a The key principles underlying U.S. support for emissions trading are environmental effectiveness and economic efficiency: emissions trading will allow those Parties that assumed binding emissions targets to reach the Kyoto Protocol's environmental goals at the lowest cost. We believe that a credible emissions trading system depends on strong national measurement, reporting and compliance regimes, and that trading rules can be used to strengthen incentives for such regimes. The U.S. favors a simple set of rules and guidelines for trading that (1) promote cost-effective achievement of the agreed Kyoto targets, (2) promote compliance with the Protocol's requirements for accurate measurement, complete reporting, and target attainment, and (3) address national compliance incentives and risk issues.

<u>QUESTION 36b</u> Does the Administration intend to confer with Congress and obtain comments from Congress and the public in developing negotiating positions for Buenos Aires on rules and procedures for an international emissions trading system and for obtaining joint implementation project credit, including the Clean Development Mechanism?

<u>ANSWER 36b</u> The Administration sincerely welcomes input from Congress, industry, and other interested parties and opportunity for dialogue on trading and CDM rules, given the importance of these issues to the U.S. economy and our industries and citizens.

<u>QUESTION 37a</u> Why does the Administration believe it can obtain meaningful participation by developing countries and what steps is the Administration taking to achieve this? What indications of potential meaningful participation have been shown by developing countries that prompt this optimism?

<u>ANSWER 37a</u> A number of delegations from developing nations indicated in Kyoto that they regarded an agreement by Annex 1 parties to undertake binding commitments as a necessary precondition for their negotiation of binding commitments. Since the Kyoto Protocol succeeded in achieving this very type of Annex 1 agreement, we believe this barrier to key developing nations negotiations has been removed. In agreeing to CDM projects and the creation of an Annex B, developing nations also helped create essential mechanisms for cooperation between developed and developing nations on emissions reductions, and a mechanism for upward graduation to binding commitments. Recent congressional testimony on this subject by Undersecretary of State Stuart Eizenstat may be helpful to you, and is attached.

<u>QUESTION 37b</u> In particular, what are the steps being taken with respect to China, India, Mexico, Brazil, and South Korea and what indications of potential meaningful participation has the Administration received from these countries?

<u>ANSWER 37b</u> Please refer to the answer to question 37a.

<u>QUESTION 37c</u> Which countries does the Administration consider "key," in assuring that "meaningful participation" is secured?

<u>ANSWER 37c</u> Please refer to the answer to question 37a.

<u>QUESTION 38</u> Why does the Administration maintain that the U.S. acid rain program

experience "clearly demonstrates how programs like international permit trading, joint implementation and the Clean Development Mechanism will lead firms to find cheaper ways of reducing emissions that can lead to unexpectedly low costs"? Is it appropriate for the Administration to extrapolate from that experience to the global arena? Won't the effectiveness of the international system, joint implementation, and the Clean Development Mechanism depend on such factors as the rules and procedures governing these mechanisms, the extent of participation by other countries, including developing countries, etc?

ANSWER 38 The success of the U.S. acid rain program in reducing compliance costs over alternative command and control programs is well documented. Past experience suggests that it is possible to construct rules and financial structures that commoditize pollution reductions.

Experience with Joint Implementation demonstration programs under the 1992 Framework Climate Change Convention suggests that international offset programs are also feasible. For instance, The Nature Conservancy, American Electric Power Company, and British Petroleum structured a rain forest preservation program with Bolivia for $0.37 per ton CO_2 reduction.

In addition, speculative option markets for offsets are emerging in the U.S. that suggest broad market feasibility. Two of the more active participants in this market are the Chicago Board of Trade, and Kenner Financial.

We believe the effectiveness of trading and CDM programs will be significantly affected by rules and governance of these mechanisms, and international participation. The Administration welcomes dialogue and input from Congress, U.S. firms, and non-government organizations that are interested in the design of effective policy in this area.

QUESTION 39a Even assuming that effective rules and procedures can be developed for an international emissions trading system and for joint implementation projects and that key developing countries agree to participate, isn't there a real risk that these mechanisms could effect an enormous transfer of wealth and jobs out of this country overseas, especially to the countries of the former Soviet Union and emerging countries (i.e., that system would be essentially a foreign aid program)? Some studies have estimated that more than 50% of our reductions would have to be purchased from other countries.

ANSWER 39a Trading and joint implementation will only be utilized if U.S. corporations feel that they present business opportunities. The Administration strongly believes that using market mechanisms to achieve environmental goals can reduce costs substantially. In addition, we have a extraordinary opportunity to lead the world in marketing American technology and innovation to markets in great need. We view this as an economic opportunity, and clearly, U.S. businesses on the cutting edge of efficient technologies do as well.

QUESTION 39b Please provide and document estimates of the percentage of U.S.

emissions reductions that might have to be purchased from other countries to minimize the costs reducing emissions and which countries likely would be the beneficiaries.

ANSWER 39b All countries have the potential to benefit from trading, including the U.S. Trading is a market-based mechanism that allows emissions to be reduced cost-effectively. The percentage of U.S. emissions reductions that might be purchased from abroad depends upon a number of factors, including the marginal abatement cost in each country.

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON SCIENCE

SUITE 2320 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6301
(202) 225-6371
TTY: (202) 226-4410
http://www.house.gov/science/welcome.htm

February 5, 1998

The Honorable Stuart E. Eizenstat
Under Secretary of State for Economic, Business
and Agricultural Affairs
U.S. Department of State
2201 C Street, NW
Washington, DC 20520

w/ Janet Yellen

Dear Under Secretary Eizenstat:

The Committee on Science will be holding a hearing on Thursday, March 5, 1998 at 12:00 noon in Room 2318 of the Rayburn House Office Building on the results and implications of the recent climate change negotiations concluded in Kyoto, Japan in December. In my capacity as head of the Speaker's House Observer Group and as Chairman of the Committee on Science, I would like to invite you to testify at this hearing.

We look forward to hearing your first-hand account of the Kyoto negotiations. In particular, we will want to consider the following:

1. Written or oral understandings or commitments of any kind that were made by the President, the Vice President, or other Administration officials, including yourself, with any other Party to the Convention prior to, or during or after, the Kyoto negotiations in efforts to adopt a protocol and to ensure its ratification by developed and developing countries;

2. The Administration's plan regarding signature and ratification during or after the open period for signature established in Article 23, paragraph 1 of the Kyoto Protocol;

3. Why the Administration agreed to a protocol that does not conform to S. Res. 98 that was passed by the Senate by a unanimous vote of 95 to 0 on July 25, 1997;

4. What, if any, projections and analyses were relied upon in connection with the President's statement of October 22 and the Kyoto negotiations concerning the impact on the U.S. economy, including projections of gross and net greenhouse gas emissions and energy prices and use before, during, and after the Protocol's first commitment period, and an explanation of the basis for those projections and analyses;

5. The extent to which the Protocol provides flexibility in meeting the applicable target for the United States in the first commitment period of 2008-2012, taking into consideration Article 16 bis., and other provisions requiring rules, guidelines, and other actions prior to exercising that flexibility;

6. What legislative, appropriation, regulatory, and voluntary actions pursuant to the President's October 22 statement or in anticipation of potential entry into force of the Kyoto Protocol the Administration plans (prior to any ratification effort by the Administration and the Senate) for fiscal year 1999 and thereafter to control, limit, or reduce greenhouse gas emissions and to provide assistance and incentives for industry, agriculture, consumers, and others to address increases in greenhouse gas emissions that are projected by the Energy Information Administration or by any Federal agency;

7. The Administration's plans to obtain a decision at the Fourth Session of the Conference of Parties to the United Nations Framework Convention on Climate Change in Buenos Aires to amend the Kyoto Protocol, to adopt a second Protocol, or to initiate a process for, establishing legally binding commitments for "key" developing countries to limit or reduce their greenhouse gas emissions; and;

8. In the absence of obtaining or seeking such a decision, what other plans the Administration has to obtain such commitments from such "key" countries.

To facilitate preparations for the hearing, I would appreciate receiving a facsimile copy of your draft testimony *and all written materials used in developing and providing the projections and analysis referenced in item 4* above by 3:00 p.m. on Tuesday, March 3, 1998. The Committee fax number is: 202-225-3170. In addition, please provide 150 copies of your written testimony by 3:00 p.m. on Wednesday, March 4, 1998 to the Committee on Science, attention: Ms. Cheryl Faunce, 2320 Ford House Office Building, Washington, DC 20515. Should you intend to introduce a published document or report as part of your written testimony, please provide 30 copies for the hearing as well as ordering information including, where appropriate, INTERNET or Web site references for public on-line access to the publication. The Rules of the Committee on Science also require you to submit a *curriculum vitae.*

Please note the Committee on Science is attempting to reduce the number of printed pages required to complete our reports. To accomplish this, any publications included to supplement written testimony or responses should not be printed in the report, but given a citation referencing where to find it. Therefore, it would be of great assistance to us if–in cases where a document is reasonably accessible to the public—you provide a citation (e.g. web address or, agency and document number) where the material may be found.

In order to publish your written statement on our Web site, the Committee requests a copy of your testimony, including your *curriculum vitae* and any supporting graphs or charts, saved on a DOS formatted 3.5 inch diskette, in either Word Perfect, Word or ASCII text, to permit electronic distribution. Either a correctly formatted disc or an E-mail submission to "cheryl.faunce@mail.house.gov" is necessary. If this is not possible, the Committee will publish on its Web page (under testimony) a phone number and/or E-mail address of the appropriate contact in your office for public access to your testimony.

The Honorable Stuart E. Eizenstat
February 5, 1998
Page three

Your written statement will be included in the official hearing record. Your oral statement, which I request be limited to no more than 10 minutes, and answers to questions will be printed as part of a verbatim record of the hearing; only transcription errors will be edited. If you have any questions concerning your testimony or your appearance before the Committee, please contact Dr. Harlan Watson of the Committee staff at 202-225-9816.

