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List of Recipients for the
Periodic Updates from the Climate Talks
Bonn, Germany, 24 Feb to 7 March 1997

| Name | Agency | Fax Number |
|---|---|---|
| Eileen Claussen | State | 202 647-0217 |
| Rafe Pomerance | State | 202 647-0217 |
| Bradford Johnson | State | 202 647-0191 |
| Erica Keen | State | 202 647-0753 |
| Susan Biniaz | State/L/OES | 202 736-7115 |
| Jack Shick | State | 202 647-0191 |
| Barbara Cates | State/EB | 202 647-4037 |
| Alicia Munnell | CEA | 202 395-6947 |
| Abraham Haspel | DOE | 202 586-3047 |
| Dirk Forrister | DOE | 202 586-9987 |
| Marc Chupka | DOE | 202 586-0861 |
| Mary Nichols/David Doniger | EPA | 202 260-5155 |
| David Gardiner | EPA | 202 260-0275 |
| Elaine Haemisegger | EPA | 202 260-0290 |
| Nancy Kete | EPA | 202 233-9598 |
| Charles Rawls | USDA | 202 720-5437 |
| Rosina Birbaum | OSTP | 202 456-6025 |
| Steve Seidel | CEQ | 202 456-6546 |
| David Sandalow | NSC | 202 456-2710 |
| Sally Kane | NOAA | 301 427-2073 |
| Jim Rubin | DOJ | 202 514-4231 |

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27 February 1997

Memorandum

To: Please See Attached List

From: USDEL Geneva, Mark G. Hambley

Subject: Negotiations under the Framework Convention on Climate Change
Periodic Update No. 3 for February 26/27, 1997

This message transmits unofficial reflections on activities and developments during the climate negotiations which are being held in Bonn between February 24 and March 7, 1997. While the contents are unclassified, this report is intended for use by officials of the the U.S. Government, only. This report covers activities from the afternoon session on Wednesday, Feb 26, through the morning sessions on Feb 27. We are also including a report on the Feb 25 SBI workshop on aspects of the implemnetation of policies and measures and onthe transfer of technology and know how prepared by EPA's Paul Schwengels, plus SBSTA reports from the first two sessions prepared by USDA's Carol Whitman.. The final paragraphs can be used as a DAR item as desired and appropriate..

Climate Talks, Update No.3: "Concerted G-77 and China Effort to Remove "Credit" Aspects from JI and and AIJ Consideration is Highlight of Feb 26/27 Meetings

With decisions for key items under consideration by both the Subsidiary Body on Technical and Scientific Advice (SBSTA) and the Subsidiary Body on Implementation (SBI) shunted off into contact groups for (hopefully) resolution, the leading organized activity on the afternoon of Feb 26 was in the AG-13 working group on a possible consultative mechanism. The chairman of this body, Patrick Szell of the UK, prerpared a short document which attempted to summarize many of the ideas forwarded by delegates concerning a proposed multilateral consultative mechanism (MCP). The AG-13 went through this document, added additional ideas -- all in brackets to the extent that the document is somewhat of a jumble of contradictions -- which will be further considered at the meeting scheduled for the afternoon of Feb 27. Although few, if any of these brackets will be removed at that time, it is clear that the AG-13 has progressed in a way which Mr. Szell undoubtedly finds satisfortory. One has to believe that, in spite of his earlier musings about obtaining broad consensus in tme for COP-4 in 1998/99, Mr. Szell fully intends to press delegations to conclude this aspect of their work in time for COP-3.

The two SBSTA contact groups meanwhile continued to work on compromise language for their aspects of the work program. The contact group on acitivities implemented jointly has largely come to agreement on both the reporting guidelines and on the methodolgy work plan. On methodological issues, the group has simplified the list. However, the work on credits remains a seriolus problem. The G-77 (represented by the Philippines) attempted to substitute the word "incentives" which does not cover the credit issue in our view. We are seeking an innovative formulation which will allow us to address the credit issue prior to the end of the AIJ pilot phase which appears to be the G-77/China intent.

The methodological contact group also failed to complete its work and will meet again this afternoon (Feb 27). Without attempting to list priorities, they have narrowed down the list of proposed activities. The G-77 has raised the question of forming a new technical assistance panel (a TAP) because

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the group considers the IPCC process -- while most helpful -- to be flawed because of its lack of proper geographic balance (sic). South Africa, not OPEC, raised this point in the contact group.

Meanwhile, two items were dispatched with without discussion (the agreement with Germany to host the secretariat and another dealing with the Czech Republic/Slovak republic's change in status). A contact group on the convention's pfroposed report to the UN Special Session was established under the chair of Japan and will meet on the afternoon of Feb 27. More discussion was focused on questions and answers on the GEF. On the question of the timing of the review of the interim arrangements, the G-77 and China attemted to insist that the foour year rule applies. However, chairman Mahmud Al-Ghaouth agreed with our remark that the COP-2 decisiion which states that a decision on the interim status of the relationship with the GEF supercedes the COP-1 decision in this regard. The G-77/China demurred, insisting on its interpretation that only the decision to review status need by taken at COP-3. In any case, this will be handled by a contact group which will meet under Costa Rican chairmanship.

Perhaps signaling themes which will echo throughout next week's meetings of the Ad Hoc Working Group on the Berlin Mandaate (AGBM) were statements made by Tanzania (on behalf of the G-77/China) who insisted during two interventions (one on tech transfer and again on AIJ) that AIJ could only be considererd to be supplmental in terms of tech transfer. He stressed that AIJ should not be considered a conditionality for tech transfer. He also implied that the "failure" on the part of developed Parties to live up to their responsibilities with regard to tech tranfer would "affect the ability of developing countries to fulfill their commitments under the commitment." He also called for the immediate formation of TAPs on a geographic basis, with proper reference to technical experise.

These remarks -- emphasizing no credit for AIJ until the end of the pilot phase, detachment of AIJ from consideration as fulfilling Annex I obligations with regard to tech transfer, and his call for TAPs -- were themes echoed by most other G-77 speakers during the Feb 27 SBSTA meeting, including Malaysia, the Philippines, Kiribati, Saudi Arabia, and Thailand. Nigeria was the bluntest in suggesting that the failure of Annex I countries to fulfill their obligations with regard to financial assistance and tech transfer could "impede the current negotiations."

On other aspects of the tech transfer debate, several countries (almost all of the aforementioned, for example) criticized the U.S. intervention which suggested that most tech transfer would have to come from private sector sources and our suggestion that, before we consider the establishment of new centers for the dissemination of information on technology, we should first use the scores of existing sources of information. Only India seconded our approach, indicating that it should be given serious consideration.

The Feb 27 afternoon sessions will be devoted to AG-13 discussiions and to a discussion of financial issues in the SBI. The SBSTA plans to convene in informal session late in the afternoon in order to hear the status reports from its outstanding contact groups.

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The following paragraphs can be used as a DAR item as desired or appropriate:

Climate Talks Update No 3: "Concerted G-77 and China Effort to Remove "Credit" Aspects from JI and and AIJ Consideration is Highlight of Feb 26/27 Meetings

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Notes from SBI Workshop on Aspects of Implementation of Policies and Measures
Afternoon Session on Transfer of Technology and Know How

The session consisted of presentations from representatives of 5 countries and from UNIDO on various experiences in technology transfer. There was only one question from the floor and the session adjourned early. Pierre Chemillier of France presented an overview of the many programs of financial and technical assistance carried out by his government, including development funds, technical assistance programs, project finance, debt relief, scientific and technical cooperation and active participation in multilateral assistance, notably GEF. Tibor Farago's presentation on Hungarian experience was very interesting, and stressed that technology cooperation in this region must be understood in the context of the transition process. Environmental and technology decisions during this period, have been driven by the transition, including the decision to join Annex 1, but not Annex 2 because of resource constraints. Environmental regulations have been developed in response to some of the problems (e.g., import of old cars) caused by the transition. The constraint in this period is capital financing and technology cooperation projects have helped overcome this. Two examples given were: German support for a revolving fund to finance energy efficiency improvements in residential buildings, and a Dutch project to convert public transport buses to compressed natural gas (CNG). The Canadian presentation by John Drexhage and John Legg was a listing and brief description of a number of technology cooperation activities, all clearly tied to stimulating private partnerships and investments both domestically and internationally. The presentation stressed the importance of the Climate Technology Initiative (CTI) as a multilateral mechanism for cooperation in this area. Six specific technology projects were mentioned, all involving private sector partners. The conclusions stressed 1) the primacy of the marketplace, and that there are clear and important roles for government in facilitating private sector cooperation, establishing the framework (e.g., regulations) needed to make markets work, and steering the MDBs toward support for sustainable development.

S. Phiamphongsant of Thailand presented a mix of factual information about Thailand and policy positions of his government on climate and technology transfer. Although climate is not a driving issue in Thailand, rapid economic growth has led to severe environmental problems which create great interest in improved technologies. He did not cite any examples of successful technology cooperation in Thailand (although we know of many) but instead argued that very little has been accomplished to date because of 1) lack of regulation, 2) lack of technology promotion/incentive programs, 3) lack of information/access to technology and 4) higher cost. The Thai position stresses implementation of articles 4.3, 4.5 and 4.7, as prerequisite for developing country action. However they did include some fairly positive in their conclusions including willingness to accept AIJ as a part of but not the only mechanism for technology transfer, and identified needs including capacity building, creating an enabling policy environment, access to information, environmental technology centers and bilateral cooperation among governments and companies. David Lesolle of Botswana presented information on national circumstances and one example of a village solar electrification project. The lessons learned included 1) the need for standardization and training on installation and maintenance, 2) the need to address "technological disappointments", e.g., unrealistic expectations up front in the project, 3) need to consider social acceptability, 4) the financing requirements need to be consistent with the participants' willingness and ability to pay repayment. Robert Williams of UNIDO presented an overview of some of their work on cleaner technologies for the industrial sector. He stressed the importance of long term emissions reductions consistent with maintaining competitive economies, and employment..

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25 February 1997
SBSTA, Fifth Session, 1st meeting
Carol Whitman

The February 25 - March 7, 1997 meeting of the UNFCCC Subsidiary Bodies opened with greetings from the Mayor of Bonn and a representative from the German Ministry of Environment. Subsequently, SBSTA's Chairman, Mr. Tibor Farago, opened its first meeting with the adoption of the agenda. The Executive Secretary gave a report on the move to Bonn, noting difficulties with the logistics of meeting facilities and preparation and dissemination of meeting documents. The unavailability of documents in advance of meetings can be expected to slow progress at this session. The election of officers was postponed again. The Chairman reconvened two contact groups to continue work from SBSTA's fourth session: (1) one group on Activities Implemented Jointly co chaired by Argentina and the Czech Republic to continue work on a uniform reporting format; and (2) a second group on Methodological Issues co-chaired by Mauritius and Norway.

SBSTA then took up cooperation with relevant international organizations and the report of the World Meteorological Organization, in consultation with the International Oceanographic Commission and others participating in the Climate Agenda, on their long-term monitoring and research on the atmosphere and oceans in support of Article 5 of the Convention. The report emphasized the World Climate Research Program, leading Switzerland to note a lack of attention to the IGBP and IHDP. The Secretariat indicated that developing countries often lack the funds and capacity to participate. The Philippines and Malaysia (with China, Kuwait, Iran and Zimbabwe) supported a role for SBSTA and the GEF in global observation and research. The US noted that there wasn't a role for SBSTA in research, and that this wasn't a priority for the GEF. Canada and Australia underscored the need to cooperate with the intergovernmental organizations in this area.

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25 February 1997
SBSTA, Fifth Session, 2nd meeting
Carol Whitman

The Chairman shared the conclusions of the Joint Working Group meeting. The Methodological Issues contact group was asked to consider the division of labor between the Convention's bodies and IPCC for the long-term work program. He noted that IPCC has financial difficulties associated with the translation and dissemination of its documents. Before IPCC Chairman Bert Bolin even began his report, OPEC Parties (led by Kuwait) took issue with IPCC's decisions on emissions profiles to be considered in the technical paper on the implications of different emission limitation proposals by Annex I Parties. These Parties insisted that the technical paper be turned into a special report. AOSIS, the Netherlands, US, and Australia supported the continuation of IPCC's work. Dr. Bolin then gave his report. Two technical papers, *Simple Climate Models* and *Global Stabilization of Atmospheric Greenhouse Gas Concentrations*, were released. With respect to the technical paper *The Implications of Emissions Limitations and Reduction Proposals*, the paper will consider all emissions profiles proposed by countries to be included in protocols, several which extend beyond 2020. The paper will be available in September 1997. Kuwait registered disapproval of the process and was eventually cautioned by the Chairman about his rudeness to Dr. Bolin. The Secretariat provided an oral report on the status of reviews of national communications, and noted the receipt of the 2nd national communication from the United Kingdom. The Chairman noted that methodological issues were being handled by the contact group chaired by Mauritius and Norway. The Secretariat's submission on mechanisms for consultation with NGOs was not ready, in part because of the relevance to the COP and other subsidiary bodies. The Netherlands, speaking for the EU, expressed frustration at this. The Chairman confirmed that SBSTA would continue its work on this.

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February 26, 1997
SBI, Fifth Session, 2nd meeting
Carol Whitman

Chairman Mohamed Ould El Ghaouth opened the meeting for the discussion of financial and technical cooperation, specifically, a review of the financial mechanism called for in UNFCCC Article 11, paragraph 4, and by COP 1 decision 9 to review the financial mechanism within four years and determine the definitive status of the GEF. The GEF submitted information to assist the SBI, but the 38-page document was unavailable until the previous day. Tanzania, speaking for the G77 and China, noted inadequate time for review of the document but suggested that the session address the process of review of the financial mechanism and the identification of other sources of information such as recipients. China, Columbia, the Philippines, Republic of Korea, Kuwait, and Iran spoke in support of the G77 position, acknowledging the GEF's apparent reforms in response to the Convention's guidance, but an insufficient passage of time to evaluate their effectiveness. They underscored the need for additional resources for the GEF. The Chairman noted that SBI was not meeting in Kyoto so it had two more sessions this year to develop a report for COP 3. The Netherlands, on behalf of the EU, suggested an informal Q&A meeting. Canada stressed the need to decide the status of the GEF at COP 3 and asked for additional information regarding the GEF's cooperation with MDBs on climate change and its ability to leverage private sector and World Bank funds. Tanzania recommended the formation of a contact group to discuss elements of a review process. The Chairman asked for a facilitator of such a group. The GEF's submission on financial support provided to non-Annex I Parties for the preparation of their national communications was received. Finally, the secretariat prepared and submitted a draft contribution for the UNGA Special Session on Agenda 21 from the COP. The Chairman asked Japan to coordinate revisions.

cc: JAF 2
JS

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Periodic Updates from the Climate Talks
Bonn, Germany, 24 Feb to 7 March 1997

| Name | Agency | Fax Number |
|---|---|---|
| Eileen Claussen | State | 202 647-0217 |
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| David Sandalow | NSC | 202 456-2710 |
| Sally Kane | NOAA | 301 427-2073 |
| Jim Rubin | DOJ | 202 514-4231 |

3

25 February 1997

Memorandum

To: Please See Attached List

From: USDEL/Geneva, Mark G. Hambley

Subject: Negotiations under the Framework Convention on Climate Change Periodic Update No. 1 for February 24/25, 1997

This message transmits unofficial reflections on activities and developments during the climate negotiations which are being held in Bonn between February 24 and March 7, 1997. While the contents are unclassified, this report is intended for use by officials of the the U.S. Government, only. This report covers activities from Monday, Feb 24, through the morning sessions on Feb 25. The final paragraphs can be used as a DAR item as desired and appropriate..