I look forward to your participation in the hearing.

Sincerely,

F. JAMES SENSENBRENNER, JR.
Chairman

FJS:hw

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ONE HUNDRED FIFTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT
2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6143

Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs
B-377 Rayburn House Office Building
Washington, DC 20515
Phone: (202)225-4407
Fax: (202)225-2441

Facsimile Cover Letter

To: Secretary William Daley   Total Number of Pages (including cover sheet) 5

Fax #: 482-2741

From:

X Chairman David M. McIntosh

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ONE HUNDRED FIFTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

BY FACSIMILE

March 11, 1998

The Honorable William M. Daley
Secretary
Department of Commerce
Washington, D.C. 20230

Dear Secretary Daley:

The Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs is conducting oversight of the White House Initiative on Global Climate Change.

Pursuant to the Constitution and Rules X and XI of the United States House of Representatives, please provide the Subcommittee with detailed information in response to the attached questions regarding the budget, performance measures, legislation, regulations, and analyses for this initiative. Please restate each question before the corresponding answer.

Please contact Subcommittee Staff Director Mildred Webber at 225-4407 if you have any questions about this request. Please provide this information not later than 12 noon, March 31, 1998 to the Subcommittee in Room B-377 Rayburn.

Thank you in advance for your attention to this request.

Sincerely,

David McIntosh

David M. McIntosh
Chairman
Subcommittee on National Economic Growth,
Natural Resources, and Regulatory Affairs

cc: The Honorable Dan Burton
The Honorable John Tierney

Enclosure

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ONE HUNDRED FIFTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT
2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6143

BY FACSIMILE

March 11, 1998

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Secretary
Department of Commerce
Washington, D.C. 20230

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Thank you in advance for your attention to this request.

Sincerely,

David McIntosh

David M. McIntosh
Chairman
Subcommittee on National Economic Growth,
Natural Resources, and Regulatory Affairs

cc: The Honorable Dan Burton
The Honorable John Tierney

Enclosure

Questions for Each Agency with Any Climate Change Funding

1. Please provide a table with Fiscal Year (FY) 89 - FY 99 historical budget authority for your agency for the various components of the President's "Climate Change Technology Initiative," including the previous "Climate Change Action Program/Plan" and any other now or previously authorized Research and Development (R&D) herein (except for the U.S. Global Change Research Program included in Question 3 below). For each component, please indicate each specific budget account, the specific legislative authority (including the specific statute, the section citation, and the language of the section) for the program, and a brief description of the program.

2. In Section 2 ("Programmatic Details") of OMB's February 2, 1998 handout, "Climate Change Technology Initiative - 1999 Budget Briefing Materials," please provide the following information associated with each paragraph description in which your agency has been funded or is requesting funding: the associated funding in FY 97, FY 98, and FY 99. Also, for each paragraph, for the requested funding in FY 99, please provide evidence of any accomplishments from the FY 93 - FY 97 funding, if any. Lastly, for each paragraph, please indicate any program performance measures for the requested funding, and, for each such measure, please provide data for the 1990 base year and annual data for the most recent three-year period for which data are available.

3. Please provide a table with FY 89 - FY 99 historical budget authority for your agency for the various components of the "U.S. Global Change Research Program" which were or are devoted exclusively to climate change R&D. For each component, please indicate each specific budget account, the specific legislative authority for the program (including the specific statute, the section citation, and the language of the section), and a brief description of the program.

- If funded in any of FY 93 - FY 97, please provide evidence of any accomplishments from these dollars. Also, for requested funding in FY 99, please indicate any program performance measures for the requested funding, and, for each such measure, please provide data for the 1990 base year and annual data for the most recent three-year period for which data are available.

4. Please provide a table with FY 89 - FY 99 historical budget authority for your agency for any other components of the Administration's climate change program (i.e., in addition to those included in answer to questions 1 and 2). For each component, please indicate each specific budget account, the specific legislative authority for the program (including the specific statute, the section citation, and the language of the section), and a brief description of the program.

5. For the FY 99 request, please provide a table showing what part is funding to continue initiatives funded in FY 98 or prior years and what part is brand new activity. For each component, please indicate each specific budget account, the specific legislative authority for the program (including the specific statute, the section citation, and the language of the section), and

a brief description of the program. For each brand new activity, please indicate expected requested funding annually through FY 03.

6. Please identify the full set of your agency-specific performance measures for the Administration's Climate Change proposal (besides those indicated in response to questions 2 and 3), including data for at least the 1990 base year, FY 97, FY 98, and FY 99. Also, please identify how any of your agency-specific measures (including those in response to questions 2 and 3) relate to those for any other Federal agency. Lastly, please describe any interagency efforts to identify and relate the entire set of climate change performance measures, including which agencies are involved and the names of the agency representatives.

7. Please provide a table for FY 93 - FY 97 identifying all assistance (including grants, cooperative agreements, and other transactions) and contract awards to non-profit and for-profit organizations for any climate change activity, including the date, amount of the award, name of the organization, purpose of the award, and a summary of any result(s) from the award. Please provide a copy of any final report from these awards.

8. Since January 1993, has your agency participated in any interagency effort(s) relating to climate change in any of the following areas: (a) review of current legislation and/or the need for any new legislation; (b) review of current rules, any needed revisions to current rules, and/or any needed new rules; (c) production or review of any environmental data and/or analyses; (d) production or review of any cost-benefit data or analyses; and/or (e) production or review of any economic data and/or economic analyses? If so, please identify the interagency effort, its member agencies, its membership not only from your agency but also from other Federal agencies and/or any non-Federal parties, all drafts and analyses from the effort(s), and any comments from your agency on any drafts.

9. Since January 1993, has your agency either prepared or reviewed any environmental, cost-benefit, and/or economic data and analyses relating to the White House Initiative on Global Climate Change? If so, please provide a copy of all data, analyses, and any comments by your agency.

10. Did your agency comment on any of the draft testimony on climate change by Administration witnesses since the President's 1998 State-of-the-Union address (including, but not limited to, testimony by CEA Chair Janet Yellen on the Economics of the Kyoto Protocol before the House Commerce Committee)? If so, please provide a copy of the draft testimony and any comments by your agency.

11. Has your agency suggested any alternative policy options for climate change? If so, please provide a copy of all drafts and supporting analyses and any comments from other Federal agencies on your alternatives.

12. Does your agency plan to revise any existing legislation or propose any new legislation relating to climate change (including legislation that will have the effect of reducing greenhouse gas emissions whether or not that is the intended purpose of the legislation)? If so, please identify and describe all such initiatives, including a timetable for their development and submission to Congress. Also provide any and all legal and policy analyses regarding the applicability and availability of existing legislation to implement the Kyoto Protocol and any comments from other Federal agencies on the analyses.

13. Does your agency plan to revise any existing rules or propose any new rules relating to climate change (including regulatory actions that will have the effect of reducing greenhouse gas emissions whether or not that is the intended purpose of the regulatory action)? If so, please identify and describe all such initiatives, including any cost-benefit analysis, and a timetable for their development and promulgation. Also, provide any and all analyses that were prepared or considered of the cumulative effects on the U. S. economy and/or energy system of all or any combination of regulations that were issued since 1992, that were proposed, and that are being developed that have or will have such effects.

14. Has your agency participated in discussions or reviewed any documents relating to international emissions trading, joint implementation, and/or the Clean Development Mechanism? If so, please provide a copy of all drafts and any comment provided by your agency.

(Does not include routine follow-up to testimony, unless asks for new analysis)

Document	Schaefer to CEA	McIntosh(I) to OMB and CEQ	McIntosh(II) to OMB and CEQ	McIntosh(III) to NEC and Treasury, Int	McIntosh(IV) to CEA	Talent to CEQ	Sensenbrenner (I) to CEQ	Sensenbrenner (II) to OSTP
Economic analysis that supports Yellen testimony	X	X				X	X	
Other economic analysis that produced different results	X							
Agency comments on drafts of Yellen testimony		X		X	X			
Economic analysis prepared for Administration and the US delegation in developing positions for Kyoto		X						
Economic analysis showing that FY 99 GCC budget proposal is necessary to prevent more drastic reductions later and all Ag comments		X						
Records indicating alternative policy options		X		X	X			
Comments by other federal agencies on alternative policy options		X		X	X			
Analysis of costs and benefits of binding targets and timetables		X			X			
Agency comments on cost/ benefit analysis		X						
Analysis of cost effectiveness of Administration proposal		X						
Document the opportunity costs of Administration proposal		X						

Provide all records of deliberations and all economic analysis and comments on whether emissions reductions would result in lower growth		X						
Provide analyses upon which Administration relied in deciding that emissions reductions below the 1990 baseline are acceptable		X						
Provide federal agency comments on any private sector analyses that Administration reviewed prior to Kyoto		X						
Document steps that the Administration has taken to comply with Byrd-Hagel Resolution		X						
Analyze whether the benefits of implementing the Protocol are justified by the costs		X			X			
Evaluate the effectiveness of the agreement by comparing marginal abatement costs of alternative scenarios (to be evaluated under specific conditions listed)		X			X			
Evaluate the opportunity costs of pursuing the Administration's strategy for the abatement of greenhouse gas emissions (to be evaluated under specific conditions listed)		X			X			

Evaluate how benefits and burdens of complying with Kyoto would be distributed on the national and household levels, describing the disparate regional and industrial sector impacts and the effects on different income levels (to be evaluated under specific conditions listed)		X			X			
Explain potential effects of Kyoto on GDP, per capita GDP, unemployment, income and real wages, trade competitiveness and energy prices		X			X			
All activities and/or plans for federal agency implementation of the Kyoto Protocol					X	X		
Document estimates of the percentage of US emissions reductions that might have to be purchased from other countries		X			X			
Legal and policy analysis re: applicability and availability of existing legislation to implement Kyoto				X	X			
Drafts of and comments on documents re: international emissions trading, joint implementation, Clean Development Mechanism				X				
Economic and legal analysis that US obligations under Kyoto can be met without constraining US economic growth and without imposing onerous and costly regulation		X						

Provide all drafts and analyses from any interagency effort on climate change since 1993 re: current or new legislation or rules, production or review of any environmental data and/or analyses, production or review of any cost-benefit data or analyses, production or review of any economic data and/or economic analyses, and any comments from your agency on any drafts				X	X			
Provide a copy of all data or analyses prepared or any comments by your agency on any environmental cost-benefit and/or economic data and analyses relating to the White House Initiative on Global Climate Change				X	X			
Identify and describe all initiatives to revise any existing rules or propose any new rules relating to climate change, including any cost-benefit analysis, and a timetable for their development and promulgation					X			
Provide any and all analyses that were prepared or considered of the cumulative effects on the US economy and/or energy system of all or any combination of regulations that were issued since 1992, that were proposed, and that are being developed that have or will have such effects				X	X			

Provide all analyses that support the Administration's conclusion that impacts on the US economy of complying with the terms of the Kyoto Protocol "are likely to be modest." and all records of comments from federal agencies					X			
Analyses that support the statement that US electricity restructuring "will offer approximately $20 billion in cost savings." and all records of comments from other agencies.					X			
Analyses that support the statement that emissions trading among Annex I countries "can reduce the cost to the United States of achieving its targets for 2008-2012 emissions by about half" and all records of comments from other agencies					X			
Analyses that support the statement that emissions trading among a subset of Annex I countries "can reduce costs by an estimated 60-70 percent" and all records of comments from other agencies					X			

Explain and fully document how more limited trading among the subset of countries would produce greater cost reductions than from either trading among all Annex I countries or trading with the full participation of non-Annex I countries. And provide all records of comments from other agencies					X			
Analyses that supports the statement that the Clean Development Mechanism "might shave costs by roughly another 20 to 25 percent" and all records of comments from other agencies					X			
Analyses that supports the statement that overall costs " would reach roughly one tenth of one percent of projected GDP in 2010" and all records of comments from other agencies					X			
Analyses that supports the assumption that the rate of improvement in energy efficiency will be 1.0 percent per year and all records of comments from other agencies					X			
Analyses that supports the statement that the estimated effect on energy prices will range from $14 to $23 per ton of carbon equivalent" and all records of comments from other agencies					X			

Analyses that supports the statement that "in energy-intensive sectors some employment reductions could occur, although given the very small predicted change in energy prices, impacts in most such sectors are apt to be minimal. Furthermore, a large number of jobs will be created in other sectors-- many of them high-tech jobs paying high wages", and all records of comments from other agencies					X			
Analyses that support the Administration's estimate that the benefits relating to traffic congestion, highway accidents and air pollution unrelated to climate change "could offset approximately a quarter of the resources cost of climate change policy", and all records of comments from other agencies.					X			
Specify all of the models and analytical tools that the Administration has used and describe in detail their strengths and weaknesses					X			

Specify all the Administration's estimates that were derived by the SGM model, indicate why many of the Administration's key estimates were derived from this model, and identify the corresponding estimates derived from each model that the Administration has used in assessing the impacts of the Kyoto Protocol					X			
Provide the 1990 baseline, the FY97-98 data, and the annual out-year estimates until 2012 for the following outcome performance measures: morbidity rates for some diseases, mortality rates for some causes, monetary damages from temperature increases, consequences from some catastrophes, traffic congestion, highway accidents and air pollution unrelated to climate change.					X			
For any analysis provided, identify and explain the basis for assumptions used regarding such factors as the rate of improvement in energy efficiency, the effectiveness of market incentives in increasing the market share of fuels that emit less carbon, and economic and demographic growth. And explain fully any assumptions on how emissions reductions will be achieved as, for example, through the early retirement of coal plants or nuclear plant life extensions.					X			

Evaluate the extent to which the Administration's climate change strategy will require the diversion of funds from savings and/or investments which would have provided other benefits, such as social security, or more funding for education, health care etc.					X			
Evaluate the potential offsetting negative effects of exempting developing countries		X			X			
Evaluate the impact that exempting developing countries will have on the ability of emerging countries with export markets to transition to more energy efficient technologies		X			X			
The rate that the Administration expects the economy to grow during the next 10 to 20 years with or without the Kyoto treaty					X			
Provide peer-reviewer comments on all drafts of cost-benefit analyses performed by the Administration					X			
Identify all private parties that are currently performing economic analysis of the Kyoto treaty, describe their work and provide all products of their work in draft of final form					X			

Copies of side agreements, memos, or other documents re: the Kyoto Protocol entered into or contemplated by executive branch and other nations or parties						X		
Scientific evidence documenting existence of global warming						X		
Copies of draft testimony since the State of the Union				X	X			
Agency comments on all draft testimony since the State of the Union				X	X			
Document the Administration's annual performance measures for its 5-year Climate Change Technology Initiative (CCTI)		X						
Provide analyses that supports claim that CCTI is a "no regrets" policy		X						
Data on actual emissions and projected emissions reductions for FY97-FY2003		X						
Copies of the US Climate Action Report		X						
EIS in connection with Administration request for tax incentives and research funding		X						
Materials re: IAT group		X						

Table with FY89-FY99 historical budget authority, on agency-by-agency basis, for President's "Climate Change Technology Initiative" (with requests to explain specific budget provisions)			X	X	X			
Table with FY89-FY99 historical budget authority, on an agency-by- agency basis, for "US Global Change Research Program." (With requests to explain specific budget provisions)			X	X	X			
Table with FY89-FY99 historical budget authority, on an agency-by-agency basis, for any other components of the Administration's climate change program. (With requests to explain specific budget provisions)			X	X	X			
Identify all government-wide and agency-specific performance measures for the Administration's Climate Change proposal, including data for at least FY97, FY98 and FY 99			X		X			
Table showing what part of FY99 request is funding to continue initiatives funded in FY98 or prior years.				X	X			
Table for FY93-FY97 identifying contract awards to non-profit and for-profit organizations for work on GCC				X	X			
NOAA Report							X	X

Goddard Institute for Space Studies/NASA confirmation							X	X
East Anglia Univ. confirmation							X	X
Lancet Article							X	
Studies showing costs reduced with flexible implementation							X	
Study estimating that climate change could double the number of weather-related deaths								X

ONE HUNDRED FIFTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
MINORITY (202) 225-5051
TTY (202) [illegible]

March 11, 1998

BY FACSIMILE

The Honorable Daniel R. Glickman
Secretary
Department of Agriculture
Washington, D.C. 20250

Dear Secretary Glickman:

The Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs is conducting oversight of the White House Initiative on Global Climate Change.

Pursuant to the Constitution and Rules X and XI of the United States House of Representatives, please provide the Subcommittee with detailed information in response to the attached questions regarding the budget, performance measures, legislation, regulations, and analyses for this initiative. Please restate each question before the corresponding answer.

Please contact Subcommittee Staff Director Mildred Webber at 225-4407 if you have any questions about this request. Please provide this information not later than 12 noon, March 31, 1998 to the Subcommittee in Room B-377 Rayburn.

Thank you in advance for your attention to this request.

Sincerely,

David McIntosh

David M. McIntosh
Chairman
Subcommittee on National Economic Growth,
Natural Resources, and Regulatory Affairs

cc: The Honorable Dan Burton
The Honorable John Tierney

Enclosure

Questions for Each Agency with Any Climate Change Funding

1. Please provide a table with Fiscal Year (FY) 89 - FY 99 historical budget authority for your agency for the various components of the President's "Climate Change Technology Initiative," including the previous "Climate Change Action Program/Plan" and any other new or previously authorized Research and Development (R&D) herein (except for the U.S. Global Change Research Program included in Question 3 below). For each component, please indicate each specific budget account, the specific legislative authority (including the specific statute, the section citation, and the language of the section) for the program, and a brief description of the program.

2. In Section 2 ("Programmatic Details") of OMB's February 2, 1998 handout, "Climate Change Technology Initiative - 1999 Budget Briefing Materials," please provide the following information associated with each paragraph description in which your agency has been funded or is requesting funding: the associated funding in FY 97, FY 98, and FY 99. Also, for each paragraph, for the requested funding in FY 99, please provide evidence of any accomplishments from the FY 93 - FY 97 funding, if any. Lastly, for each paragraph, please indicate any program performance measures for the requested funding, and, for each such measure, please provide data for the 1990 base year and annual data for the most recent three-year period for which data are available.

3. Please provide a table with FY 89 - FY 99 historical budget authority for your agency for the various components of the "U.S. Global Change Research Program" which were or are devoted exclusively to climate change R&D. For each component, please indicate each specific budget account, the specific legislative authority for the program (including the specific statute, the section citation, and the language of the section), and a brief description of the program.

- If funded in any of FY 93 - FY 97, please provide evidence of any accomplishments from these dollars. Also, for requested funding in FY 99, please indicate any program performance measures for the requested funding, and, for each such measure, please provide data for the 1990 base year and annual data for the most recent three-year period for which data are available.

4. Please provide a table with FY 89 - FY 99 historical budget authority for your agency for any other components of the Administration's climate change program (i.e., in addition to those included in answer to questions 1 and 2). For each component, please indicate each specific budget account, the specific legislative authority for the program (including the specific statute, the section citation, and the language of the section), and a brief description of the program.

5. For the FY 99 request, please provide a table showing what part is funding to continue initiatives funded in FY 98 or prior years and what part is brand new activity. For each component, please indicate each specific budget account, the specific legislative authority for the program (including the specific statute, the section citation, and the language of the section), and

a brief description of the program. For each brand new activity, please indicate expected requested funding annually through FY 03.