Climate Talks, Update No. 1: "Learning the Ropes" Takes Precedence Over Substance as Subsidiary Bodies Start their First Deliberations in Bonn

Monday Consultations with JUSCANZ and the Europeans

Most of the action on Monday, Feb 24, took place in three meetings. The first was one involving the officers of both the IPCC and the UNFCCC in what is called the "Joint Working Group." Topics discussed included the status of the IPCC's technical papers, including the technical paper on the implications of different emission limitation proposals by Annex I Parties; the division of labor between the IPCC and the bodies of the convention related to methodologies; the status of IPCC workshops ; and cooperation with the Conventioin on Migratory Species..

Perhaps the point of grreatest general interest was the summary provided by IPCC Chairman, Dr. Bert Bolin, on the information to be contained in the technical paper on the impllications of different emissions limitations proposals by Annex I Parties on projected temperature increases, sea level rise, and other changes. The technical paper will be made available after approval by the Bureau of the IPCC in September 1997. (More on this follows below.)

The second meeting, one involving the members of JUSCANZ , dealt primarily with the key process issue faced by the forthcoming AGBM meeting: what kind of document is to be prepared for circulation by the June 1st deadline? One option being considered (which is attractive to many JUSCANZ members but not to the Europeans for the most part) is to use the compilation paper on proposals, as revised at this meeting, as the formal text, with the Secretariat being given the task of providing a more stream-lined version for use as the basis for negotiation More off-line discussions of this issue will continue throughout the two weeks ahead.

Aspects of the negotiations and various government reactions to outstanding proposals was the focus of the Feb 24 meeting of the Common Interest Group ((chaired by Canada and including JUSCANZ, the EU, and --in climate -- the economies in transition (only Hungary appeared to be present, however)). On the question of joint implementation, both Germany and the Netherlands insisted that there is not enough time to work out JI with credit prior to Kyoto. Our position was strongly supported by Canada

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and Norway. Most other countries remained silent on this issue. On emissions trading, the Germans (Cornelia Quennett-Thielan) again expressed misgivings about our emphasis on trading (similar to her comments in Tokyo in January). This time, her remarks were echoed by the Netherlands. Speaking for the latter, Bert Metz also repeatedly failed to make a distinction between emissions trading and JI -- an oversight which could easily have been quite deliberate on his part.

The Australians made their now familiar pitch for differentiatioin. In response, Metz dismissed the concept as "too complicated," and said there is not enough time to work out an effective and equitable differentiation scheme by next Decemeber. On Article 4.1, Canada raised the issue of compensation (which is being pushed by Iran).. Speaking for the EU, Bert Metz initially indicated that to open a debate on this topic would be absurd. However, upon reflection, he indicated that the matter is worth considering and that a more reasoned response may be appropriate.

On the technology front, it was apparent from the discussion that the EU has given little thought to this important topic. However, it also appears that the Japanese have done so. They have suggested several different proposals which we will be discussing with them. More on this in due course.

Opening Joint Plenary Contains Warm Words of Welcome from the Lord Mayor and a Restatement of Germany's Position from Merkel's Representative

The Lord Mayor of Bonn issued a warm word of welcome at the short, opening plenary. Apologizing for the "informal" nature of the hall in which the meetings are being held, she indicated that Bonn is striving to become another UN city with a focus on the environment and development. German Environment Minister Merkel's representative (the Permanent Parliamentary Secretary for the Environment) restated Germany's call for 10 percent $CO_2$ reductions by 2005 and for 15/20 percent reductions by 2010. Remarking on the cramped facilities and the tent being used for this meeting, the Permanent Secretary claimed that the atmosphere should make negotiations "easier."

(Comment: One delegate, remarking on the increased warmth and stuffiness in the main plenary hall, noted that it will be even "warmer" next week during the AGBM talks. In any event, Bonn is certainly striving to be a good host. Aside from a wide range of materials on the city and the vicinity which is available at the "Bonn Info Center" outside the main hall, Bonn is also offering bus/subway tickets at a bargain rate of DM 11 marks for the two weeks of the conference. Considering it costs DM 3.20 for the train trip from Bonn to Bad Godesberg, where the conference is being held, this is a real bargain. End Comment.)

SBSTA Begins its Deliberations -- At Its Usual Pace

The Subsidiary Body for Technical and Scientific Advice (SBSTA) began its deliberations on Feb 25. With Kuwait insisting that decisions not be gavelled through (as. the delegate initimated, had occured in the past) without giving delegations a time to reflect on the issue at hand, the meeting began discussing the item on its agenda dealing with relations with other relevant international bodies ((including the World Metrological Organization (WMO) and the Intergovernmental Panel on Climate Change (IPCC)). IPCC Chairman Bert Bolin, in his report to the session, commented on the technnical paper on the implications of emissions limitations and reduction proposals which will be prepared by September, based on submissions on this issue made by January 15 of this year.. Bolin noted that it is possible to illustrate some of the aspects of the outcome of such an analysis relying on information received by the IPCC to date. He concludes, from a graph compilation of this data, that it is "obvious" that no reasonable future reductions by Annex I countries would stabilize global emissions.

SBSTA Chair, Tibor Farago of Hungary, also announced that the two contact groups established in December to deal with activities implemented jointly (AIJ) and with methodological issues will be reconvened to continue their work (progress in both was stymied by the G-77/China in the former and by the OPEC countries in the latter). The AIJ group will be co-chaired by Argentina and the Czech Republic (both are good choices), while the methodologies group will be co-chaired by Mauritius and Norway.

AG-13 Also Re-Activates

Meanwhile, AG-13 chairman, Patrick Szell, started off his Feb 25 meeting on his quest to define a role for this working group as some kind of a "consultative mechanism." Szell suggested, in a discussion on Feb 24, that it would be unlikely that the working group can finish its work this year. He indicated that it might only be possible to complete a status report by COP-3 in December. He said his goal is to table a framework compiling the views of Parties in Kyoto (although, as one wag remarked after hearing the mornings first round of turgid discussion, Mr. Szell is more likely to compile a series of "non-views" on this topic).

NGOs Here in Strength (At least on the Industrial Front)

Thus far, there are only a handful of U.S. environmental NGOs present in Bonn. More are expected for the AGBM talks next week. However, the Global Climate Coalition and its more moderate business associates appear here in good numbers. The Climate Council's Don Pearlman appears to be actively courting the Russians again, although his particular spin is not known. We will endeavor to find out!

Our first meeting with the NGOs is scheduled for Thursday evening. Industry has suggested that we hold a joint briefing with both them and the environmentalists. The latter have balked at this proposal in the past and bitched when it has been done for reasons of expediency. On balance, it is probably better to keep the groups separate if it sustains the environmental groups' belief that they have our undivided attention -- which, of course, they do -- at least during these briefings.

**United States Department of State**

*Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs*

*Washington, D.C. 20520*

cc: AM
JAF
SS

January 9, 1997

TO: *Distribution

FROM: OES - Eileen B. Claussen

SUBJECT: Revised Draft Climate Text

Attached for discussion at our meeting tomorrow afternoon at 3:30 p.m. in Room 7835, Main State, is a revised draft protocol text. The revised draft seeks to incorporate the points of agreement at our January 7 meeting and elaborate, as agreed, a number of other areas. The text should be treated as "close hold" and should not be given to anyone outside the USG.

I look forward to seeing you tomorrow so that we can agree on a text.

Attachment:
As stated.

REV. 4, 1/9/97, 6 pm

# U.S. DRAFT PROTOCOL FRAMEWORK

The Parties to this Protocol,

Have agreed as follows:

## Article 1
## Definitions

For purposes of this Protocol:

1. "The Convention" means the United Nations Framework Convention on Climate Change done at New York on 9 May 1992.

2. "Party" means Party to this Protocol.

3. "Greenhouse gas" means any greenhouse gas for which a global warming potential is set forth in Annex C of this Protocol.

4. "Tonne of carbon equivalent" means one metric tonne of carbon, or a quantity of one or more other greenhouse gases equivalent to one metric tonne based on the global warming potentials set forth in Annex C of this Protocol.

5. [other definitions to be developed or cross-referenced to the Convention as necessary]

## Article 2
## Emissions Budgets

and sinks

net

+ removal by sinks

1. Each Annex A and Annex B Party shall ensure that its net anthropogenic emissions of greenhouse gases do not exceed its emissions budget for any applicable budget period, as specified in this Article.

2. For each Annex A and Annex B Party, its emissions budget shall be denominated in tonnes of carbon equivalent emissions allowed and shall equal:

   (a) the tonnes of carbon equivalent emissions it is allowed under paragraph 3 or 4 below, plus

   (b) any tonnes of carbon equivalent emissions allowed that are carried over from a prior budget period under paragraph 5 below, plus

1. More periods

2006-2010

2010-2015

2016-2020

2020 - 25

25 - 30

2. Have to hit 3 out of 5

3. Unless pre-inform

banking or borrowing

([illegible] [illegible] unique on slope)

(c) any tonnes of carbon equivalent emissions allowed that are acquired from another Party under Article 6 (International Emissions Trading) or Article 7 (Joint Implementation), minus

(d) any tonnes of carbon equivalent emissions allowed that are transferred to another Party under Article 7 (International Emissions Trading).

5-yr averages + can allow deviation if pre-announced

3. (a) For the first budget period, [20__ through 20__], each Annex A Party shall have a number of tonnes of carbon equivalent allowed equal to [a percentage] of its net anthropogenic emissions of tonnes of carbon equivalent in 1990, multipled by [the number of years in this budget period].

(b) For the ~~second~~ subsequent budget periods [20__ through 20__], each Annex A Party shall have a number of tonnes of carbon equivalent emissions allowed equal to [a percentage equal to or less than the percentage in subparagraph 3(a)] of its net anthropogenic emissions of tonnes of carbon equivalent in 1990, multipled by [the number of years in this budget period].

4. For the budget period [20__ through 20__], each Annex B Party (see Annex B for States included) shall have a number of tonnes of carbon equivalent emissions allowed equal to [options for Annex B Parties include: budget periods, baseyears, and/or percentages different from those applicable to Annex A Parties].

interest?

5. At the end of a budget period applicable to a Party, any amount by which the Party's emissions of tonnes of carbon equivalent is under its emissions budget for that period may be carried over and added to its emissions budget for the next budget period.

6. [Provision requiring control of greenhouse gases not listed in Annex C.]

7. Any State not listed in Annex A may, in its instrument of ratification, acceptance, approval or accession, or at any time thereafter, notify the Depositary that it intends to be bound by obligations of Annex A Parties. It will then be an Annex A Party. The Depositary shall inform the other signatories and Parties of any such notification.

8. Any State not listed in Annex A may, in its instrument of ratification, acceptance, approval, or accession, or at any time thereafter, notify the Depositary that it intends to be bound by obligations of Annex B Parties. It will then be an Annex B Party. The Depositary shall inform the other signatories and Parties of any such notification.

## Article 3
## Measurement and Reporting

1. Each Annex A and Annex B Party shall have in place by [the first year of its first budget period] a national system for the accurate measurement of anthropogenic emissions by sources, and removals by sinks, of greenhouse gases.

2. For the purposes of implementing paragraph 1 and promoting comparability, consistency, and transparency, the Parties shall, not later than their second Meeting, decide on minimum standards for the measurement of anthropogenic emissions by sources, and removals by sinks, of greenhouse gases.

3. Each Annex A and B Party shall submit to the Secretariat, as part of its communication under Article 12 of the Convention, information on its implementation of this Protocol, including policies and measures it is taking to meet its obligations in Article 2. Such submission shall be in accordance with guidelines which the Parties adopt at their first Meeting, taking into account any relevant guidelines adopted by the Parties to the Convention. Such submission shall also contain the following information:

   (a) once the obligation in paragraph 1 above becomes effective, a description of the national measurement system that it has in place;

   (b) once the obligation in paragraph 1 above becomes effective, the results of its national monitoring; and

   (c) a description of relevant national compliance and enforcement programs and of their effectiveness, including actions taken in cases of non-compliance with national law.

4. In addition to the information required to be submitted under paragraph 3, each Annex A and Annex B Party shall submit to the Secretariat, on an annual basis and in accordance with the guidelines referred to in paragraph 3, its current calculation corresponding to each of the subparagraphs in Article 2.2. With respect to any tonnes of carbon equivalent emissions allowed that are acquired or transferred under Articles 6 or 7, the Party shall specify the quantity, Party of origin or destination, and the relevant budget period.

5. The first submission shall be part of a Party's first communication that is due after the Protocol has been in force for that Party for two years. The frequency of subsequent submissions shall be determined by the Parties.

6. Information communicated by Parties under this Article shall be transmitted by the secretariat as soon as possible to the Parties and to any subsidiary bodies concerned.

7. Without prejudice to the ability of any Party to make public its communication at any time, the secretariat shall make information communicated by Parties under this Article publicly available at the time it is submitted to the Parties.

## Article 4
## Review and Compliance Process

1. In addition to the review of communications conducted under Article 10.2(b) of the Convention, the Meeting of the Parties shall consider the information submitted by Annex A and Annex B Parties under Article 3 in order to assess those Parties' implementation of their obligations.

2. Reviews will be conducted by expert review teams, which will be coordinated by the secretariat and composed of experts selected from those nominated by Parties and, as appropriate, by intergovernmental organizations.