6. Please identify the full set of your agency-specific performance measures for the Administration's Climate Change proposal (besides those indicated in response to questions 2 and 3), including data for at least the 1990 base year, FY 97, FY 98, and FY 99. Also, please identify how any of your agency-specific measures (including those in response to questions 2 and 3) relate to those for any other Federal agency. Lastly, please describe any interagency efforts to identify and relate the entire set of climate change performance measures, including which agencies are involved and the names of the agency representatives.

7. Please provide a table for FY 93 - FY 97 identifying all assistance (including grants, cooperative agreements, and other transactions) and contract awards to non-profit and for-profit organizations for any climate change activity, including the date, amount of the award, name of the organization, purpose of the award, and a summary of any result(s) from the award. Please provide a copy of any final report from these awards.

8. Since January 1993, has your agency participated in any interagency effort(s) relating to climate change in any of the following areas: (a) review of current legislation and/or the need for any new legislation; (b) review of current rules, any needed revisions to current rules, and/or any needed new rules; (c) production or review of any environmental data and/or analyses; (d) production or review of any cost-benefit data or analyses; and/or (e) production or review of any economic data and/or economic analyses? If so, please identify the interagency effort, its member agencies, its membership not only from your agency but also from other Federal agencies and/or any non-Federal parties, all drafts and analyses from the effort(s), and any comments from your agency on any drafts.

9. Since January 1993, has your agency either prepared or reviewed any environmental, cost-benefit, and/or economic data and analyses relating to the White House Initiative on Global Climate Change? If so, please provide a copy of all data, analyses, and any comments by your agency.

10. Did your agency comment on any of the draft testimony on climate change by Administration witnesses since the President's 1998 State-of-the-Union address (including, but not limited to, testimony by CEA Chair Janet Yellen on the Economics of the Kyoto Protocol before the House Commerce Committee)? If so, please provide a copy of the draft testimony and any comments by your agency.

11. Has your agency suggested any alternative policy options for climate change? If so, please provide a copy of all drafts and supporting analyses and any comments from other Federal agencies on your alternatives.

12. Does your agency plan to revise any existing legislation or propose any new legislation relating to climate change (including legislation that will have the effect of reducing greenhouse gas emissions whether or not that is the intended purpose of the legislation)? If so, please identify and describe all such initiatives, including a timetable for their development and submission to Congress. Also provide any and all legal and policy analyses regarding the applicability and availability of existing legislation to implement the Kyoto Protocol and any comments from other Federal agencies on the analyses.

13. Does your agency plan to revise any existing rules or propose any new rules relating to climate change (including regulatory actions that will have the effect of reducing greenhouse gas emissions whether or not that is the intended purpose of the regulatory action)? If so, please identify and describe all such initiatives, including any cost-benefit analysis, and a timetable for their development and promulgation. Also, provide any and all analyses that were prepared or considered of the cumulative effects on the U. S. economy and/or energy system of all or any combination of regulations that were issued since 1992, that were proposed, and that are being developed that have or will have such effects.

14. Has your agency participated in discussions or reviewed any documents relating to international emissions trading, joint implementation, and/or the Clean Development Mechanism? If so, please provide a copy of all drafts and any comment provided by your agency.

Definitions and Instructions for the Production of Records

1. When a request calls for the production of records, the Subcommittee requests all responsive records that are in the agency's possession, custody, or control through the date of the final submission of records to the Subcommittee, unless the request clearly states that the Subcommittee is only interested in records received during a particular time period.

2. Please sequentially number all records that you produce to the Subcommittee, and indicate the source of any record if the source is not accurately reflected on the record itself. Please submit all records on single-sided paper and submit an inventory of records produced if the volume is more than 100 pages.

3. To the extent practicable, please organize the records or documents in tabbed binders or folders that indicate which records are responsive to which requests for information.

4. For the purposes of this and related requests in the future, the "record" or "records" shall include any and all drafts, originals, and non-identical copies of any item whether written, typed, printed, electronically recorded, transcribed, punched, or taped, however produced or reproduced, and includes but is not limited to any writing, transcription, or recording, produced or stored in any fashion, including any and all computer entries, memoranda, notes, talking points, letters, journal entries, reports, studies, calendars, manuals, press releases, opinions, documents, analyses, messages, summaries, bulletins, e-mail messages (in hard copy and electronic forms), disks, the text of any alphanumeric messages or other electronic paging devices, briefing materials, cover sheets or routing cover sheets and any other machine readable material of any sort whether prepared by current or former officers and employees, agents, consultants or by any non-employee without limitation. "Record" or "records" shall also include redacted and unredacted versions of the same record.

ONE HUNDRED FIFTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT
2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
MINORITY (202) 225-5051
TTY (202) 225-6852

March 18, 1998

<u>BY FACSIMILE</u>

The Honorable Carol Browner
Administrator
U.S. Environmental Protection Agency
401 M Street, S.W.
Washington, D. C. 20460

Dear Administator Browner:

The Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs is conducting oversight of the Administration's global warming policies and its initiatives to jump-start U.S. reductions of greenhouse gas emissions prior to Senate ratification of the Kyoto Protocol. The Subcommittee is especially concerned about EPA's efforts to include in the Administration's legislative electric utility restructuring proposal provisions that would control carbon emissions.

Pursuant to the Constitution and Rules X and XI of the United States House of Representatives, please provide the Subcommittee with detailed information in response to the attached questions regarding the budget, performance measures, legislation, regulations, and analyses for these initiatives. In responding to this inquiry, please restate each question and subpart with each of your answers, and follow the attached definitions and instructions concerning the production of records.

Please provide your responses to the questions and requests for production of records not later than 12 noon, April 9, 1998 to the Subcommittee in Room B-377 Rayburn. In addition, please contact Larisa Dobriansky, Senior Counsel, at (202) 225-4407, as soon as practicable to coordinate the timely production of the information to the Subcommittee.

Thank you in advance for your attention to this request.

Sincerely,

David McIntosh

David M. McIntosh
Chairman
Subcommittee on National Economic Growth,
Natural Resources, and Regulatory Affairs

cc: The Honorable Dan Burton
The Honorable John Tierney

Enclosure

Questions Regarding Global Climate Change Policies and Initiatives

Budget Information and Performance Measures

1. Please provide a table with Fiscal Year (FY) 89 - FY 99 historical budget authority for your agency for the various components of the President's "Climate Change Technology Initiative," including the previous "Climate Change Action Program/Plan" and any other new or previously authorized Research and Development (R&D) herein (except for the U.S. Global Change Research Program included in Question 3 below). For each component, please indicate each specific budget account, the specific legislative authority (including the specific statute, the section citation, and the language of the section) for the program, and a brief description of the program.

2. In Section 2 ("Programmatic Details") of OMB's February 2, 1998 handout, "Climate Change Technology Initiative - 1999 Budget Briefing Materials," please provide the following information associated with each paragraph description in which your agency has been funded or is requesting funding: the associated funding in FY 97, FY 98, and FY 99. Also, for each paragraph, for the requested funding in FY 99, please provide evidence of any accomplishments from the FY 93 - FY 97 funding, if any. Lastly, for each paragraph, please indicate any program performance measures for the requested funding, and, for each such measure, please provide data for the 1990 base year and annual data for the most recent three-year period for which data are available.

3. Please provide a table with FY 89 - FY 99 historical budget authority for your agency for the various components of the "U.S. Global Change Research Program" which were or are devoted exclusively to climate change R&D. For each component, please indicate each specific budget account, the specific legislative authority for the program (including the specific statute, the section citation, and the language of the section), and a brief description of the program.

- If funded in any of FY 93 - FY 97, please provide evidence of any accomplishments from these dollars. Also, for requested funding in FY 99, please indicate any program performance measures for the requested funding, and, for each such measure, please provide data for the 1990 base year and annual data for the most recent three-year period for which data are available.

4. Please provide a table with FY 89 - FY 99 historical budget authority for your agency for any other components of the Administration's climate change program (i.e., in addition to those included in answer to questions 1 and 2). For each component, please indicate each specific budget account, the specific legislative authority for the program (including the specific statute, the section citation, and the language of the section), and a brief description of the program.

5. For the FY 99 request, please provide a table showing what part is funding to continue initiatives funded in FY 98 or prior years and what part is brand new activity. For each component, please indicate each specific budget account, the specific legislative authority for the program (including the specific statute, the section citation, and the language of the section), and

a brief description of the program. For each brand new activity, please indicate expected requested funding annually through FY 03.

6. Please identify the full set of your agency-specific performance measures for the Administration's Climate Change proposal (besides those indicated in response to questions 2 and 3), including data for at least the 1990 base year, FY 97, FY 98, and FY 99. Also, please identify how any of your agency-specific measures (including those in response to questions 2 and 3) relate to those for any other Federal agency. Lastly, please describe any interagency efforts to identify and relate the entire set of climate change performance measures, including which agencies are involved and the names of the agency representatives.

7. Please provide a table for FY 93 - FY 97 identifying all assistance (including grants, cooperative agreements, and other transactions) and contract awards to non-profit and for-profit organizations for any climate change activity, including the date, amount of the award, name of the organization, purpose of the award, and a summary of any result(s) from the award. Please provide a copy of any final report from these awards.

Economic, Policy and Legal Analyses

8. Since January 1993, has the Environmental Protection Agency (EPA) participated in any interagency effort(s) relating to climate change in any of the following areas: (a) review of current legislation and/or the need for any new legislation; (b) review of current rules, any needed revisions to current rules, and/or any needed new rules; (c) production or review of any environmental data and/or analyses; (d) production or review of any cost-benefit data or analyses; and/or (e) production or review of any economic data and/or economic analyses? If so, please identify the interagency effort, its member agencies, its membership not only from your agency but also from other Federal agencies and/or any non-Federal parties, all drafts and analyses from the effort(s), and any comments from your agency on any drafts.

9. Since January 1993, has EPA either prepared or reviewed any environmental, cost-benefit, and/or economic data and analyses relating to the White House Initiative on Global Climate Change? If so, please provide a copy of all data, analyses, and any comments by your agency.