3. Reviews will be in accordance with guidelines to be adopted by the Meeting of the Parties. These guidelines shall, *inter alia*, provide for how information will be made available to the public and define mechanisms by which observers and the public may provide comments, supplemental data or other information to facilitate and improve reviews. The guidelines shall be periodically reviewed by the Parties for appropriate revision.

4. Review teams will review all aspects of a Party's implementation of this Protocol, including the likelihood that a Party will achieve its emissions budgets obligations. They will prepare a report assessing a Party's implementation of its obligations, identifying any areas of apparent non-compliance, as well as potential problems in achieving obligations. Reports will be provided to a Meeting of the Parties.

5. Based on such reports, a Meeting of the Parties may make recommendations to a Party. In such case, the Party shall review its implementation, take appropriate action, and report back to the next Meeting of the Parties on its action.

6. There would also be provisions setting forth various consequences for non-compliance with obligations, as determined by a Meeting of the Parties. Consequences would correspond to the type, degree, and frequency of non-compliance. Examples of consequences could include, e.g.:

   (a) if an Annex A or Annex B Party exceeds its emissions budget in a particular budget period, it would have an additional emissions obligation (i.e., tonnes not achieved plus additional tonnes) for the following budget period;

   (b) denial of the opportunity to ~~engage~~ sell in international emissions trading and/or joint implementation;

   (c) loss of voting rights and/or other opportunities to participate in processes under the Protocol.

## Article 5
## Advancement of the Implementation of Article 4.1 of the Convention

Recognizing the progress that has been made to date in implementing commitments under Article 4.1 of the Convention:

1. The Parties reaffirm their commitments under Article 4.1 of the Convention and the need to continue to advance the implementation of such commitments.

2. Each Party shall strengthen its legal and institutional framework to advance the implementation of its commitments under Article 4.1 of the Convention.

3. Each Party shall take measures to facilitate investment in climate-friendly technologies.

4. Each Party shall report, as part of its communication under the Convention, on how it is promoting public education and participation in the development of climate change policy.

5. Each Party that is neither in Annex A nor Annex B shall identify and implement "no-regrets" measures for mitigating emissions of greenhouse gases not controlled by the Montreal Protocol, including any identified through the review process under paragraph 7 below. In this regard, each such Party shall also:

   (a) quantify the effects of the measures it implements;

   (b) evaluate barriers to the adoption of potential measures; and

   (c) report to the Secretariat, as part of its communication under the Convention, on the measures it has implemented, plans to implement, and barriers to the adoption of potential measures.

6. Each Party that is neither in Annex A nor Annex B shall submit to the Secretariat, on an annual basis, its inventory of greenhouse gas emissions. Such inventory shall be consistent with any guidelines adopted by the Parties.

7. The Parties shall establish a process for reviewing communications received under the Convention from the Parties identified in paragraphs 5 and 6 that could:

   (a) enable the review of the effects of individual measures described in paragraph 5;

   (b) include efforts to assist such Parties in identifying and implementing "no-regrets" and cost-effective options for mitigating greenhouse gas emissions;

   (c) seek to identify key sectors and technological options within them;

   (d) consider possibilities for promoting voluntary arrangements with industry aimed at identifying and encouraging implementation of "no regrets" measures; and

   (e) explore various means through which such Parties could obtain both the know-how and the technology needed to implement options identified.

## Article 6
## International Emissions Trading

1. An Annex A or Annex B Party that is in compliance with its obligations under Article 3 (Measurement and Reporting) may transfer to, or receive from, any Annex A or Annex B Party, any of its tonnes of carbon equivalent emissions allowed for a budget period, for the purpose of meeting its obligations under Article 2.

2. A Party may authorize any domestic entity (e.g., government agencies, private firms, non-governmental organizations, individuals) to participate in actions leading to transfer and receipt under paragraph 1 of tonnes of carbon equivalent emissions allowed.

3. A Meeting of the Parties may further elaborate guidelines to facilitate the reporting of emissions trading information.

## Article 7
## Joint Implementation

1. Any Party that is neither in Annex A nor B may generate tonnes of carbon equivalent emissions allowed through projects that meet the criteria set forth in paragraph 2.

2. In addition to any criteria adopted by the Parties to this Protocol, the following criteria shall apply to projects:

   (a) Projects must be compatible with and supportive of national environment and development priorities and strategies, as well as contribute to cost-effectiveness in achieving global benefits;

   (b) Projects must provide a reduction in emissions that is additional to any that would otherwise occur.

3. [Additional provisions to be added on criteria, guidelines, verification, review, reporting]

4. Any Party that generates tonnes of carbon equivalent emissions allowed consistent with this Article may:

   (a) hold such tonnes of carbon equivalent emissions allowed; or

(b) transfer any portion thereof to any Party, provided that an Annex A or Annex B Party must be in compliance with its obligations under Article 3 (Measurement and Reporting).

5. An Annex A or Annex B Party may acquire tonnes of carbon equivalent emissions allowed under this Article for the purpose of meeting its obligations under Article 2.

6. Any Party that is neither in Annex A nor Annex B that generates or acquires tonnes of carbon equivalent emissions allowed under this Article shall notify the Secretariat annually of the quantity, origin, and destination of such tonnes.

## Article 8
## Science

The Parties shall periodically review this Protocol in light of evolving scientific knowledge related to climate change.

## Article 9
## Progress Toward Long-Term Goal

The Parties shall ~~individually promote, and~~ cooperate in, the establishment of a long-term goal with respect to atmospheric concentrations of greenhouse gases.

## Article 10
## Meetings of the Parties

1. The Parties shall hold meetings at regular intervals. The secretariat shall convene the first meeting of the Parties not later than one year after the date of the entry into force of this Protocol and in conjunction with a meeting of the Conference of the Parties to the Convention.

2. Subsequent meetings of the Parties shall be held, unless the Parties decide otherwise, in conjunction with meetings of the Conference of the Parties to the Convention. Extraordinary meetings of the Parties shall be held at such other times as may be deemed necessary by a meeting of the Parties, or at the written request of a Party, provided that within six months of such a request being communicated to them by the secretariat, it is supported by at least one third of the Parties.

3. The Parties, at their first meeting, shall:

   (a) adopt, by consensus, rules of procedure for their meetings;

   (b) [other].

4. The functions of the meetings of the Parties shall be to:

   (a) review the implementation of this Protocol, including the information submitted in accordance with Article 3;

   (b) periodically review the adequacy of this Protocol;

   (c) [other].

5. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not party to this Protocol, may be represented at meetings of the Parties as observers. Any body or agency, whether national or international, governmental or non-governmental, qualified in fields relating to climate change which has informed the secretariat of its wish to be represented at a meeting of the Parties as an observer may be admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Parties.

## Article 11
## Secretariat

1. In accordance with Article 8.2(g) of the Convention, the secretariat of this Protocol shall be the secretariat of the Convention.

2. The functions of the secretariat shall be:

   (a) ...

## Article 12
## Subsidiary Body for Scientific and Technological Advice

1. The Subsidiary Body for Scientific and Technological Advice of the Convention shall serve as the Subsidiary Body for Scientific and Technological Advice of the Protocol.

2. When the Subsidiary Body for Scientific and Technological Advice exercises its functions with regard to matters concerning the Protocol, decisions shall be taken only by those of its members that are, at the same time, Parties to the Protocol.

3. When the Subsidiary Body for Scientific and Technological Advice exercises its functions with regard to matters concerning the Protocol, any member of the bureau of the Subsidiary Body for Scientific and Technological Advice representing a Party to the Convention, but, at the same time, not a Party to the Protocol, shall be substituted by an additional member to be elected by and from the Parties to the Protocol.

## Article 13
## Subsidiary Body for Implementation

1. The Subsidiary Body for Implementation of the Convention shall serve as the Subsidiary Body for Implementation of the Protocol.

2. When the Subsidiary Body for Implementation exercises its functions with regard to matters concerning the Protocol, decisions shall be taken only by those of its members that are, at the same time, Parties to the Protocol.

3. When the Subsidiary Body for Implementation exercises its functions with regard to matters concerning the Protocol, any member of the bureau of the Subsidiary Body for Implementation representing a Party to the Convention, but, at the same time, not a Party to the Protocol, shall be substituted by an additional member to be elected by and from the Parties to the Protocol.

## Article 14
## Multilateral Consultative Process

[The Parties, at their first Meeting or as soon as practicable thereafter, shall consider the establishment of a multilateral consultative process to promote effective implementation of the Convention.]

## Article 15
## Dispute Settlement

[silence, with the result that Article 14 of the Convention would apply to this Protocol.]

[for Annex A and Annex B Parties, mandatory, binding dispute settlement]

[for Annex A and Annex B Parties, mandatory, binding dispute settlement with consequences flowing from a violation]

## Article 16
## Evolution

The Parties shall reach agreement, by [2005], on legally binding provisions so that all Parties have quantitative greenhouse gas emissions obligations and so that there is a mechanism for automatic application of progressive greenhouse gas emissions obligations to Parties, based upon agreed criteria.

## Views on Certain Final Clauses

### Adoption and Amendments of Annexes

Depending upon what type of material is eventually included in annexes, it may not be appropriate to restrict the content of all annexes to "lists, forms and any other material of a descriptive nature that is of a scientific, technical, procedural or administrative character." For any substantive annex, it may not be appropriate to provide for tacit adoption/amendment.

### Signature

This provision should state that only Parties to the Convention may be Parties to the Protocol.

### Entry into Force

[word missing]

To ensure effective as well as to minimize the potential "free rider" problem, this provision may need to stipulate an entry into force trigger that requires ratification by States that account for a particular percentage of global emissions of greenhouse gases.

## Annex A

This Annex would include the same States as those listed in Annex I of the Convention, plus those that join subsequently pursuant to Article 2.

## Annex B

This Annex would include those States that indicate before adoption of the protocol that they want to be included in this Annex, plus those that join subsequently pursuant to Article 2.

## Annex C

This Annex would include greenhouse gases not covered by the Montreal Protocol for which the Parties have determined there is sufficient knowledge of the GWP and emissions or removals.

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Geneva, 9-18 December 1996

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Lois

17 December 1996

**To:** Please See Attached List

**From:** USDEL/Geneva, Mark G. Hambley

**Subject:** Climate Negotiations, Update No. 7: Meetings of the Ad Hoc Group, Berlin Mandate (AGBM) and Its Subsidiary Bodies, December 16/17, 1996

The following contains an informal review of highlights from the on-going climate change convention talks, covering events from the afternoon of December 16 through the mornings sessions on December 17 in the two subsidiary bodies meeting this week. These are the Subsidiary Body for Scientific and Technological Advice (SBSTA) and the AG-13 working group which is addressing issues related to multilateral consultative arrangements as provided for in Article 13 of the Convention. Also included in this package are two different front pages from yesterday's issue of "ECO", the NGO periodical which provides insights/ruminations into daily developments. The reason for their inclusion is explained in this text. The last paragraphs can be used as a DAR item as desired or appropriate.

## Climate Negotiations, Update No. 7: December 16/17, 1996: SBSTA Argues About IPCC and AIJ, while AG-13 Ponders Its Role

### Discord over IPCC Issues..........

The morning session of SBSTA on December 17 continued the debate begun the previous afternoon about issues related to cooperation with the Intergovernmental Panel on Climate Change (IPCC), including consideration of the revised 1996 Guidelines for National Greenhouse Gas inventories and on whether and how these guidelines should be used for reporting. This decision could impact on the preparation of the second national communications and additional inventory date which is due from Annex I Parties in April 1997. The debate also convered the question of what advice SBSTA might give to the IPCC concerning the direction of its future work in inventories and its long-term work on emissions profiles. Because there was no consensus on the part of Parties, Chairman Tibor Farago assembled two contact groups to give governments an opportunity to sort out their differences.

Both groups initially met last evening for two hours. The one on inventory guidelines was attended almost exclusively by OECD members. The U.S. representative (Paul Schwengels) reports that there was broad agreement that Annex I Parties should attempt to adopt the revised guidelines and to use them for the 1997 communiciations where possible to do so. Concerning the handling of HFCs, it was suggested that actual emissions should be reported; reporting of potential emissions is to be discouraged.

This contact group met again on the morning of December 17, but we do not as yet have a readout. However, Schwengels and other JUSCANZ members who are attending the discussions believe that a paper will emerge for consideration by the SBSTA plenary in due course.

A more divisive issue concerns the possible advice which SBSTA might give to the IPCC about its long-term work on emissions profiles. The EU and AOSIS appear interested in keeping the IPCC's current plans much as they are. Strong objections to the IPCC doing anything in this regard were voiced by OPEC countries, led by Saudi Arabia and Nigeria. Expressing another viewpoint was Zimbabwe which echoed the views of many G-77 countries by insisting that there should be explicit treatment of Annex I and non-Annex I countries. So significant were the differences among Parties on this issue, that the Malaysian chair of the contact group advised SBSTA Chair Farago that an additional meeting would not be useful. The Chair has undertaken to take "informal" contacts with delegations on this issue, but it appears likely that no decision will be taken by SBSTA on this matter.

.......<u>And About AIJ Bedevils SBSTA</u>

Similar discord is evident in the discussions of Activities Implemented Jointly. Here, most of the developing countries who spoke on this issue late on December 16 and in the morning of December 17 have emphasized that discussion of credit should not be done until the AIJ pilot phase is ended in 2000. There was much concern expressed (as it had earlier in the week) over the great emphasis being allegedly paid to AIJ to the detriment -- they claim -- of technology transfer. There was a great deal of insistence for deletion of that portion of SBSTA's paper on possible AIJ methodologies dealing with consideration of credit once the pilot phase ends. In our detailed remarks, we emphasized the importance of addressing the issue of credit now and offered to co-host workshops (along with the Secretariat) on various topics related to AIJ and JI.

Sensing the delicacy of this problem, the Chair undertook to call for a contact group on AIJ issues (under the Chair of Colombia). This has not met, as yet, because most delegates had not as yet intervened on this topic and because the roundtable on AIJ was scheduled to take place in parallel to the SBSTA morning session. In fact, the roundtable did begin (albeit an hour late in the Chair's wistful expectation that formal interventions on this topic would have been completed prior to its start, which they were not).

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DOE's Rick Bradley gave a well-received update on USIJI activities and used a series of slides (Debbie Stowell served as his 'Vanna White') to explain how the program works. There were several delegates from non-Annex I Parties in the room. We will try to submit a more complete wrap-up of the event with tomorrow's update, if one is ready by the time we go to print.

Bureau Confusion Reigns

As reported in Update 6, elections of bureaus for the SBI and SBSTA were delayed at the request of the Latin American and Caribbean Group (GRULAC) in order, it had been presumed, to ensure a formal endorsement of Colombia as the Vice Chair of SBSTA. The SBI agreed to forego the formal election of its officers until this consultation was completed. The start of the afternoon meetings was the time when these elections were scheduled.

Lest we have at least one decision taken smoothly, in the event, GRULAC could not come to terms over who should get the seat. Although it had been our understanding that a "deal" had been worked out on December 13 whereby all three subsidiary bodies were to have had bureaus elected on December 16, only the AG-13 -- working in blissful ignorance, one presumes, in a chamber in the old wing of the Palais -- elected Uzbekistan (representing Asia) as its Vice Chair, with Slovenia (representing the Economies in Transition) taking over as rapporteur.

Further raising questions about this whole, confusing mess, was a comment made by Japan at this morning's JUSCANZ meeting to the effect that it was Japan's understanding that Asia was nominating Uzbekistan as rapporteur in SBSTA -- not as Vice Chair in the AG-13. So, we will again leave this meeting without formal officers, although Tibor is making full use of Parties to chair variouis SBSTA contact groups. The question will now allegedly have to wait until the February meeting for another attempt at resolution, although the whole procedure could again be addressed in tomorrow's closing plenary.

NGO Split?

Readers may recall issue number 4 of the NGO rag, "ECO", which we forewarded as an enclosure to yesterday's update. It turns out that that version was really a "second edition." An earlier version, which was briefly placed on the table and then "recalled," contains an interesting difference in the lead article entitled "Missing the Point."

The article in question addresses the advice which SBSTA was debating concerning guidance to the IPCC on the assumptions for emissions profiles beyond the year 2010. In the "orthodox" version which we forwarded yesterday, "ECO" notes that "...there are to be no new commitments for non-Annex I countries....." However, in the earlier version of the same article, "ECO" outlines three possible scenarios which might be considered in developing a position on

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this question: Case 1: that no party take any further action; Case 2: that Annex I Parties alone initiate further action; and Case 3: that both Annex I and non-Annex I Parties initiate further action. "ECO" concludes that Case 3 should be recommended because "...what we are looking for is an idea of what the global picture is, or more precisely, of what it will be."

Copies of both front pages from "ECO" issue number four are included with this report to keep the record straight.

AG-13 Lumbers On

The AG-13 continued its discussion on the role of a consultative mechanism in the Convention. There was a noticeable difference of views expressed during the December 16 discussions about using the AG-13 as some kind of compliance mechanism. Several G-77/China states expressed wariness about using the AG-13 in this way, while the EU suggested that consideration of compliance issues could be considered on a case-by-case basis.

On December 17, the discussion focused on whether the AG-13 should eventually be used to provide legal interpreprations. Japan questioned whether this was a suitable function, while the U.S. came forward with a even stronger word of caution in this regard. AG-13 Chair, Patrick Szell, appeared uncomfortable with these positions, apparently wanting to keep his options open in this regard.

Prospects

It is too early to tell if the SBSTA will progress with many concrete recommendations from this meeting. At a minimum, we want to preserve as much manuever room as possible on the AIJ front, although this is difficult in view of hardline positions being taken by non-Annex I countries generally. There should be some movement on aspects of both the IPCC and methodology discussions, but this will depend largely on the reception accorded to the proposals which will emerge from contact groups on these topics. (A contact group on methodologies has not as yet been proposed; interventions on this item began late this morning and will continue in the afternoon.)

Meanwhile, the AG-13 continues to move through its deliberations in ponderous fashion. It is not clear if Patrick Szell was being truthful when he indicated that he does not expect any specific recommendations at this meeting. However, it appears that he will probably use all of the time allotted to him, thereby preventing the SBSTA from taking advantage of an additional set of interpreters who might otherwise have been used to facilitate its work.

7

The following paragraphs can be used as a DAR item as desired or appropriate:

Climate Negotiations, Update No. 7: December 16/17, 1996: SBSTA Argues About IPCC and AIJ, while AG-13 Ponders Its Role

Perhaps signifying the mood of delegates at these meetings, what we understood was a carefully balanced package deal for the election of officers to the three subsidiary bodies collapsed at the Monday afternoon session when the Latin American and Caribbean countries failed to agree on a candidate for the SBSTA Vice Chair (Colombia had been mentioned.) The AG-13 had gone ahead in the morning and elected officers. A decision on officers for both the SBSTA and the SBI will now apparently have to wait until the February meetings.

The morning session of SBSTA on December 17 continued the debate begun the previous afternoon about issues related to cooperation with the Intergovernmental Panel on Climate Change (IPCC). Because there was no consensus on the part of Parties, Chairman Tibor Farago assembled two contact groups to give governments an opportunity to sort out their differences. Both groups initially met last evening for two hours. The one on inventory guidelines was attended almost exclusively by OECD members and reached broad agreement on next steps.

A more divisive issue concerns the possible advice which SBSTA might give to the IPCC about its long-term work on emissions profiles. The EU and AOSIS appear interested in keeping the IPCC's current plans much as they are. Strong objections to the IPCC doing anything in this regard were voiced by OPEC countries, led by Saudi Arabia and Nigeria. So significant were the differences among Parties on this issue, that the Malaysian chair of the contact group advised SBSTA Chair Farago that an additional meeting would not be useful.

Similar discord is evident in the discussions of Activities Implemented Jointly. Here, most of the developing countries who spoke on this issue late on December 16 and in the morning of December 17 have emphasized that discussion of credit should not be done until the AIJ pilot phase is ended in 2000. There was much concern expressed (as it had earlier in the week) over the great emphasis being allegedly paid to AIJ to the detriment -- they claim -- of technology transfer. In our detailed remarks, we emphasized the importance of addressing the issue of credit now and offered to co-host workshops (along with the Secretariat) on various topics related to AIJ and JI. Another contact group is expected to try to find some common ground on this important issue.

DOE's Rick Bradley gave a well-received update on the USIJI activities and used a series of slides to explain how the program works at the informal AIJ roundtable held on December 17. Despite the fact that this event is being held parellel to the SBSTA

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plenary, there were several delegates from non-Annex I Parties in the room.

It is too early to tell if the SBSTA will progress with many concrete recommendations from this meeting. At a minimum, we want to preserve as much manuever room as possible on the AIJ front. There should be some movement from aspects of both the IPCC and methodology discussions, but this will depend largely on the reception accorded to the proposals which will emerge from contact groups on these topics.

Meanwhile, the AG-13 continues to move through its deliberations in ponderous fashion. It is not clear if the Chair of this body was being truthful when he indicated that he does not expect any specific recommendations at this meeting. However, it appears that he will probably use all of the time allotted to him, thereby preventing the SBSTA from taking advantage of an additional set of interpreters who might otherwise have been used to facilitate its work. (Hambley)

CLIMATE NEGOTIATIONS GENEVA DECEMBER '96 NGO NEWSLETTER

# eco

9

16 DECEMBER
ESCALADE ISSUE

*Eco has been published by Non-Governmental Environmental Groups at major international conferences since the Stockholm Environment Conference in 1972. This issue is produced co-operatively by CAN groups attending the Climate Negotiations in Geneva, December 1996*

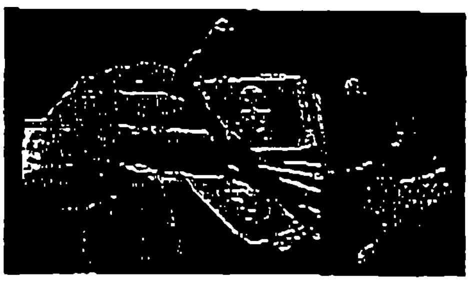
## On Your Marks, Get Set ...

The last session of SBSTA at COP 2 was *less* than successful by most accounts. No doubt, delegates to this prestigious body would like to prove that SBSTA can actually be a viable vehicle for policy-relevant scientific advice to the convention.

We thought we'd make it a bit easier for you by providing a handy list of objectives for this session:

- In considering "long term emissions profiles," SBSTA should keep firmly in mind the original objective of this work: assessing the implications of different emission limitation proposals on temperature and sea-level rise and the rate of climate change to help the AGBM. It was *not* to conduct an economic analysis of the next century.
- **Revised 1996 IPCC Guidelines for Emission Inventories:** Don't adopt the IPCC Tier 1-B and Tier 2 guidelines for fluorinated compounds as the primary basis for HFC, PFC and SF6 emission reporting by Parties. Keep it simple and verifiable.
- On **bunker fuels**, the exemption on emissions from international aviation and marine transport needs to be removed. These emissions should be allocated to the Party that sells the fuel. Moreover, the exemption on taxing international aviation fuel needs to be removed.
- The **net emissions approach** should not be used for the purpose of meeting emissions targets.
- As a basic principle all **physical emissions** should be reported on a country's inventory. **Adjustments or corrections** to these should not be undertaken unilaterally. Methodologies for adjustment of national inventories should be approved by the COP.
- Develop a methodology for adjusting inventories for short term variability in order to assess a Party's compliance with emissions targets. Issues such as **temperature** variability should be dealt with by a simple methodology that all Parties would use.
- A **gas-by-gas** approach for the setting of targets and verifying of compliance should be taken for now.
- The **harvested wood** issue should be deferred, as proposed, for further consideration at an IPCC Technical Workshop and a full analysis of the policy implications be prepared by the Secretariat for consideration by SBSTA.
- The allocation of emissions from **electricity trade** needs very careful analysis. The Generator option is closest to the 'polluter pays' principle, but the Bilateral Agreement option may be the fairest, and send the most direct signal to consumers and industry; however its use needs to be directly regulated by the COP. SBSTA should very carefully assess whether or not the source of electricity traded can in fact be traced and verified, given the complex marketing system that would be used in this area. If verification is not possible then the Generator option should be used. Further analysis is needed to reach a sound decision.

Good Luck.



*Of course the new IPCC questions had nothing at all to do with the fossil fuel industry*

## Missing the Point

The IPCC plenary has identified that it would like to consult the SBSTA on the issue of guidance on the assumptions for emissions profiles beyond the year 2010. The IPCC also specified that there were two questions that needed to be answered.

1. What assumptions should be made concerning the economic, social and other goals of Annex I Parties between 2000 and 2010 and beyond the year 2010 that are likely to affect GHG emissions from the energy and other sectors?
2. What assumptions should be made concerning the economic, social and other goals of non-Annex I Parties between 2000 and 2010 and beyond the year 2010 that are likely to affect GHG emissions from the energy and other sectors?

To help answering those two questions, there are three case scenarios which are:

*Case 1:* No further actions are undertaken by any Parties;

*Case 2:* Annex I Parties initiate further actions; and

*Case 3:* Annex I and non-Annex I Parties initiate further actions.

It is our view that, as stated in the Berlin Mandate, the current commitments under FCCC are not adequate and that the COP has to set in movement a process that will take us beyond the year 2000, including the strengthening of Annex I commitments, but also recognizing that longer term reductions would never be achieved without developing countries.

We believe that Case 3 should be recommended by SBSTA, since what we are looking for is an idea of what the global picture is, or more precisely, of what it will be.

CLIMATE NEGOTIATIONS GENEVA DECEMBER '96 NGO NEWSLETTER

# eco

10

17 DECEMBER
NOD AND WINK ISSUE

*Eco has been published by Non-Governmental Environmental Groups at major International conferences since the Stockholm Environment Conference in 1972. This issue is produced co-operatively by CAN groups attending the Climate Negotiations in Geneva, December 1996.*

## A Dangerous Scenario

The controversy over the Technical Paper on Temperature and Sea-Level Implications of Proposed $CO_2$ Emission Limitations is a disgrace. The same dynamics that emerged in the Mexico City plenary of the IPCC are surfacing once again. Once again, basic scientific results that would be extremely useful to inform the AGBM as it considers various policy options are being stifled. This debate is not about whether emissions scenarios are biased but rather whether delegations wish to be properly informed about the fundamental implications of their actions, or lack there of. Meanwhile, SBSTA is potentially wasting a great deal of the scientists' time and effort.

IPCC Technical Papers are important in that they will be some of the key sources of scientific/technical advice, based on the IPCC Second Assessment Report, through COP3 in Kyoto. In Mexico City, the fossil fuel industry representatives tried to marginalize the importance of Technical Papers. After much debate, it was determined that the Second Assessment Report and previous IPCC special reports, and references therein, were allowed to be used as the basis for Technical Papers. So, Technical Papers can now provide a precise analysis of the implications of the IPCC SAR for specific questions raised by the Climate Convention.

The Technical Paper currently under debate, as noted by Professor Bolin in SBSTA, is merely a sensitivity analysis of the climate system. In other words, it will consider how the environment will react to different rates and quantities of emissions. There is nothing to be scared of: exploring a range of emission profiles will merely illustrate the environmental implications of a Kyoto Protocol. Isn't that the whole point of all these climate negotiations?

Delegations such as Nigeria, Kuwait, and Venezuela are proposing that the Technical Report be turned into a Special Report. This should be roundly rejected for several reasons:

- If turned into a Special Report, the point of the Technical Paper is lost. This Paper was to inform the AGBM negotiations on the Kyoto Protocol based on the SAR. A Special Report would necessarily have to be released *after* Kyoto.
- SBSTA should not set a precedent by in effect suppressing scientific results. The fact is that the first draft of this Technical Paper has already been circulated for review.
- The UK, Canada, France, Mexico, Germany and Netherlands already pointed out in Mexico City that a crucial element of the mandate of the IPCC is to meet the needs of the Convention and that this Technical Paper is a critical report for the AGBM process.

So, as we recommended yesterday, the IPCC should just complete the original Technical report, as requested by SBSTA a year ago. Professor Bolin personally pledged in Mexico to ensure that the Technical Paper be politically neutral.

SBSTA should trust the IPCC scientists to complete this fundamental report which will provide Parties with the best scientific assessment available of the environmental implications of the emission limitations proposals to be negotiated by the AGBM in the lead up to Kyoto.

## JI – The Way Forward?

***by John Lanchbery, VERTIC and Toni Vidan, CAN-CEE***

Today JI comes up, again. This time in a roundtable carefully timed to coincide with a slight hiccup in the AIJ pilot phase. Just in case some problems associated with JI are overlooked, here are a few examples of old favourites left over from the last time that the issue surfaced.

First and most importantly, is an ethical problem. Given that the aim of the Convention is to mitigate climate change by reducing greenhouse gas emissions, it sometimes seems a little strange that some states seek not to reduce their emissions but to offset them elsewhere. It is perhaps worth bearing in mind the old G77 point that any mess concerning climate was caused mainly by the northern developed countries and that they should take the lead in clearing it up – preferably not by underpaying somebody else to do it for them.