10. Did EPA comment on any of the draft testimony on climate change by Administration witnesses since the President's 1998 State-of-the-Union address (including, but not limited to, testimony by CEA Chair Janet Yellen on the Economics of the Kyoto Protocol before the House Commerce Committee)? If so, please provide a copy of the draft testimony and any comments by your agency.

11. Has EPA suggested any alternative policy options for climate change? If so, please provide a copy of all drafts and supporting analyses and any comments from other Federal agencies on your alternatives.

12. Does EPA plan to revise any existing legislation or propose any new legislation relating to climate change (including legislation that will have the effect of reducing greenhouse gas emissions whether or not that is the intended purpose of the legislation)? If so, please identify and describe all such initiatives, including a timetable for their development and submission to Congress. Also provide any and all legal and policy analyses regarding the applicability and availability of existing legislation to implement the Kyoto Protocol and any comments from other Federal agencies on the analyses.

13. Does EPA plan to revise any existing rules or propose any new rules relating to climate change (including regulatory actions that will have the effect of reducing greenhouse gas emissions whether or not that is the intended purpose of the regulatory action)? If so, please identify and describe all such initiatives, including any cost-benefit analysis, and a timetable for their development and promulgation. Also, provide any and all analyses that were prepared or considered of the cumulative effects on the U. S. economy and/or energy system of all or any combination of regulations that were issued since 1992, that were proposed, and that are being developed that have or will have such effects.

14. Has EPA participated in discussions or reviewed any documents relating to international emissions trading, joint implementation, and/or the Clean Development Mechanism? If so, please provide a copy of all drafts and any comment provided by your agency.

Electricity Restructuring

15. On February 11, 1998, Under Secretary of State Stuart Eizenstat testified before the Senate Foreign Relations Committee that the Administration has "no intention through the back door or anything else, without Senate confirmation, of trying to impose or take any steps to impose what would be binding restrictions. . .until and unless the Senate of the United States says so." In light of this assurance wouldn't it be inappropriate for EPA or any other agency to recommend any legislation or propose any regulations that would place limits on carbon dioxide emissions or any other greenhouse gases before the Senate has ratified the Kyoto Protocol?

16. Is EPA presently participating in an interagency effort to draft the Administration's legislative proposal for electric utility restructuring? What other agencies are working on this proposal? Which agency is serving as the lead agency in this effort?

17. What are EPA's views about including in the Administration's legislative restructuring proposal an emissions cap and trading system to control carbon emissions even before Senate ratification of the Kyoto treaty?

18a. Recently, the press has written about and/or printed the text of two EPA memoranda. One of the memoranda, consisting of three pages, is entitled, "Environmental Provisions in Electricity Restructuring Legislation." The second, consisting of two pages, is entitled, "Electricity

Restructuring and the Environment: What Authority Does EPA Already Have and What Does It Need?" Please provide the following information regarding these documents:

18b. Identify who prepared these two documents.

18c. Identify who requested or authorized the preparation of these documents and indicate when that occurred. The Subcommittee understands that these memoranda were presented at interagency discussions on restructuring legislation with officials of the National Economic Council. Indicate whether that is accurate.

18d. The first memorandum addresses environmental provisions that should be included in electricity restructuring legislation. This memorandum asserts the need to obtain legislative authority to establish a federal cap and trade program that would, among other things, control electricity-related carbon dioxide emissions. Without such authority, it is argued that the Administration will be unable to ensure emissions reductions at low cost and to achieve a "significant down-payment" towards reducing emissions of greenhouse gases. Indeed, the memorandum states that this "would be seen as a concrete step to move forward domestically on global warming while continuing to work for progress internationally in follow-up to Kyoto." Is this the position that EPA is taking on restructuring legislation in interagency discussions? If so, isn't the agency recommending steps to implement the Kyoto treaty prior to Senate ratification?

18e. Please provide all assessments that the agency has prepared of potential environmental impacts of restructuring the electric utility industry.

18f. The second document, dealing with existing authority, states that "EPA currently has authority under the Clean Air Act to establish pollution control requirements for all four pollutants of concern from electric power generation: nitrogen oxides, sulfur dioxide, carbon dioxide, and mercury. Action could be taken under provisions for meeting national ambient air quality standards, addressing transboundary pollution, or setting technology-based emissions standards." Does EPA maintain that it currently has the authority to establish pollution control requirements for carbon dioxide? If so, please specify the provisions in the Clean Air Act upon which the agency is relying and provide any and all legal and policy analyses developed by EPA to support this position.

18g. If EPA does maintain that it currently has the authority to establish pollution control requirements for carbon dioxide, please indicate when the agency determined that carbon dioxide is a "pollutant," "air pollutant," or "a hazardous air pollutant" and provide any and all legal and policy analyses that the Agency has prepared or considered that support such determinations.

19. On February 12, 1998, David Doniger of EPA stated at an Air & Waste Management Association luncheon in Washington, D. C. that the agency is "trying to explore" ways to integrate reductions of particulate matter, sulfur dioxide, nitogen oxides, and carbon dioxide. He indicated that EPA is using an integrated planning model to determine how best to lower several

pollutants simultaneously. Isn't this the very approach that is advocated in the above-referenced EPA memorandum addressing electric utility restructuring legislation?

The Effects of EPA Regulatory Actions on Greenhouse Gas Emissions

20a. In his June 26, 1997 remarks to the United Nations Special Session on Environment and Development, President Clinton referred to the recently issued new and revised national ambient air quality standards (NAAQS) for ozone and particulate matter (PM) as "a positive first step" in addressing greenhouse gas emissions.

20b. Did the Administration consider the ancillary benefits of greenhouse gas emission reductions in setting the new and revised primary NAAQS for ozone and PM?

20c. Section 109(b)(1) of the Clean Air Act (Act) establishes that the standard for setting primary NAAQS is "requisite to protect the public health" with an "adequate margin of safety." Section 109(b)(2) of the Act provides that impacts on the public welfare (e.g., effects on climate) may only be considered in setting secondary NAAQS). Doesn't this statutory framework prohibit the Agency from considering the impacts of the new and revised standards on greenhouse gas emissions and climate change during the primary standard-setting process?

20d. Section 307(d)(6)(C) of the Act specifies that a promulgated rule "may not be based (in part or whole) on any information or data which has not been placed in the docket as of the date of such promulation." Did the Agency include in the docket for the ozone and PM NAAQS rules any information on the impacts of the new and revised standards on greenhouse gas emissions?

20e. Please provide to this Subcommittee any and all records concerning the impacts of the new and revised ozone and PM standards on greenhouse gas emissions that were developed or considered by Agency staff before or during the ozone and PM NAAQS rulemaking process.

21. In the Regulatory Impact Analysis (RIA) for the ozone, PM, and Regional Haze rules, EPA identifies "the investments made to control greenhouse gases for climate change" as a "catalyst" for the development of innovative technologies (RIA 9-3). Presumably, EPA has concluded that future regulation of greenhouse gas emissions will reduce the costs of developing technologies to comply with the ozone and PM NAAQS. The RIA also states that: "In the international climate change negotiations, the U.S. is pursuing legally binding targets at a level considered to be 'real and achievable.' Such targets will help decrease not only [greenhouse gas], but also a variety of other air pollutants." (RIA at 9-30). These statements suggest that the Agency took into account future greenhouse gas emissions reductions (and the control technologies developed to achieve these reductions) in calculating the costs and benefits of the ozone, PM, and Regional Haze. Was this a reasonable assumption, considering that neither the Clean Air Act nor the current Framework Convention on Climate Change mandates reductions in greenhouse gas emissions?

22. EPA's Fiscal Year 1999 Strategic Plan states: "By 2000 and beyond, U. S. greenhouse gas emissions will be reduced to levels consistent with international commitments agreed upon under the Framework Convention on Climate Change (FCCC), building on initial efforts under the Climate Change Action Plan (CCAP)." The Agency's Strategic Plan further provides that: "By 2000, CCAP implementation throughout the Federal government will reduce annual U.S. greenhouse gas emissions by 75 million metric tons of carbon equivalent (MMTCE). The programs will lead to greater annual reductions of between 115 and 140 MMTCE by 20005."

Upon what legal authority is the Agency relying to implement these reductions? Please point to the specific provision or provisions of the Clean Air Act that authorize EPA to require these reductions in greenhouse gas emissions. Is EPA's objective tied to the current FCCC, which calls for voluntary action to return emissions to 1990 levels or does the agency's plan include actions aimed at reducing U.S. greenhouse gas emissions 7% below 1990 levels, as the Administration agreed to in Kyoto?

23a. In March 1996, EPA promulgated New Source Performance Standards (NSPS) and Emission Guidelines (EG) for Municipal Solid Waste Landfills. [61 Fed. Reg. 9905 (March 12, 1996) (MSW Landfill Rule] In the preamble to the MSW Landfill Rule, EPA stated that : "The additional methane reductions achieved by [the control technology option selected] are also an important part of the total carbon reductions identified under the Administrations's 1993 Climate Change Action Plan." Id. at 9914. EPA further stated that, "The Climate Change Action Plan. . . calls for EPA to promulgate a 'tough' landfill gas rule as soon as possible." Id. at 9916. Please point to the provision in the Clean Air Act that authorizes EPA to consider climate change impacts in developing the NSPS and EG for MSW Landfills.

23b. EPA acknowledged in the preamble to the MSW Landfill Rule that, despite a general concern that increasing emissions of greenhouse gases could lead to climate change, "the rate and magnitude of these changes are unknown." Id. at 9917. In light of this uncertainty, what was the basis for EPA's conclusion that the MSW Landfill Rule would have beneficial impacts with respect to climate change?

23c. Please provide to this Subcommittee any documents concerning the impacts of the MSW Landfill Rule on greenhouse gas emissions that were developed or considered by Agency staff during before or during the MSW Landfill rulemaking process.

24a. In the preamble to a March 1994 final rule implementing the Significant New Alternatives Program (SNAP), EPA adopted the interpretation that "global warming potential" must be considered in determining what substances are acceptable substitutes for ozone-depleting substances (ODS). See 59 Fed. Reg. 13044 (March 18, 1994). Although public commenters objected on the grounds that EPA lacked authority under Section 612 of the Act to regulate substitutes based on global warming, EPA disagreed with this interpretaiton and stated that: "[I]n October 1993, the President directed EPA through the Climate Change Action Plan (CCAP) to use its authority under 612 of the Clean Air Act to narrow the uses allowed for hydrofluorocarbons and perfluorocarbons with high global warming potential. Id. at 13049. EPA reached this conclusion even though, in the process of amending the Clean Air Act of 1990, Congress deleted authority for EPA to phase out use of substances based solely on their global warming potential. Please explain EPA's legal theory for relying upon Section 612 of the Act to regulate ODS subtitutes based on their global warming potential.

24b. How can the President's directive in the CCAP be reconciled with clear legislative intent to prohibit consideration of global warming potential in the SNAP analysis?

25. In EPA's Advance Notice of Proposed Rulemaking (ANPR) on integrated implementation of the ozone, PM, and Regional Haze rules, the Agency states that: "While the focus of control strategy integration centers around the ozone, PM, and regional haze programs, some consideration of how other programs affect these programs will need to be assessed (i.e., acid rain, climate change, stratospheric ozone, ecosystem protection, toxics). [61 Fed. Reg. 65764, 65775 (December 13, 1996)] Is EPA planning to regulate greenhouse gas emissions through this "integrated implementation" program? If so, under what specific statutory authority? Please provide all legal analyses to support such a position.

26. EPA has characterized the new NAAQS for PM2.5 and ozone as an electric utility issue. In addition, EPA's proposed SIP call on Nox focuses on emissions from electric utilities. Several other proposed or contemplated regulatory initiatives--regional haze, revisions to new source review requirements, revised new source performance standards for utility boilers, and air toxics standards for electric utilities' boilers--also appear likely to require substantial emissions reductions from electric utility plants. Has EPA performed any analyses of how any of these regulatory programs--alone or in combination--will affect emissions of any greenhouse gases covered by the Kyoto Protocol? Moreover, has EPA assessed the cumulative effects of these regulations, or any combination of them, on the U.S. energy system and economy? If so, please provide all records of such analyses, including drafts, and materials explaining how the analyses where performed and by whom. Also please identify all individuals consulted in conjunction with such analyses and provide all records reflecting the data and content of such consultations.

27a. In its proposal to require modification of SIPs to limit Nox emissions (62 Fed. Reg. 60318) (the proposed SIP "call"), EPA asserts that "on a global scale, decreases in Nox emissions will, to some degree, reduce greenhouse gases." 62 Fed. Reg. At 60374. Has EPA quantified the effect of the proposed SIP calls on greenhouse gases and/or global warming? If so, please provide copies of all records and analyses. Also, please indicate when any such analysis was performed and by whom.

27b. If EPA has performed no such quantification of the effects of the proposed SIP calls on greenhouse gases, what is the Agency's basis for asserting that one of the non-ozone benefits of the proposed SIP call will be its impact on global warming?

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27c. What role did global warming and other non-ozone benefits play in EPA's identification of a specific Nox-reduction program as a means of implementing the ozone NAAQS? Please identify the date(s) of any and all meetings at which the non-ozone benefits of the proposed SIP call were discussed and the identities of each participant in each such meeting. Provide all records relating to such meetings.

27d. Did EPA consider whether other options for attaining the ozone NAAQS might yield equal or greater non-ozone benefits? If so, please provide copies of any and all analyses evaluating the benefits of such alternative implementation strategies and all records regarding consideration of the benefits of such alternative strategies. Please identify all EPA staff members involved in such analyses.

28. According to an August 29, 1997 "Inside EPA" article, an EPA source "points out that EPA estimated last year that an aggressive strategy to reduce SO2, Nox and mercury from utilities would only reduce CO2 emissions by five to seven percent. If mercury is removed from this equation, an administration source says this percentage is likely to fall since some utilities would have undoubtedly chosen to alter their fuel mix as a way to meet an onerous mercury reduction requirement." Please provide any and all analyses that relate to the comments made in this article. Why were any such analyses performed? Are there other similar analyses available for other industry sectors?

FACA Subcommittee on Energy, Clean Air and Climate Change

29a. In July, 1997, EPA announced the formation of a new subcommittee of its Clean Air Act Advisory Committee, the Subcommittee on Energy, Clean Air and Climate Change. Please provide a copy of the charter of the Subcommittee and copies of any and all records concerning the purpose or goals of the Subcommitee.

29b. Please identify all EPA staff members who are involved in supporting or working with the Subcommittee or who have attended or participated in meetings of the Subcommittee.

29c. Please explain EPA's authority to convene an advisory committee to examine climate change issues.

29d. Please discuss whether and how climate change programs and initiatives will be integrated into state implementation plans.

Climate Change Outreach Efforts

30. Please explain why the agency is sponsoring regional conferences around the country regarding implementation of the Kyoto Protocol? A brochure to one of the conferences that the agency has sponsored states that, "Annex I parties must now begin designing policies and programs to meet [the] reduction goal [of 7% below 1990 levels]." How much have you already

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spent and how much do you plan to spend in Fiscal Year 1998 funds setting up or cosponsoring conferences on implementing the Kyoto treaty? How much do you plan to spend in Fiscal Year 1999?

31. Do you agree that Senate ratification is required before mandatory greenhouse gas emission reductions are implemented in states or in the U.S.? This Subcommittee understands that the Commonwealth of Massachusetts recently received a $77,000 grant from EPA to set up workshops and conferences on climate change. In a February 20, 1998 letter signed by the state's Executive Office of Environmental Affairs, Massachusetts "stakeholders" are invited to participate in the development of a Climate Change Action Plan for Massachusetts. The letter indicates that the state is "seeking a package of recommendations that could reduce Massachusetts' emissions of greenhouse gases consistent with the U.S. target adopted in Kyoto three months ago." Is EPA promoting these types of efforts or is the agency specifically instructing states that the Kyoto targets are not relevant to policy decisions, unless and until the Senate ratifies that treaty?

Early Credit Reductions

32. On February 17, 1998, a proposal for a program to reward early greenhouse gas emissions reductions was presented to EPA's Subcommittee on Energy, Clean Air and Climate Change. In addition, since the conference in Kyoto, EPA officials have been discussing the merits of an early reductions program. They also have stated the need to develop a strategy for determining real reductions between 1998-2008 and for crediting the pre-1998 reductions that have been registered in the database established under Section 1605(b) of the Energy Policy Act of 1992 (EPAct). Under what authority is EPA proceeding to consider proposals for early reduction credits? Wasn't the Department of Energy (DOE) charged by Congress to set up a system for the voluntary reporting of greenhouse gas emission reductions? Does EPA believe that it is appropriate for it to be evaluating proposals to displace that system developed by DOE?

Definitions and Instructions for the Production of Record

1. When a request calls for the production of records, the Subcommittee requests all responsive records that are in the agency's possession, custody, or control through the date of the final submission of records to the Subcommittee, unless the request clearly states that the Subcommittee is only interested in records received during a particular time period.

2. Please sequentially number all records that you produce to the Subcommittee, and indicate the source of any record if the source is not accurately reflected on the record itself. Please submit all records on single-sided paper and submit an inventory of records produced if the volume is more than 100 pages.

3. To the extent practicable, please organize the records or documents in tabbed binders or folders that indicate which records are responsive to which requests for information.

4. For the purposes of this and related requests in the future, the "record" or "records" shall include any and all drafts, originals, and non-identical copies of any item whether written, typed, printed, electronically recorded, transcribed, punched, or taped, however produced or reproduced, and includes but is not limited to any writing, transcription, or recording, produced or stored in any fashion, including any and all computer entries, memoranda, notes, talking points, letters, journal entries, reports, studies, calendars, manuals, press releases, opinions, documents, analyses, messages, summaries, bulletins, e-mail messages (in hard copy and electronic forms), disks, the text of any alphanumeric messages or other electronic paging devices, briefing materials, cover sheets or routing cover sheets and any other machine readable material of any sort whether prepared by current or former officers and employees, agents, consultants or by any non-employee without limitation. "Record" or "records" shall also include redacted and unredacted versions of the same record.

McINTOSH REQUESTS FOR CLIMATE CHANGE MATERIALS:

1. **Economic Analyses**

   - all documents related to economic analyses of climate change policies or the Kyoto Protocol

2. **Cost-Benefit Analyses**

   - all documents related to the production or review of any cost-benefit analyses

3. **IAT**

   - records of all meetings of the IAT group and information on any workshops conducted.

   - all analyses performed by the group and all records of written or oral comments from other federal agencies on the IAT's analyses and advice

4. **Budget Proposals**

   - all of the economic data and analyses upon which the Administration relied to determine that the President's FY99 budget proposal is necessary to place the US in a "position where we will be further down the road and won't have to make the kind of drastic reductions that otherwise might be called for"and provide all records containing comments by other federal agencies on the drafts

   - the environmental and economic data and analyses that support the claim that the CCTI is a "no regrets" policy

5. **Budget Information**

   - provide a table with FY 89 - FY 99 historical budget authority, on agency-by-agency basis, for the various components of the President's "Climate Change Technology Initiative"... For each component, please indicate each specific budget account and a brief description of the program (with requests to explain specific budget provisions)

   - provide a table with FY 89- FY99 historical budget authority, on an agency by agency basis, for the various components of the "US Global Change Research Program," which were or are devoted exclusively to climate change R&D (with requests to explain specific budget provision)

   - provide a table with FY89-FY99 historical budget authority, on an agency by agency basis, for any other components of the Administration's climate change program (with requests to explain specific budget provisions)

- provide a table showing what part of FY99 request is funding to continue initiatives funded in FY 98 or prior years and what part is brand new activity

6. **Performance Measures**

- identify the full set of your agency-specific performance measures for the Administration's Climate Change proposal, including data for at least the 1990 base year, FY97, FY98 and FY99. Also, please identify how any of your agency specific measures relate to those for any other Federal agency. Describe any interagency efforts to identify and relate the entire set of climate change performance measures, including which agencies are involved and the names of the agency representatives

- provide and document the Administration's annual performance measures for its 5-year Climate Change Technology Initiative (CCTI)... the 1990 US emissions level, data on actual emissions reductions for FY97, and then projected emissions reductions beginning in FY97 and then for each year up to and including FY2003.