Depending on how one views the world, this point may not apply to central and eastern European countries who are strapped for cash. However, most potential "recipients" of JI amongst developed country parties are none too keen to participate on the basis of schemes proposed by the potential donors. JI is not high on the list of priorities of most Central and Eastern European governments. Even where it is, then an equitable system of credit allocation that benefits both donors and recipients must be developed if JI is to work at all.

A number of purely technical problems bedevil the practical implementation of JI. The basis for any JI project is the accurate and reliable estimation of emissions. It is essential to be

*continued on back page, col. 3*

USAID

U.S. Agency for
International
Development

JAN - 9 1997

MEMORANDUM

TO: OES, Eileen Claussen, Assistant Secretary

FROM: G/ENV, David Hales, Deputy Assistant Administrator

SUBJECT: USAID Comments on the 12/18/96 Draft Climate Change Protocol

USAID appreciates the opportunity to review and comment on the U.S. draft protocol prepared by State (dated 12/18/96). We find that the draft protocol generally follows the U.S. position paper prepared for last month's AGBM meeting in Geneva and serves as a good basis for developing a U.S. position. Please feel free to contact me directly if you have any questions concerning the following comments.

Borrowing

The concept of borrowing seems to have come out of Geneva much more dead than alive. USAID believes that the "borrowing" concept must be placed in an entirely new context if it is to get a second look.

Any concept of borrowing which might eventually be accepted must persuasively demonstrate both positive environmental benefits and an appeal to developing countries. The concept I presented in Tuesday's meeting was to have borrowing be associated with the deposit of funds into an escrow account. This account could be managed by a credible third party (perhaps the GEF) essentially as a revolving fund targeted at activities that reduce greenhouse gas emissions, by providing loans, loan guarantees, or grants to developing countries that demonstrate diligence in meeting their 4.1 commitments.

The idea introduced by Steve Seidel, to incorporate the "borrowing" concept into an alternative penalty for non-compliance, fits nicely with this escrow fund concept. Simply, countries who have been unable to meet the target for the first period, will, at some time late in the first period, be able to "borrow" from the allocation associated with the next target period as an alternative to other penalties. At the time the "borrowing" was made, the value of that "loan" would be placed in the "escrow" or revolving fund and used as described. If the countries are in full compliance by the end of the second target period, the "escrowed" funds would be returned; if not in compliance, the funds would be forfeited and other additional penalties could also apply.

Merging these two concepts, although challenging, may keep alive the idea of borrowing, provide flexibility when negotiators enter into the difficult discussions of compliance and enforcement, offer real promise of true environmental benefits in the medium-term future, and serve as a necessary incentive to developing countries by providing funds that would not otherwise be available for their use.

The following language could be included in the Protocol, as appropriate, and a more detailed paper could be developed around this concept over the next month.

Article XX; Para XX -- Parties which have not met their emissions targets for the initial compliance period may borrow emission allowances from the second compliance period, provided that they deposit into a climate change revolving fund an amount equal to the monetary value of the borrowed allowances. Upon full compliance with commitments for the second target period, these funds will be returned to the borrower.

Article XX; Para XX -- A *climate change revolving fund* will be established to receive escrowed penalty funds pursuant to sectionXX/paraXX, other penalties or fees for noncompliance as may be established by this protocol, and voluntary donations from other sources, as appropriate.

Targets

USAID supports at least **two** consecutive targets for net emissions by Annex A Parties, each averaged over several years as discussed in yesterday's meeting, rather than the single target implied by the draft protocol. We believe that this difference is particularly significant for countries with economies-in-transition, since with a single target they might be more likely to meet their new single commitment without making the structural changes that would ensure continued progress (i.e., it would be less likely to be sustainable.) USAID would also support shorter time periods for averaging the target, on the order of three to five years, which would smooth out annual variations but would not raise compliance concerns of longer averaging periods.

Developing Country Commitments

This section is very vague, especially paragraph 3. Throughout, it is important that the language reflect the Berlin

Mandate which states that **all** Parties shall advance the implementation of Article 4.1 commitments.

**Paragraph 2.** We believe that this paragraph is at the heart of advancing the implementation of Article 4.1 commitments. As such it deserves to be strengthened. Therefore we suggest a revision of the language as follows:

> 2. Each **Party (, including** non-Annex A Parties,) shall identify and implement cost-effective options for mitigating the emissions of greenhouse gasses not controlled by the Montreal Protocol, including any identified through the review process under paragraph 3 below. **Each Party shall report on its implementation of Article 4.1, identifying actions taken in each of the relevant sectors outlined in that Article.**

Alternatively, USAID would support language suggested by EPA that provides more specific mitigation steps expected of all Parties.

**Paragraph 3.** It is not clear what many of these proposals mean, how they relate to "reviewing communications", who would assist the developing countries (implicitly Annex II countries would) and how this would be done. It therefore reads as either empty rhetoric or an unacceptably open commitment. We suggest the following:

> 3. The Conference of the Parties will set up a process for reviewing the communications **of all parties** received under the convention **as well as the reports prepared in conjunction with paragraph 2. A major purpose of this review process would be to assist Parties in identifying additional "no regrets" and cost-effective options and approaches for mitigating net greenhouse gas emissions and adapting to the adverse effects of climate change, as well as identifying existing know-how and technology options that could facilitate implementation.**

**Paragraph 4.** The commitment by **all** parties to commit to further binding negotiations is important. It may be the most significant achievable outcome with regard to developing countries. Because of the importance of this outcome, we would propose that it not be merged with paragraph 5. Paragraph 5 is likely to be most strongly opposed by developing countries, and we would not like to see the issues from paragraph 4 linked and lost in the process.

**Paragraph 5.** I assume that this paragraph is the attempt to get the South Korea's on board. USAID supports efforts to develop a third, voluntary category between developing countries and the current Annex I countries. To encourage broader participation, we would support an "aim" rather than a legally binding target.

The criteria for joining this intermediate category will have to accommodate the legitimate development aspirations of these countries. For most developing countries (including OECD Mexico), simply changing the base year or delaying the Annex A target will not work, since development **will require net increases in emissions.** In these cases (and subsequently for nations like China), energy efficiency or carbon intensity improvements are much more realistic and consistent with sustainable development. USAID proposes that carbon intensity (e.g., GHG emissions per unit of GDP) is most directly linked to greenhouse gas emissions and might be the preferred unit of measurement for a target for non-Annex A countries. If an actual emission target were chosen, it should reflect reductions from an increasing baseline.

Suggested Additional Edits

| | |
|---|---|
| Art. 1.1 | change "done" to "concluded" |
| Art. 1.3bis | There should be a definition of Party = Party to this Protocol |
| Art. 2.2(d) | As noted in the meeting yesterday, while it is desirable to encourage early action, it is unclear whether it makes sense to allow banking of emissions for future, unspecified targets. Banking excess emission reductions for a second, specified target does make sense as long as the amount banked exceeds the amount over the second target. For example, three tons of $CO_2$ per year under the first target over five years before the second target would allow a country to exceed the second target by up to a total of 15 tons (e.g., 6 tons in year 1, 5 tons in year 2, 3 tons in year 3, and 1 ton in year 4.) |
| Art. 2.3 | Why can't current IPCC formulas be used? |
| Art. 6.1 | change to: "**An Annex A Party or other party that has assumed a legally binding emissions target** may trade with **another** Annex A Party or **other** Party that has ..." |
| Art. 6.2 | This should specify that governments retain the ultimate responsibility for meeting targets. |

| | |
|---|---|
| Art. 6.6 | There should be a statement clarifying that "information necessary to determine verification of trades should not be considered confidential." |
| Art. 7.2(a) | The language here may need to be clarified. The issue about "contribute to cost-effectiveness in achieving global benefits" is vague, and could be misinterpreted to imply that cost-effectiveness is a criterion for a JI investment. (perhaps it should be a criterion, but this is not the thrust of the statement.) |
| Art. 8.3(a) | Is it necessary to develop totally separate rules of procedure for the protocol, or could we get away with specifying that the FCCC rules (assuming they are finally approved) will be used? I realize the Parties to the FCCC and Protocol will be different, but I also recall the continuing and fruitless battle over the FCCC rules. |
| Art. 8.4(b) | Is this not already covered in FCCC Art. 4.2(d)? |
| Art. 9.1 | "In accordance with ..." |

Memorandum to Eileen Claussen on USAID Comments on the 12/18/96 Draft Climate Change Protocol

Clearance:
G/ENV/EET, J. Seabright Jk Date 1/9/97

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Drafters:THourigan:7-5963:LCordes:G/ENV/EET:5-4056:
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United States Department of State

*Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs*

Washington, D.C. 20520

DECEMBER 19, 1996

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FROM: Eileen B. Claussen

Attached is the final summary sent in by Ambassador Mark Hambley from Geneva. My apologies if you were not already on the distribution list.

CLIMATE NEGOTIATIONS 1

Final Observations and Assessment:

One year from today, on December 13, 1997 the Parties to the Framework Convention on Climate Change will have completed their negotiations with a new binding agreement designed to curb greenhouse gas emissions and, potentially, some kind of new "Kyoto Mandate." With the Parties to the AGBM now having put forth their views on the various features which they would like to see in this agreement, it is clear that there is little consensus except in two areas:

-- First, the science. As one non-Annex I delegate told our Canadian colleague on December 12, some success can be attributed to the latest session (of AGBM-5) because, for the first time, there was no questioning of the science or questioning about whether it might be premature to proceed with an agreement by any delegation.

-- And second, there seems to be unanimity that whatever future steps are taken must be legally binding -- at least no delegation suggested otherwise.

On other aspects of the debate, however, their is little shared agreement, and it is difficult to see how all of the pieces of this particular negotiating puzzle -- complicated in and of themselves -- can be put into place within the one year of time (and 20 days of formal negotiations) remaining before Kyoto.

Country groupings remain essentially unchanged, but with some noteworthy points. The EU, while showing some strain, is moving forward with a framework text; JUSCANZ shows broad agreement except on differentiation; the Eastern European countries were essentially silent, although Russia made some positive soundings in favor of emissions trading and JI; the G-77/China shows new factions emerging, with new-found cohesion among a geographically broad range of OPEC countries, new voices from China, and some signs of flexibility from China. Following are our observations concerning the key pieces of the legal instrument which will have to be negotiated, and our assessment of where Parties stand on each and their prospects:

Policies and Measures

Interventions of Parties to date reflect two broad camps: The EU which favors at least some mandatory PAMs, and other Parties led by the U.S. but including Australia, New Zealand, and many leading G-77/China members who are either hostile to the idea (e.g., the U.S.) or do not favor them for trade reasons (e.g., Brazil). Other countries, including Canada and to a lesser extent, Japan, also do not favor mandatory PAMs but appear willing to compromise on the issue in limited, non-controversial ways, by seeking to find areas such as public education where a few common policies might be harmonized. Aviation and bunker fuels seem to be the key interest in PAMs in the EU; some in JUSCANZ have also favored PAMs as a mechanism for engaging developing countries.

Prospects: In the end, this may be the least controversial area to be negotiated. The European suggestions are completely unacceptable, but one gets the sense that they will in the end not hold to the extreme tax policies which they are suggesting be harmonized. The immediate concern is Chairman Estrada who wants to begin compiling lists, only one of which would be controversial. The issue will be what Parties are asked to do with these lists, and with three sessions remaining, there is much time for mischief -- e.g., establishing a mechanism in the instrument for further efforts over time to work towards "harmonization."

Quantified Emission Limitations and Reduction Objectives (QERLOS or Targets and Timetables

The only text which has been presented which specifies numbers is that submitted by the AOSIS countries. Neither the EU nor the U.S., Japan, or Russia have indicated any specific numbers. The public pressure on the EU to come up with a significant reduction scenario (such as 5-10 percent reductions by 2005 or 10 to 15 percent by 2010) is considerable, as is evidenced by the strong expectations voiced by the European NGOs. One suspects that realism may very well be cast out the window by EU Ministers this Spring. In part, this may be in reaction to the view, common among EU delegates, that the U.S. has backslid on its commitment and will come up with a number so modest as to receive worldwide derision and opposition. Sensing that the negotiations will fail as a result, the EU may decide it can afford once more to adopt a high-minded hortatory position, knowing full well that this position will not be adopted and that it need not fear having ever to implement it. Moreover, our call for "legally binding" targets seems no longer to moderate European rhetoric in the absence of strong proposals on "compliance." To some extent, Europeans see "legally binding" targets as little different from an "aim" -- a point brought home to us quite bluntly in our December 12 discussion with international NGOs.

On the structure/form of the target, several delegations appear to be quite intrigued by our multi-year concept. Even Chairman Estrada had positive things to say about it. We will have to amplify what we mean and provide details, but this concept appears to us to be a winner, although "borrowing" ran into strong skepticism. Our rejection of near-term targets also came under repeated barrages of fire from Europeans and NGOs, who equate our position with a rejection of near-term action.

Prospects: We will have trouble with the level for the reasons stated; we should not have difficulty in the concept of a multi-year target (although the EU and others would like to see one running from 2005-2015, rather than one from 2010-2020. It is not likely that negotiations in March will yield any conclusive results on this issue, although expectations are high that additional options for targets will be presented at that session.

Differentiation: We will need to find a better response to the differentiation issue if we are to come to agreement by Kyoto. With our own JUSCANZ house sharply divided over this issue (Norway sharply criticized our categorical rejection of the concept on the floor -- the only country to do so), and with other countries wanting differentiation in one form or another, we find it difficult to see how we can dismiss differentiation out of hand. This is particularly the case with Australia aggressively (and with some impact) working this issue on the margins with both Annex I and non-Annex I countries.

Among the countries which have articulated their support for some kind of differentiation concept are: Norway, Australia, Japan, Russia, Canada, France, Mexico and Korea to name just a few, along with a number of developing countries who may be thinking about their future commitments. We will also have to confront differentiation directly in considering how to bring in Korea and Mexico, and perhaps Turkey.

Prospects: Hopefully, we will see some additional text from the proponents of differentiation telling us how the concept would work. We expect considerable intersessional work on this issue, strongly pushed by Norway and Australia. Perhaps we need to run some of the numbers for the existing proposals or come up with our own proposal in order to slay this dragon. However, the manner in which we bat down differentiation is at least as important as the substance of our arguments. We cannot win in this negotiation without a core of countries supporting our positions. At the moment, our differences over differentiation are dividing us from countries who would normally be allied to our efforts -- or who could be persuaded to come on board.