7. **Alternative Policy Options**

- all records indicating the alternative policy options that the Administration analyzed, such as integrated pollution prevention, performance-based regulation, and multi-media regulation.

- all records of comments by other federal agencies on analyses of alternative policy options, their cost-effectiveness and the opportunity costs

- all drafts and supporting analyses and any comments from other Fed agencies on any alternative policy options for climate change that were suggested by your agency

8. **International Trading**

- provide and document estimates of the percentage of US emissions reductions that might have to be purchased from other countries to minimize the costs of reducing emissions

- all drafts and any comments provided by your agency on documents relating to international emissions trading, joint implementation, and/or the Clean Development Mechanism

9. **Developing Countries**

- document steps that the Administration has taken to comply with Byrd-Hagel Resolution

- evaluate fully the potential offsetting negative effects on exempting developing countries and of "carbon leakage"

- evaluate the impact that this will have on the ability of emerging countries with export markets to transition to more energy-efficient technologies

- evaluate the potential offsetting negative effects of exempting developing countries

- evaluate the impact that exempting developing countries will have on the ability of emerging countries with export markets to transition to more energy efficient technologies

10. **Implementation of Kyoto Protocol**

- all legal and policy analyses regarding the applicability and availability of existing legislation to implement the Kyoto Protocol and any comments from other Federal agencies on the analyses

11. **Environmental Data**

- since 1993, all drafts and analyses from any interagency effort on climate change re: the production or review of any environmental data and/or analyses

12. **Legislation/ Rules**

- since 1993, all drafts and analyses from any interagency effort on climate change re: current or new legislation or rules

- identify and describe all agency initiatives to revise any existing legislation or propose any new legislation relating to climate change

- identify and describe all initiatives to revise any existing rules or propose any new rules relating to climate change, including any cost-benefit analysis, and a timetable for their development and promulgation

13. **Testimony**

- copies of any draft testimony on climate change by Administration witnesses since the President's 1998 State of the Union address and comments by your agency

14. **Yellen Testimony**

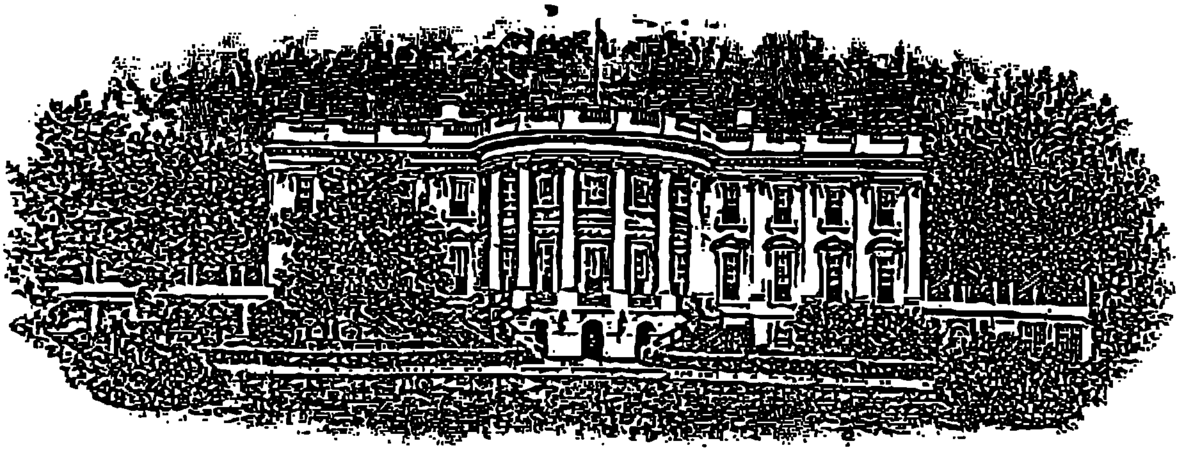
- all records of comments submitted by federal agencies on Dr. Janet Yellen's draft testimony about the economics of Kyoto

15. **Other**

- provide any Environmental Impact Statement (EIS) that was prepared in connection with the Administration's requests for tax incentives and research funding to facilitate greenhouse gas emissions. (McIntosh I)

- provide a table for FY93-FY97 identifying all assistance and contract awards to non-profit and for-profit organizations for any climate change activity. Provide a copy of any final report from these awards (McIntosh III, IV)

The White House



COUNSEL'S OFFICE

FACSIMILE TRANSMISSION COVER SHEET

DATE: 12/4/98

TO: Roger Ballentine

FACSIMILE NUMBER: 456-6468

TELEPHONE NUMBER:

FROM: Dan Marcus

TELEPHONE NUMBER: 456-7900

PAGES (WITH COVER): 7

COMMENTS:

PLEASE DELIVER AS SOON AS POSSIBLE

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON SCIENCE

SUITE 2320 RAYBURN HOUSE OFFICE BUILDING
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November 18, 1998

The Honorable Carol M. Browner
Administrator
U. S. Environmental Protection Agency
401 M Street, SW
Washington, DC 20460

Dear Administrator Browner:

I am in receipt of an October 23, 1998 letter and enclosures from Assistant Administrator for Policy, David Gardiner, in response to question 3.4 of my July 31, 1998 letter to you concerning the development by the Environmental Protection Agency (EPA) of an "Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-1996" that is required by the Framework Convention on Climate Change (FCCC).

This is the second reply by Mr. Gardiner to my July 16 letter. In his reply of September 16, Mr. Gardiner, in responding to other questions, cited several statutory provisions providing a statutory basis for EPA's preparation of the Inventory, including section 103 of the Clean Air Act which is in the jurisdiction of this Committee. He also notified me that the response to question 3.4 would be delayed because your staff was gathering the requested documents from EPA files. He said without explanation that "certain documents responsive" to my request "may raise concerns regarding the confidentiality of White House decision making."

The latest reply is once again incomplete: It provides some documents, but not all. Instead, Mr. Gardiner provided the enclosed table of 33 documents entitled " 'Sensenbrener' Follow-up Documents to Question 3.4." It identifies the documents, provides comments on each, and then under the heading "Privilege" describes their status by letters as follows: "NP=not privileged; P=privileged; WHE=White House Equity." Mr. Gardiner then states:

> "In addition, certain documents responsive to your request raise concerns regarding the confidentiality of White House decision making. Those documents are available for your inspection at the Office of the White House Counsel. Please contact Robert Weiner of that office (202) 456-6297) to arrange to see those materials."

Of the thirty-three documents listed on Mr. Gardiner's table, all but one are designated as privileged and twenty-six are designated subject to both privilege and "White House Equity". The latter is a new term which is not defined or explained by Mr. Gardiner.

All of the documents, but the one marked "NP", appear to be EPA documents or documents from other federal agency personnel addressed to EPA personnel and, in some cases, to other Federal agency personnel. None are addressed to the President or any White House official. No letter is included from the White House claiming or suggesting Executive Privilege. Nevertheless, Mr. Gardiner asserts that certain documents "raise concerns regarding the confidentiality of White House decision making", tells me that they are only "available" for my inspection at the Office of the White House Counsel," and that I should "contact" a person named Robert Wiener in the Office of the White House Counsel "to arrange to see those materials." His comments suggest that all such documents have been apparently removed from EPA files and transferred to the White House.

I want to know why such a transfer was authorized by the EPA and whether EPA gave up control of them to the White House after I requested such documents . Please also provide the legal basis for such action and the identity of the person that authorized that transfer.

As to the issue of withholding these documents from the Committee because they "raise" some unspecified "concerns" about the confidentiality of White House decision making, I recently had the opportunity to review some documents provided by Dr. Janet Yellen of the Council of Economic Advisors to the House Committee on Commerce after they were recently released, together with correspondence by the bipartisan leadership of the House Committee on Commerce. They also related to matters involving the FCCC and the Kyoto Protocol. The released documents included a June 11, 1998 letter to that Committee from Mr. Robert N. Weiner, Senior Counsel, Office of Counsel to the President in which he provided to that Committee a similarly tabulated list of documents that apparently were also previously withheld by the White House because they "discuss and reflect internal deliberations of the Executive Office of the President with regard to ongoing policies of the Administration." Prior to that release, White House officials on April 24 wrote to the Commerce Committee and offered, as Mr. Gardiner has done, to make the documents available for review by Committee Members and Staff. Obviously, that approach was unacceptable to the leadership of the Commerce Committee. It is also unacceptable to me.

In this case, Mr. Gardiner does not assert that these EPA file documents "discuss and reflect internal deliberations of the Executive Office of the President." He merely asserts that some "concerns" may "arise." Both assertions are weak and are not supported by any statutory authority for withholding them from Congress or this Committee in the exercise of its oversight of these matters under the Rules of the House of Representatives and this Committee.

In regards to the issue of privilege, Mr. Gardiner states:

> "Please note that some of these documents are deliberative in nature or contain material subject to the attorney-client and attorney work product privileges, and are so marked. In providing you with these records, we are not waiving the Agency's ability to invoke exemption 5 under the Freedom of Information Act (FOIA) for deliberative or attorney-client privileged documents or the work product/attorney-client privileges in general. We therefore request that you preserve the confidentiality of any documents marked privileged by refraining from providing copies of those records, or from otherwise communicating the contents of those records, to persons other than those with a need to know as part of this Congressional oversight review."

All but one of the thirty-three documents are marked with a "P", including those transferred to the White House. Exemption 5 of the Freedom of Information, if even applicable in this case, does not authorize EPA to withhold these documents from Congress (see 5 U.S.C. 552(d)).

The treatment of these documents as "confidential" in the conduct of this "Congressional oversight review," cannot be addressed until I have received and reviewed all of them. At this junction, it is very difficult to reach a different conclusion than the Commerce Committee did in its September 11 letter to Dr. Yellen as to the documents previously withheld from that Committee by the White House, unless, of course, you provide better reasons for withholding them from the public as privileged than Mr. Gardiner provided. Nevertheless, I have an open-mind.

In this case, you have already provided Document No. 8 which is designated "WHE". I fail to understand why you should not immediately do the same for all other documents designated "WHE".

Several months lapsed before the White House finally agreed to provide the above-mentioned documents to the Commerce Committee and before they were released. I request that the Administration not engage in such delay in this instance and that the documents be promptly returned to the EPA for delivery to this Committee, as requested last July, by not later than Wednesday, December 16, 1998.

Before closing, I take this opportunity to commend EPA for deciding to initiate a "public review process" for this Inventory and to extend the deadline for public comment as I had urged last April. As Mr. Gardiner explained, it "generated valuable feedback." It is also good to hear Mr. Gardiner say that it "resulted in a more accurate inventory document of higher quality." I also appreciate knowing that EPA has made changes in the management and production of the "next" Inventory. That is good news and I applaud EPA for these efforts. At the same time, I recall Mr. Gardiner's comment in his second letter that "EPA usually does not provide for public review and comment" of purely technical, non-regulatory documents "prior to their publication." I suggest that EPA revisit that policy and apply this approach to other non-regulatory documents developed with taxpayer funds. As you can see, sunshine usually results in a better product as the above comments show.

Sincerely,

F. JAMES SENSENBRENNER, JR.
Chairman

FJS/tlw

Enclosure

Enclosure to November 18, 1998 Letter from Science Committee Chairman F. James Sensenbrenner, Jr. to the Honorable Carol M. Browner

'Sensenbrenner 3' Follow-up Documents to Question 3.4

(key: NP = not privileged: P = privileged: WHE = White House Equity)

Doc. #	Document	Privilege	Comment
1	IPCC Guidelines Excerpt	NP	generic uncertainties table
2	Memo from Carol Whitman, DOA, to Rawls, Hohenstein, Pershing	P	carbon flow to carbon stock
3	Memo from Art Rypinski, EIA, to Bill Breed, DoE	P	draft of ghg estimates & their reliability
4	Draft EPA OP position	P	criteria for inclusion/ exclusion
5	E-mail from Hohenstein, EPA, to all	P, WHE	Annex C criteria & non-CO2 gas options
6	Memo from Carol Whitman to Rawls, Hohenstein, Pershing	P, WHE	Exclusion of Land-based Sources and Sinks
7	Memo to Wasserman from Albritton, NOAA	P	Comments on GWP paper
8	Memo from Rawls, DoA, to Bierbaum, Forrister, Chupka, Doniger	WHE	Accuracy & contents of Annex C and land use change estimates
9	Draft Annex C Briefing	P	description of options
10	Paper: Contents of Annex C: an Inclusive Approach	P, WHE	draft EPA OP position
11	Memo from Jim Rubin to Pershing, Doniger, Leggett	P, WHE	Tying Anex C proposals into compliance provisions
12	Memo from Breed DoE to Pershing Kruger, Barbour, Backlund, Wasserman	P, WHE	DoE views on Annex C options
13	OSTP Paper: Options for Contents of Annex C	P, WHE	4 options
14	DoE Comment on Annex C Paper	P, WHE	Comments on 4 options and new hybrid option
15	Memo from Kruger, EPA, to Annex C Group	P, WHE	Projections for U.S.

16	Memo from Jim Rubin to Pershing, Breed, Silverman, Kruger, Barbour, Backlund, Wasserman, Whitman	P, WHE	Justice Dept. comments on DoE comments
17	Memo from Whitman, DoA, to Harvey, EPA	P, WHE	Reliability of USFS measurements
18	OPPE Comments on Annex C Options	P, WHE	Comments on 4 options
19	E-mail from Leggett to Barbour, EPA	P, WHE	Comments on options paper
20	E-mail from Barbour, EPA, to Leggett & Breidenich	P, WHE	Comments on hybrid option
21	E-mail from Bill Breed, DoE to Kruger, Barbour, EPA, and Backlund, OSTP	P, WHE	Comments on two options
22	Briefing package, from EPA, OAR	P, WHE	Analysis of four options and hybrid variant
23	Options for Contents of Annex C	P, WHE	OSTP analysis 2 options
24	E-mail from Breed, DoE, to Kruger, Barbour, EPA	P, WHE	Pros and cons of comprehensive approach
25	E-mail from Kruger, EPA, to Barbour, Harvey, Irving, EPA, Pershing, DoS, Backlund, OSTP, Breed, DoE	P, WHE	Questions on limited basket approach
26	E-mail from Breed, DoE, to Barbour, Kruger, EPA	P, WHE	X-cutting issues
27	E-mail from Kruger, EPA, to Backlund, OSTP, Barbour, Saile, EPA, Breed, DoE	P,WHE	Discussion of limited basket approach
28	E-mail from Breed, DoE, to Pershing, DoS, Backlund, OSTP, Gruenspecht, DoE, Barbour, Kruger, EPA	P,WHE	Pros and cons of comprehensive approach
29	Paper on Which Gases/Sectors to Include in Kyoto Agreement	P,WHE	2 options
30	EPA OAR Analysis of 3 options	P, WHE	numeric analysis
31	Paper on Which Gases/Sectors to Include in Kyoto Agreement	P, WHE	2 options and analysis

32	E-mail from D. Kruger, EPA, to Barbour, Breidenich, Dutrow, Forte, Harvey, Hogan, Irving, Kete, J. Kruger, Saile, Stolpman, Doniger, all EPA	P, WHE	Final U.S. proposal on Annex C
33	E-mail from Barbour, EPA, to Doniger, EPA	P, WHE	Clarification on adjustments

Requested Documents

- OSTP #19 - to the Vice President, McGinty et al. - Presidential Review Directive/NEC re Measures to Reduce Greenhouse Gas Emissions from Personal Motor Vehicles
- Treasury #9/CEA #9 - 10/97 Yellen, Summers et al. to the President - memorandum re Economics of Climate Change Policy
- Treasury #11/CEQ #11/CEA #20 - 10/18/97 McGinty et al. to the President - memorandum re Presidential climate change policy decisions
- Treasury #13/CEQ #5/CEA #24 - 11/30/97 McGinty et al. to the President - Stem cover memo and memorandum re progress of Kyoto negotiations and Kyoto negotiating guidance
- OMB #10 - 12/9/97 McGinty to the President - Environmental Budget Issues
- CEA #26 - 2/6/98 McGinty et al. to the President - decision memo re Kyoto Protocol and White House staffing transmittal memo

MJ
cc file

ONE HUNDRED FIFTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

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September 3, 1998

cc: Roger B
Rob W
Julie A

BY FACSIMILE

The Honorable Janet Yellen
Chair
Council of Economic Advisers
Old Executive Office Building
Washington, D. C. 20502

Dear Chair Yellen:

This letter confirms the understanding that was reached at yesterday's meeting between your Chief of Staff and my Subcommittee staff regarding Council documents that were responsive to the subpoena that the Government Reform and Oversight Committee served CEA on August 10, 1998. In general, the subpoena called for the production of documents relating to the Administration's climate change policies, the White House Initiative on Global Climate Change, and the Kyoto Protocol by August 25, 1998.

At the meeting, your Chief of Staff agreed to provide the Subcommittee staff and Members access to all remaining documents responsive to my March 13, 1998 letter of inquiry by September 4, 1998, except those documents that were being withheld from all review due to alleged interests in the confidentiality of Presidential decision making. Ms. Jolin committed to provide a log of the documents that the Council is making available for review by Members. We also would like a description of each responsive document that the Council is not making available for any review at this time.

Your Chief of Staff also committed to make every effort to provide all other documents responsive to the subpoena as expeditiously as possible. Because of the Congressional schedule, we would like the Council to specify a date by which these documents will be made available to the Subcommittee.

To help facilitate the Council's search for responsive documents, the Subcommittee staff requested that the Council focus particularly on documents relating to the following:

- o Review or analysis, including interagency review or analysis, of the economic and environmental impacts of the Administration's climate change policies and any alternative policies considered, including interagency comments on the analysis performed by the Interagency Analytical Team and analyses and comments provided by agencies to the Administration in connection with the negotiation of the Kyoto Protocol;

- o Review or analysis, including interagency review or analysis, of regulatory policy options for reducing greenhouse gas emissions, including discussions about reductions from personal motor vehicles ("Car Talk") and electricity restructuring;

- o Review or analysis, including interagency review or analysis of, or plans or proposals to implement, "international emissions trading," "joint implementation," and the "Clean Development Mechanism," as those terms are defined and used in the Kyoto Protocol;

- o Review or analysis, including interagency review or analysis, of the White House Initiative on Global Climate Change and alternative policy options considered by the Administration, including CEA's economic analyses of the Administration's policies on electricity restructuring and basic energy research.

Please contact Subcommittee Staff Director Mildred Webber at 225-4407 if you have any questions regarding this letter. Thank you in advance for your attention to these matters.

Sincerely,

David M Intosh

David M. McIntosh
Chairman
Subcommittee on National Economic Growth,
Natural Resources, and Regulatory Affairs

cc: The Honorable Dan Burton
The Honorable John Tierney

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