Joint Implementation and Emissions Trading: Joint implementation with credit (along with our graduation concepts under Article 4.1) received the greatest resistance from developing countries. They simply do not appear willing at this point to accept the concept. Even the EU is somewhat cool to the concept, and we do not believe they will -- in the end -- back up those countries which are strong proponents (including the U.S., New Zealand, Norway, and to a somewhat lesser extent, the Dutch and the UK). Emissions trading appears to be a less controversial subject. Most countries want to know more about it, but there is not the vocalized resistance to this concept as it is not yet well understood.

4

Prospects: As indicated in an earlier report, JI will be a tough sale. Emissions trading is eminently doable, provided we follow-up soon with a clear and uncomplicated proposal outlining how the system could work internationally. However, in order to ensure the strong opposition to JI does not prematurely remove the option from consideration, the U.S. will need to make bilateral discussions -- including one with Chairman Estrada -- a priority.

Banking and Borrowing: Both concepts took a number of direct hits from a variety of sources, with most of the verbal criticism continually heaped on borrowing. Our careful explanations of the restrictions which would need to be developed to ensure compliance and verifiability did little to assuage the large number of skeptics.

Propects: Banking is probably a doable concept, while borrowing looks extremely difficult at this point. No one else supports it, and many have spoken against it both publicly and privately. We need to flesh out what we mean by both concepts if we are to bring more countries on board.

Advancing Article 4.1

It was fortunate that the EU came up with Annex "X", a kind of graduation mechanism which took most of the direct criticism from the G-77/China, rather than our own proposals. Whether these attacks were coordinated and deliberate are unknown. It seemed to us that the G-77 was browbeating the EU into submission, in the hopes that this would ease their task in confronting the U.S. proposals. At least the first part of this strategy (if there was one) worked: the EU has muttered something about Annex X referring only to prospective OECD members, although we are still not clear as to what they mean and, we suspect, the EU does not as yet know itself.

Propects: This is one of two issues which Chairman Estrada bluntly told us were non-starters in this round of negotations (the other being JI with credit). We told him equally bluntly otherwise, but it took a fight on the floor on December 12 to even get us the possibility of a further hearing on this key issue.

With persistence and additional discussion, we can probably work out something along our "continuum" concept, although at this point, it is not clear exactly where. For the first time, however, thought seems now to be given in some quarters to the possibility of a "Kyoto Mandate", as a result of our position.

In any case, it will be incumbent upon us to work with other willing countries (developed and developing) to get some constructive proposals on the floor to move us forward -- possible but difficult. (An example might be the renewal of the ever-popular country studies program or others related to capacity building.)

Protocol or Another Legal Instrument:

Korea is the only country which has (privately) expressed its preference to us for an amendment. Most other countries (including the EU, Japan, Russia) have come out in favor of a protocol. Others (like China, India and key G-77/China members) have tended to take our view that substance should be decided before form.

Prospect: It seems likely that a protocol will be the end result and certainly would be compatible with our various proposals. We would probably get some points if we could announce our support for a protocol sooner, rather than later -- especially keeping the consideration in mind that we can always fall back on an amendment idea if this seems more appropriate by Kyoto. Some critical legal issues, including those with respect to overlapping responsibilities of possible protocol and convention institutions (e.g., the COPs. subsidiary bodies) need to be resolved.

Compliance: We are thus far the only country to have addressed the compliance issue in any detail. There is general interest in many of our ideas. Japan has a proposal mirroring the IEA country review process, building on existing FCCC mechanisms.

Prospects: We are currently in the driver's seat on this issue. Provided we can back it up in terms of actual text by the next meeting, we can probably remain the principal drafters of this portion of the anticipated agreement.

# CHRONOLOGY: CLIMATE CHANGE NEGOTIATIONS

January 15 (Wednesday)

Submission of text for protocol or other legal instrument to UNFCC (United Nations Framework Convention on Climate Change)

February 3 (Monday)

Target date for circulation by UNFCC Secretariat of framework "compilation paper" of Working Group Chair compiling previous papers

March 3-7 (Monday to Friday)

Negotiating session to compile draft text based on January 15 submissions and February 3 "compilation paper"

April 15 (Tuesday)

Last day for submission of text to UNFCC to comply with 6 month rule (in order to accomodate UN regulations for translations)

June 1 (Sunday)

Negotiating text submitted to all Parties to meet 6 month rule

July 28-August 7 (Monday to Friday)

Negotiating session

October 20-31 (2 weeks, Monday to Friday)

Negotiating session (working group will be dissolved at the end of this session; Kyoto is to consider text in "Committee of the Whole;" draft text to be resolved except for key issues)

December 1-3 (Monday to Wednesday)

Kyoto Officials Meeting, proposed

December 4-5 (Thursday to Friday)

Kyoto Ministerial Meeting, proposed

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13 December 1996

To: Please See Attached List

From: USDEL/Geneva, Mark G. Hambley

Subject: Climate Negotiations, Update No. 5:
Meetings of the Ad Hoc Group, Berlin Mandate (AGBM)
and Its Subsidiary Bodies, December 12/13, 1996

The following contains an informal review of highlights from the ongoing climate change convention talks, covering events from the afternoon of Thursday, December 12, through the morning deliberations on Friday the Thirteenth. While most of this report (like its predecessors in this series) contain largely the reporting officer's impressions and views, the section in this report entitled "Final Observations and Assessment" reflect the input of many USDEL members, including Reifsnyder, Pershing, Leggett-Emil, Bradley, and Whitman. David Doniger was returning to Washington at the time this paper was drafted. We are also including a page from the latest "ECO" which captures the flavor of NGO views. The last paragraphs can be used as a DAR item as desired or appropriate.

**Climate Negotiations, Update No. 5: December 12/13, 1996: AGBM Instructs Chair to "Compile" Paper for Next Session; Additional Text and Submissions Due from Parties NLT Jan. 15**

**AGBM Concludes with Instructions for Next Session**

The Ad Hoc Working Group on the Berlin Mandate (AGBM) wrapped up its program on Thursday afternoon, a day ahead of schedule. After a mildly contentious altercation with the Chair, Ambassdador Estrada, who tried to include a paragraph quoting only that portion of the convention related to "no new commitments for non-Annex I Parties," Estrada relented and the entire passage was incorporated into the text. This followed a firm objection from the U.S., which was supported (with varying degrees of enthusiasm by Canada, Norway, the EU and -- most surprising -- by China.

Under the arrangements adopted by the plenary, the Chair, assisted by the Secretariat, is requested to prepare a framework compiliation, incorporating textual proposals from Parties, as well as other proposals from Parties for the elements of a protocol or another legal instrument. These are to be identified by their source, although the U.S. noted that this practice, while acceptable at this stage in the process, was not to be taken as a precedent, and that future iterations of the text should be included without specific attribution.

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This text will receive in-depth consideration and serve as the basis for further proposals by Parties at the March meeting. In addition, the plenary invited Parties to in submit further proposals, especially proposals incorporating draft text for the instrument, by January 15. These will be included in a Misc document which will be prepared by the Secretariat. It was acknowledged that some kind of preliminary text will have to available for circulation to Parties by June 1, 1997 in order to meet the six month rule. A Secretariat official remarked that this will require that the submission be ready by April 15, in order to accommodate UN rules on the translation of documents into the organization's six official languages.

Finally, the Chair was requested to explore with interested delegations the concept of differentiation and the criteria for differentiation in the hopes that this discussion could form the basis for a roundtable on this topic at the March meeting. The Chair also solicited -- indeed, welcomed -- additional proposals from Parties to advance the negotiating process.

We understand that the G-77/China was meeting on the morning of December 13 in order to do just that. However, it appears likely that they, in fact, may be preparing language for some of the specific proposals offered by developing countries earlier in the week, including Malaysia's call for additional annexes to Art. 4.1 which would clarify the specifics of financial and technical assistance and training related to climate change.

Friday the Thirteenth was given over to meetings by the OECD Annex I group and the CTI process, in addition to several regional group meetings. SBSTA will convene on Monday, along with AG-13. The first day of SBSTA's proceedings will be focused on government statements on the various topics at hand. The remaining two days will be devoted to working out decisions, if possible, on such matters as stuides for the IPCC to undertake. If work progresses true to past form, we doubt that SBSTA will complete its agenda in the time allotted.

## Business Amicably Smug; NGO's Despondent

USDEL briefed both industry and environmental NGOs on both Tuesday and Thursday evenings. The overall demeanor of the two groups on both evenings was equally divergent: amicably smug on the part of business and quite despondent on the part of the NGOs.

In our 30 minute meeting with some 70 business representatives on December 13, questions were quite similar to inquiries we had received earlier in the week. In particular, they were interested in our views about the six month rule and the kind of text we believe is necessary to accommodate this requirement. They also asked additional questions about Article 4.1 and about how seriously we took the linkages issue: What are we prepared to give up in Kyoto in order to reach agreement?

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There was little of the nervous excitement exhibited at earlier sessions. Everyone (well, almost everyone) was amicable, while many betrayed a smugness which one of Congressional staffers attributed to: (a) their (the business reps) conviction that they can stop any agreement in the Senate, and (b), their belief that the differences in view expressed at this meeting, by their nature and magnitude, preclude any result in Kyoto.

The environmental NGOs were more thoughtful. The U.S. NGOs uniformly expressed their concern about U.S. policy and misgivings about the direction they see the overall process going. They are concerned that our policies are not sufficiently verifiable and quantifiable. They are worried that our "radical" view about actions towards developing countries under Article 4.1 will undermine the process. Some voiced misgivings about JI, while others complained that our proposals are not consistent with the President's remarks in Australia.

We also met on Thursday night (at Alden Meyer's request) with about 25 international NGOs, including representatives from the Climate Action Network's overseas affiliates, Greenpeace, WWF/Germany, one southern NGO from Bangladesh, the Sierra Club/Canada, GCI, and the World Conservation Network. All of these represntatives pounded us with rhetoric, some appealing, all passionate, which tended to picture the U.S. as backsliding from the positive tone of the Geneva Declarationve.

It is obvious that many of these NGOs had not carefully studied our proposals or listened closely to our interventions. Nevertheless, the meeting was useful, as it underscored the heightened sense of despondancy and, in some cases, genuine anger, over what several described to us as U.S. "inconsistency" and "betrayal" since the Geneva COP. The front-page of ECO aptly captures the flavor of NGO views towards the U.S. and towards other participants in the negotiations, although the temperature and the tone of their remarks to us does not percolate through these articles.

## StaffDel Views

These are best discussed once we return to Washington. Suffice it to say that the three staffers in Geneva, David Garman (Murkowski), Susan Sheridan (Dingle), and Cathy Van Way (Shaefer) are all among the most knowledgeable individuals on the Hill. They attended the Tuesday NGO and business briefings, and also the Thursday business briefings, too. Only Garman stayed on for the international NGO marathon, where he took copious notes on his word processer.

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## Final Observations and Assessment:

One year from today, on December 13, 1997 the Parties to the Framework Convention on Climate Change will have completed their negotiations with a new binding agreement designed to curb greenhouse gas emissions and, potentially, some kind of new "Kyoto Mandate." With the Parties to the AGBM now having put forth their views on the various features which they would like to see in this agreement, it is clear that there is little consensus except in two areas:

-- First, the science. As one non-Annex I delegate told our Canadian colleague on December 12, some success can be attributed to the latest session (of AGBM-5) because, for the first time, there was no questioning of the science or questioning about whether it might be premature to proceed with an agreement by any delegation.

-- And second, there seems to be unanimity that whatever future steps are taken must be legally binding -- at least no delegation suggested otherwise.

On other aspects of the debate, however, their is little shared agreement, and it is difficult to see how all of the pieces of this particular negotiating puzzle -- complicated in and of themselves -- can be put into place within the one year of time (and 20 days of formal negotiations) remaining before Kyoto.

Country groupings remain essentially unchanged, but with some noteworthy points. The EU, while showing some strain, is moving forward with a framework text; JUSCANZ shows broad agreement except on differentiation; the Eastern European countries were essentially silent, although Russia made some positive soundings in favor of emissions trading and JI; the G-77/China shows new factions emerging, with new-found cohesion among a geographically broad range of OPEC countries, new voices from China, and some signs of flexibility from China. Following are our observations concerning the key pieces of the legal instrument which will have to be negotiated, and our assessment of where Parties stand on each and their prospects:

## Policies and Measures

Interventions of Parties to date reflect two broad camps: The EU which favors at least some mandatory PAMs, and other Parties led by the U.S. but including Australia, New Zealand, and many leading G-77/China members who are either hostile to the idea (e.g., the U.S.) or do not favor them for trade reasons (e.g., Brazil). Other countries, including Canada and to a lesser extent, Japan, also do not favor mandatory PAMs but appear willing to compromise on the issue in limited, non-controversial ways, by seeking to find areas such as public education where a few common policies might be harmonized. Aviation and bunker fuels seem to be the key interest in PAMs in the EU; some in JUSCANZ have also favored PAMs as a mechanism for engaging developing countries.

Prospects: In the end, this may be the least controversial area to be negotiated. The European suggestions are completely unacceptable, but one gets the sense that they will in the end not hold to the extreme tax policies which they are suggesting be harmonized. The immediate concern is Chairman Estrada who wants to begin compiling lists, only one of which would be controversial. The issue will be what Parties are asked to do with these lists, and with three sessions remaining, there is much time for mischief -- e.g., establishing a mechanism in the instrument for further efforts over time to work towards "harmonization."

Quantified Emission Limitations and Reduction Objectives (QERLOS or Targets and Timetables

The only text which has been presented which specifies numbers is that submitted by the AOSIS countries. Neither the EU nor the U.S., Japan, or Russia have indicated any specific numbers. The public pressure on the EU to come up with a significant reduction scenario (such as 5-10 percent reductions by 2005 or 10 to 15 percent by 2010) is considerable, as is evidenced by the strong expectations voiced by the European NGOs. One suspects that realism may very well be cast out the window by EU Ministers this Spring. In part, this may be in reaction to the view, common among EU delegates, that the U.S. has backslid on its commitment and will come up with a number so modest as to receive worldwide derision and opposition. Sensing that the negotiations will fail as a result, the EU may decide it can afford once more to adopt a high-minded hortatory position, knowing full well that this position will not be adopted and that it need not fear having ever to implement it. Moreover, our call for "legally binding" targets seems no longer to moderate European rhetoric in the absence of strong proposals on "compliance." To some extent, Europeans see "legally binding" targets as little different from an "aim" -- a point brought home to us quite bluntly in our December 12 discussion with international NGOs.

On the structure/form of the target, several delegations appear to be quite intrigued by our multi-year concept. Even Chairman Estrada had positive things to say about it. We will have to amplify what we mean and provide details, but this concept appears to us to be a winner, although "borrowing" ran into strong skepticism. Our rejection of near-term targets also came under repeated barrages of fire from Europeans and NGOs, who equate our position with a rejection of near-term action.

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Prospects: We will have trouble with the level for the reasons stated; we should not have difficulty in the concept of a multi-year target (although the EU and others would like to see one running from 2005-2015, rather than one from 2010-2020. It is not likely that negotiations in March will yield any conclusive results on this issue, although expectations are high that additional options for targets will be presented at that session.

Differentiation: We will need to find a better response to the differentiation issue if we are to come to agreement by Kyoto. With our own JUSCANZ house sharply divided over this issue (Norway sharply criticized our categorical rejection of the concept on the floor -- the only country to do so), and with other countries wanting differentiation in one form or another, we find it difficult to see how we can dismiss differentiation out of hand. This is particularly the case with Australia aggressively (and with some impact) working this issue on the margins with both Annex I and non-Annex I countries.

Among the countries which have articulated their support for some kind of differentiation concept are: Norway, Australia, Japan, Russia, Canada, France, Mexico and Korea to name just a few, along with a number of developing countries who may be thinking about their future commitments. We will also have to confront differentiation directly in considering how to bring in Korea and Mexico, and perhaps Turkey.

Prospects: Hopefully, we will see some additional text from the proponents of differentiation telling us how the concept would work. We expect considerable intersessional work on this issue, strongly pushed by Norway and Australia. Perhaps we need to run some of the numbers for the existing proposals or come up with our own proposal in order to slay this dragon. However, the manner in which we bat down differentiation is at least as important as the substance of our arguments. We cannot win in this negotiation without a core of countries supporting our positions. At the moment, our differences over differentiation are dividing us from countries who would normally be allied to our efforts -- or who could be persuaded to come on board.

Joint Implementation and Emissions Trading: Joint implementation with credit (along with our graduation concepts under Article 4.1) received the greatest resistance from developing countries. They simply do not appear willing at this point to accept the concept. Even the EU is somewhat cool to the concept, and we do not believe they will -- in the end -- back up those countries which are strong proponents (including the U.S., New Zealand, Norway, and to a somewhat lesser extent, the Dutch and the UK). Emissions trading appears to be a less controversial subject. Most countries want to know more about it, but there is not the vocalized resistance to this concept as it is not yet well understood.

Prospects: As indicated in an earlier report, JI will be a tough sale. Emissions trading is eminently doable, provided we follow-up soon with a clear and uncomplicated proposal outlining how the system could work internationally. However, in order to ensure the strong opposition to JI does not prematurely remove the option from consideration, the U.S. will need to make bilateral discussions -- including one with Chairman Estrada -- a priority.

Banking and Borrowing: Both concepts took a number of direct hits from a variety of sources, with most of the verbal criticism continually heaped on borrowing. Our careful explanations of the restrictions which would need to be developed to ensure compliance and verifiability did little to assuage the large number of skeptics.

Propects: Banking is probably a doable concept, while borrowing looks extremely difficult at this point. No one else supports it, and many have spoken against it both publicly and privately. We need to flesh out what we mean by both concepts if we are to bring more countries on board.

Advancing Article 4.1

It was fortunate that the EU came up with Annex "X", a kind of graduation mechanism which took most of the direct criticism from the G-77/China, rather than our own proposals. Whether these attacks were coordinated and deliberate are unknown. It seemed to us that the G-77 was browbeating the EU into submission, in the hopes that this would ease their task in confronting the U.S. proposals. At least the first part of this strategy (if there was one) worked: the EU has muttered something about Annex X referring only to prospective OECD members, although we are still not clear as to what they mean and, we suspect, the EU does not as yet know itself.

Propects: This is one of two issues which Chairman Estrada bluntly told us were non-starters in this round of negotations (the other being JI with credit). We told him equally bluntly otherwise, but it took a fight on the floor on December 12 to even get us the possibility of a further hearing on this key issue.

With persistence and additional discussion, we can probably work out something along our "continuum" concept, although at this point, it is not clear exactly where. For the first time, however, thought seems now to be given in some quarters to the possibility of a "Kyoto Mandate", as a result of our position.

In any case, it will be incumbent upon us to work with other willing countries (developed and developing) to get some constructive proposals on the floor to move us forward -- possible but difficult. (An example might be the renewal of the ever-popular country studies program or others related to capacity building.)

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<u>Protocol or Another Legal Instrument</u>:

Korea is the only country which has (privately) expressed its preference to us for an amendment. Most other countries (including the EU, Japan, Russia) have come out in favor of a protocol. Others (like China, India and key G-77/China members) have tended to take our view that substance should be decided before form.

<u>Prospect</u>: It seems likely that a protocol will be the end result and certainly would be compatible with our various proposals. We would probably get some points if we could announce our support for a protocol sooner, rather than later -- especially keeping the consideration in mind that we can always fall back on an amendment idea if this seems more appropriate by Kyoto. Some critical legal issues, including those with respect to overlapping responsibilities of possible protocol and convention institutions (e.g., the COPs. subsidiary bodies) need to be resolved.

<u>Compliance</u>: We are thus far the only country to have addressed the compliance issue in any detail. There is general interest in many of our ideas. Japan has a proposal mirroring the IEA country review process, building on existing FCCC mechanisms.

<u>Prospects</u>: We are currently in the driver's seat on this issue. Provided we can back it up in terms of actual text by the next meeting, we can probably remain the principal drafters of this portion of the anticipated agreement.

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The following paragraphs can be used as a DAR item as desired or appropriate:

AGBM Concludes with Instructions for Next Session

The Ad Hoc Working Group on the Berlin Mandate (AGBM) wrapped up its program on Thursday afternoon, a day ahead of schedule. After a mildly contentious altercation with the Chair, Ambassdador Estrada, who tried to include a paragraph quoting only that portion of the convention related to "no new commitments for non-Annex I Parties," the Chair relented and the entire passage was incorporated into the text. Under the arrangements adopted by the plenary, the Chair, assisted by the Secretariat, is requested to prepare a framework compiliation, incorporating textual proposals from Parties, as well as other proposals from Parties for the elements of a protocol or another legal instrument. In addition, the plenary invited Parties to in submit further proposals, especially proposals incorporating draft text for the instrument, by January 15. These will be included in a Misc document which will be prepared by the Secretariat and used as the basis for the March meeting.

With the Parties to the AGBM now having put forth their views on the various features which they would like to see in this agreement, it is clear that there is little consensus except in two areas:

-- First, the science. As one non-Annex I delegate told our Canadian colleague on December 12, some success can be attributed to the latest session (of AGBM-5) because, for the first time, there was no questioning of the science or questioning about whether it might be premature to proceed with an agreement by any delegation.

-- And second, there seems to be unanimity that whatever future steps are taken must be legally binding -- at least no delegation suggested otherwise.

On other aspects of the debate, however, their is little shared agreement, and it is difficult to see how all of the pieces of this particular negotiating puzzle -- complicated in and of themselves -- can be put into place within the one year of time (and 20 days of formal negotiations) remaining before Kyoto. This kind of cautious skepticism is common at this point in most negotiations, so we intend to keep our powder dry and move full speed ahead in anticipation that current and future hurdles can somehow be surmounted. (Hambley)

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CLIMATE NEGOTIATIONS GENEVA DECEMBER '96 NGO NEWSLETTER

# eco

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13 DECEMBER

HANGOVER ISSUE

*Eco has been published by Non-Governmental Environmental Groups at major international conferences since the Stockholm Environment Conference in 1972. This issue is produced co-operatively by CAN groups attending the Climate Negotiations in Geneva, December 1996*

## The Tasks Ahead

*Homework Assignments for the New Year (to be graded at AGBM 6)*

Japan: You show promise, but you must work harder to complete your protocol project. It's nice of you to offer your house for our graduation ceremony, but we need a road map of how to get there. Stop your family squabbling on different agency positions — it's frightening the other children. You, of all parties, must serve as a role model for your peers.

EU: Your framework protocol to the framework convention is still too much of a framework. We suggest re-studying the AOSIS protocol and adding some meat to your proposals. Your X-amples are confusing your classmates; try to be more clear when you speak.

United States: You showed great promise at COP2, but your behavior in class is once again becoming a problem. You must concentrate on your studies, particularly on ecological indicators and the precautionary principle, and come to the next class prepared to make a real contribution. Your efforts to "borrow" your classmates' personal property are troubling; drop them. Rather than worrying about others' graduation, you should focus on your own performance; you're in serious danger of being held back.

Australia: Stop bringing Megabear to class; he's rude and disruptive. Try to get along better with your classmates; stop claiming you're the one most burdened by class assignments.

Canada: You're starting to pick up bad habits from the student who sits just South of you. Work on setting targets for yourself. Your understanding of demography is deficient; if it doesn't improve, you should stop raising it in class.

France: You seem to have problems getting along with the rest of your team, and it's affecting your overall performance. Your interest in the subject of per capita emissions is laudable; but you have to learn how to apply it in the real world.

Norway: You have a good grasp of algebra, but you have problems completing your papers. Without more specifics, your classmates will have a hard time evaluating your ideas.

Saudi Arabia: Your concern about the survival of your small island classmates is touching, but you need to show more support for their efforts to improve their chances. Your understanding of environmental studies is still weak; maybe you could join the United States in a refresher course.

Brazil: You're to be congratulated for your thoughtful comments in class. You have a good grasp of world problems, and your willingness to collaboratively work on long-term solutions is admirable. But don't lose sight of the task at hand: when we get to graduation, we want to be sure we have no regrets.

AOSIS: Your ideas are very good, and your

*continued on back page, col. 3*

*NGOs have been impressed by certain countries' openness to suggestions*

## Canada Misses Cuts

Provincial and federal energy and environment ministers met in Toronto December 12 to assess progress on meeting Canada's international climate change commitments. The result: few new measures to reduce Canada's skyrocketing greenhouse gas emissions.

Canada's 1995 greenhouse gas emissions are 9.5% above 1990 levels. Per capita emissions of greenhouse gases have risen from 20 tonnes per capita in 1990 to 21 tonnes per capita in 1995. Greenhouse gas emissions per dollar of Gross Domestic Product (GDP) have increased from 809 kilograms per thousand dollars in 1994 to 816 kg/$1,000 in 1995.

Assessing progress on Canada's climate program was the only agenda item December 12. A consortium of consultants was hired to prepare an evaluation of Canada's progress. The consultants attribute emissions growth between 1990 and 1995 to the oil and gas industry. Between 1990 and 1995, production increased by 35%, while exports of natural gas to the United States doubled.

Canada's National Action Program on Climate Change (NAPCC) is primarily a voluntary program. The Voluntary Challenge and Registry is so poorly structured that the con-

*continued on back page, col. 1*

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Geneva, 9-18 December 1996

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12 December 1996

To: Please See Attached List

From: USDEL/Geneva, Mark G. Hambley

Subject: Climate Negotiations, Update No. 4: Meetings of the Ad Hoc Group, Berlin Mandate (AGBM) and Its Subsidiary Bodies, December 11/12, 1996

The following contains an informal review of highlights from the ongoing climate convention talks covering events from the afternoon of Wednesday, December 10, through the morning deliberations on December 12. The last paragraphs can be used as a DAR item as desired or appropriate. Also included are more detailed reports prepared by various USDEL members on some of the early meetings and workshops.

Climate Negotiations, Update No. 4: December 11/12, 1996: AGBM and SBI Conclude "Substantive" Discussions

The Subsidiary Body on Implementation completed its work in a short, late evening session on December 11 with its approval of a (very modestly) revised document related to the annex for the financial mechanism. State's Dan Reifsnyder and Treasury's Tommy Semans received gold stars for their endurance and persistence in shepharding this effort through to a palatable conclusion.

The Chair Consults; We dispute

There was no afternoon session of the Ad Hoc Working Group on the Berlin Mandate (AGBM) on December 11. Instead, the Chair held private consultations with various groups of Parties on proposed outcomes from this meeting and on a 90-minute informal meeting to discuss the EU Protocol.

During his discussion with us, Chairman Estrada suggested that there is "no way" that joint implementation with credit will be approved by the AGBM. Moreover, he gave his view that the Berlin Mandate does not permit the type of graduation formulae being suggested by the U.S. He also indicated his interest in the multi-year target and asked for more details.

In response, Estrada was told in no uncertain terms that we disagree with his interpretation of the Berlin Mandate. Without JI and firm steps to advance the implementation of the commitments of "all" Parties, the U.S. would not support a new protocol or other legal instrument. We managed to deflect Estrada's stated interest in a multi-year target which, at one point, looked like we would be asked for a detailed exposition of the concept at a meeting on December 12. We told Estrada we will have additional details early next year.

Amicable Discussions on Protocol or Another Legal Instrument, but Differences between Us and the G-77 Reiterated

In any case, the Chair continued his consultations throughout Wednesday afternoon and until after 11 AM on Thursday (he last consulted with China), at which point, discussion was resumed on the last substantive item on the agenda, discussion of a protocol or other legal instrument. Altogether, some 24 countries spoke to this issue, including for the first time, several African countries (such as the Gambia, Ghana, and Sierra Leone) and several AOSIS countries (including Dominica). The latter (and some of the African countries such as Ghana) stated their support for the AOSIS protocol and called upon the AGBM to give it appropriate attention.

Most AOSIS countries -- joined by other G-77 members such as the Philippines -- also raised the by now tiring refrain about the slowness of Annex I action/response to the problem of global warming. The Marshall Islands delegate was particularly eloquent in an intervention delivered in the obnoxious, yet usually humorous, style which has become his predictable trademark.

Costa Rica, speaking for the G-77 and China, indicated that "substance" should determine the basis for the eventual agreement. The delegate made four additional points: (a) the basis for the agreement should be drawn from the convention's preamble and Articles 4.2(a) and (b) (which relate to developed country commitments); (b) the scope of the agreement should include both policies and measures (PAMs) and QERLOS which should be "interrelated" and continuing to advance Article 4.1 obligations; (c) the review mechanism should reflect that contained in Article 4.2(d) of the convention; and (f), to the extent possible, existing institutions (including, apparently the COP and the Secretariat, although he was not clear on this point) should be utilized to execute and service any future protocol or another legal instrument.

China reiterated the G-77 spokesman's points and stressed once more that the eventual agreement should not deviate from the climate convention ((Comment: This is short-hand, we believe, for a view widespread amongst non-Annex I concerning their current rejection of JI with credit and of either the EU's call for an Annex "X" (a kind of mild graduation mechanism) or for aspects of our "continuum" approach to our efforts to ensure the advancement of Article 4.1 commitments by all Parties. End Comment.))

China also called on the Chair, in cooperation with the Secretariat, to "compile" all of the papers issued into a document, noting the source of the various proposals, and to circulate this paper prior to the March meeting. China emphasized that it is too early for actual text now.

These sentiments were echoed throughout the morning by several other G-77 countries, including by India, the Gambia, Iran, and

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Venezuala. New Zealand noted that a protocol might be the preferred instrument and expressed the hope that trade sanctions would not be considered in any future compliance regime. The Kiwis also expressed support for the view (also made by the U.S.) that this new instrument should pave the way for future global action.

A few new (and not especially helpful) ideas were disclosed during the discussion. Malaysia, for example, proposed four new annexes for Article 4.1, each of which would further detail the specific amounts of assistance and provide additional details for the various programs currently encouraging technical transfer, scientific and other types of research, ((Art. 4.1(g)), the exchange of various types of relevant information ((Art. 4.1(h), the promotion of cooperation in education, training, and public awareness, and so forth.

The Chair indicated that he would discuss his plans for handling the follow-up to this meeting at an informal on the afternoon of December 12. He expressed the hope that the AGBM could wrap up its work within "an hour or so," and thereby let the remaining two subsidiary bodies (AG-13 and SBSTA) begin their discussions on Friday. Depending on the extent to which he accepts advice and includes our points, he may get his wish. However, his insistence on doing everything "consistent with (his interpretation) of the Berlin Mandate" could complicate matters for us.

<u>The EU Unfolds Its Protocol: The Reaction</u>

There is no time to detail the EU protocol which is not exceptional, in any case, because it contains no numbers and rather confusing lists of mandatory and voluntary policies and measures. It also contains the now infamous Annex "X" which has been commented on in earlier reports.

With the Irish Chairing the session, questions were fielded by Bert Metz of the Netherlands and Cornelia Quenett of Germany. The room (one of the large conference rooms) was filled to capacity, and after a short introduction, Bert and Cornelia were bombarded with questions on almost every line in their formula.

In their responses, they were less than clear on their defintion of Annex "X", athough they once more talked about it in terms of the OECD (which vexed the Koreans, to be sure!) NGO's questioned the absence of a specific target and why certain PAMs were included, while others were not.

Our impression is that the EU scored a procedural point by having text available which will now clearly have to be on the table for the March meeting. However, from our initial soundings, they have apparently failed thus far to win over any non-EU converts to their position (which is not actively endorsed, in any case, by some EU member states, in particular France, Sweden, and Spain).

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**Report on the Fourth Meeting of Subsidiary Body for Implementation (SBI) of the Framework Convention on Climate Change**
Geneva, December 12, 1996

1. The SBI, through an informal negotiating group of developed and developing country members, met to resolve conflicts between developed and developing countries on arrangements between the Conference of the Parties (COP) and the Council of the Global Environment Facility (GEF) to determine the level of GEF funding "necessary and available" for climate change activities. The arrangements will affect negotiations for the next and subsequent GEF replenishment. A deadlock on the arrangements could spill over into the AGBM process, decreasing the possibility to advance non-Annex I country commitments through a follow-on agreement to the Convention.

2. The GEF Council had already adopted a text on the arrangements, as an Annex to the Memorandum of Understanding between the GEF and the COP. However, the G-77 has rejected that text and tabled an alternate Annex with arrangements that would significantly increase their power in replenishment negotiations.

3. After a long and tense set of informal negotiations, developed countries led by the U.S. succeeded in rebuffing the objectionable G-77 demands. Pushing the SBI meeting deadline to the last minute, a compromise Annex text was agreed, referred to the full body of the SBI, and adopted. The text has now been referred to the GEF Council for consideration, and the SBI has recommended its adoption by the COP in Kyoto.

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Summary of AGBM Session, Tuesday morning, December 10, 1996

**DISCUSSION OF STRENGTHENING COMMITMENTS OF DEVELOPED COUNTRY/OTHER PARTIES: ELABORATION OF POLICIES AND MEASURES**

Chairman Estrada opened the session, recognizing two documents to support the discussion: the Synthesis Report of Parties' Proposals, prepared by the Chairman and FCCC Secretariat, and the new IPCC technical report on Technologies, Policies and Measures. Most Delegations welcomed the synthesis report, and many – especially developing countries – expressed appreciation for the IPCC report as a useful guide. The Annex I Experts Group of the OECD described its contribution through the Project on Common Measures. Reports should be available by AGBM 6 in March.

The EU reiterated their approach of including three annexes in the new agreement, including mandatory policies and measures (P&M) in Annex A, high priority P&M in Annex B which Parties would work to coordinate, and priority P&M in Annex C. The annex approach would lend itself to regular review and revision. The EU also tabled and initial list of P&M for inclusion in Annexes A and B. The Parties listed in a proposed Annex X, which would include Annex I Parties plus others that voluntarily joined (intended to include Korea and Mexico, as new members of the OECD). Switzerland also supports mandatory P&M.

Further discussion in this AGBM session of possible elaboration of policies and measures was dominated by G77 and China opposition to 'shifting the burden of developed country emission reduction commitments to developing countries' through the EU's Annex x, or Joint Implementation or GHG trading. Notable was Korea's statement opposing enlargement of the Annex 1 group (which Mexico repeated). Costa Rica, on behalf of the G77 stated that JI should be among developed countries only (echoed by India, Saudi Arabia.

The US reiterated its opposition to prioritized, harmonized or mandatory P&M, stressing the need for implementation to be specific to national circumstances, and skepticism of the need to include a menu. Only Australia also expressed opposition to a menu. Sympathy for a menu or non-mandatory approach came from Korea, Brazil, Japan, Malaysia, Estrada as Chairman, Marshall Islands, New Zealand, Venezuela, Mauritius,

Parties that spoke in favor of some coordination of P&M included: Canada, Samoa, and Chili.

The Japanese tabled a proposal that would leave specific P&M up to Parties. However, it identified five classes of P&M for which the Conference of the Parties would developed indicators, and Parties would report progress according to these indicators. Iran and the Chairman found this proposal interesting.

Several countries, including New Zealand, Saudi Arabia and Iran felt that the existing list of measures was too focused on the energy sector, and did not include important options in other sectors and non-$CO_2$ gases.

Lead by Saudi Arabia, a number of developing countries expressed concern about the possible impact of developed country actions on developing countries.

Only Thailand expressed a view that might oppose trading among Annex 1 Parties, although Samoa expressed a concern that too much flexibility might not result in achievement of obligations.

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AGBM-5 -- Tuesday afternoon

Summary of QELRO discussion

Chairman Estrada introduced the topic by listing the questions parties must address regarding quantitative emission limitation and reduction objectives (QELROs) -- i.e., targets and timetables. The following is a summary of country statements on various QELRO questions:

Legal character of the QELROs: Many countries, both developed and developing, spoke in favor of the next step targets being legally binding. No country urged non-binding targets, although New Zealand noted that the binding nature of targets raises important compliance and dispute settlement issues; these will be important to parties in determining what targets they will be willing to undertake. (U.S. to make similar points but in later discussion of compliance.)

Differentiation: More attention was paid to differentiation than any other topic. Among OECD countries, Norway, Australia, Japan, France, and Iceland stated that differentiation among Annex 1 countries was necessary in the next step target; Canada said differentiation should be "explored." But specific proposals differ and are inconsistent.

*Australia* proposed that five core indicators be used: GDP growth, population growth, emissions intensity, fossil fuel trade, highly energy intensive exports. The first step, Australia said, was to negotiate a collective Annex 1 target, and then to negotiate a differentiation "rule" based on the five factors to allocate shares of this collective target, all by Kyoto. Australia argued that reaching agreement on differentiation would be less difficult than agreeing on a flat rate target, and that differentiated targets would add up to more reductions collectively than a flat rate target.

*Norway* proposed a three-factor formula: efficiency (GHG emissions per unit GDP), responsibility (GHG per capita), and capability (GDP per capita). These values would be based on projections for the target year (not 1990 values). A weighting would have to be negotiated. Norway also envisioned a collective target.

*Japan* proposed a two-formula approach, with each country choosing one formula. The first formula calls for a "p" percent change in per capita emissions. The second formula calls for a "q" percent change in total national emissions. "P" and "q" were not specified and do not have to be the same.

*Iceland* stated the need to recognize low GHG emissions intensity in assigning future targets (reflecting their use of geothermal energy)..

*France* called for a formula recognizing their low GHG emissions intensity, in their case due to nuclear power. France suggested an approach under which GHG emissions per capita would be required to converge by 2100, starting with the next step.

The U.S. opposed Annex 1 differentiation on the basis that no mutually agreeable formula could be agreed to by Kyoto (see US statement). The EU said it would consider differentiation proposals; the EU also proposed an Annex "X" specifically to bring in new OECD countries (presumably with commitments different from other Annex 1 parties). Outside the OECD, Russia said there was need to treat economies in transition differently than other Annex 1 countries.

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Among developing countries, Korea (contemplating its potential assumption of Annex 1 status) spoke of the need for a different basis for itself, perhaps a target for improving GHG emissions intensity. Samoa (for island countries) opposed Annex 1 differentiation in this next step. Many other developing countries (e.g., Venezuela) spoke in general terms in favor of differentiation (perhaps looking ahead to their future role). Brazil suggested an Annex 1 differentiation formula based on countries' relative contribution to warming. Egypt suggested a per capita approach, adjusted for land area, extreme heat or cold, renewables, etc.

Levels and Timetables: Ireland (for the EU) supported binding targets starting as early as 2005, and also for 2010 and 2020, but did not produce EU-wide target levels. The EU noted that insufficient short-term reductions could require severe later reductions, and possibly make some objectives impossible. AOSIS (island) countries reiterated their proposal for a 20% reduction by 2005; said that dangerous interference with climate system is already occurring, noted need for 50-70% CO2 reductions to stabilize atmospheric concentrations at near current levels, and endorsed safe corridor approach. Russia noted that countries in transition have made a real contribution to emission reductions, for economic reasons; Russia proposed limiting emissions of economies in transition to 1990 levels in 2010. Other Annex 1 speakers (US, Canada, New Zealand) spoke against short-term (2005) and in favor of medium-term targets. No new proposals were made about specific levels.

Flexibility issues: A number of Annex 1 countries spoke in favor of *multi-year targets* (US, Japan, Canada, New Zealand). New Zealand could be understood to be seeking a multi-decade cumulative target. Japan suggested 5 year periods. No country spoke against the multi-year approach in principle, although few others commented on specific proposals.

The U.S., Canada, and the EU specifically supported *banking*, and no one spoke against it. Only the US proposed *borrowing* (albeit while recognizing concerns about deferring action and securing repayment). Egypt opposed borrowing, and Malaysia asked if an interest rate would be charged and a fund set aside to compensate countries harmed by climate change impacts brought about by reductions deferred through borrowing.

Most Annex 1 speakers supported *emissions trading and JI* (e.g., US, Norway, Canada, Australia, New Zealand, Iceland, Ireland for EU) although none other than the US indicated that it was essential. Australia and Norway emphasized that emissions trading and JI are useful but no substitute for differentiation. The EU proposed trading and JI among Annex "X" parties (Annex 1 plus new OECD parties). The EU also noted that they considered emissions trading a Policy and Measure. Russia indicated strong interest in JI and trading. Norway and the U.S. specifically argued that JI would bring benefits to non-Annex 1 countries, but non-Annex 1 countries uniformly rejected JI except between Annex 1 parties (note that this occurred even with Costa Rica as chair of G-77). Brazil advised the Annex 1 countries to consider the targets they'd accept with JI set aside.

Comprehensive approach: Most Annex 1 countries spoke in favor of including *all gases and both sources and sinks*. The EU addressed the need to hold total GHG concentrations below 550 ppm, noting the need to limit methane and nitrous oxide, but did not otherwise address comprehensiveness. The US emphasized quantification issues that must be solved in connection with comprehensive approach. AOSIS countries expressed concern that the comprehensive approach compromised verifiability. Several other developing countries (e.g., Argentina, Chile) advocated a gas-by-gas approach, with separate requirements for CO2 and methane .

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Geneva, 9-18 December 1996

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11 December 1996

**To:** Please See Attached List

**From:** USDEL/Geneva, Mark G. Hambley

**Subject:** Climate Negotiations, Update No. 3: Meetings of the Ad Hoc Group, Berlin Mandate (AGBM) and Its Subsidiary Bodies, December 10/11, 1996

The following contains an informal review of highlights from the ongoing climate convention talks covering events from the afternoon of Tuesday, December 9, through the morning deliberations on December 11. The last paragraphs can be used as a DAR item as desired or appropriate. We are also including a detailed report prepared by DOE's Rick Bradley on highlights from Monday's roundtable on country proposals, plus the first page from "ECO" which gives one a good flavor of NGO views.

## Climate Negotiations, Update No. 3: December 10/11, 1996: Disputatious Discussion of Targets/Timetables and on Article 4.1 Provide the Key Highlights

The Ad Hoc Group on the Berlin Mandate (AGBM) discussed quantified emissions and limitation reductions objectives (QERLOS or "targets and timetables") at its afternoon session on December 11, moving on to complete its discussion on Article 4.1 commitments during its morning session on December 11. The Subsidiary Body of Implementation broke off into a contact group over the issue of proposed G-77/China amendments to the annex for the financial mechanism, a somewhat daunting task which was continued again in the morning. The SBI is scheduled to review the situation at a 4 PM meeting on Wednesday afternoon.

### No Consensus on Targets

Most delegates, however, attended the debate in the AGBM on QERLOS and the subsequent discussion on Article 4.1. Our lengthy intervention on QERLOS focused on both the form of the target portion of our proposals paper, plus our points on joint implementation and emissions trading.

The one topic which caused the greatest interest among delegates was JI. Almost without exception, every G-77 country which took to the floor expressed their opposition to JI between Annex I and non-Annex I Parties. Some, like Argentina, indicated their acceptance of JI among Annex I Parties; others, like Brazil, opposed JI with credit period. Malaysia expressed support for activities implemented jointly (AIJ), but indicated that it opposes our suggestion that this be terminated in the year 2000. Why?

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Among Annex I Parties, joint implementation and emissions trading were wholeheartedly backed by Canada and Norway (albeit for different reasons). The EU accepted the concept of emissions trading within the context of PAMs (policies and measures), but said it was remaining neutral on the concept as to how trading would work.

In evident response to the recent visit of Abe Haspel and others to Russia, the Russian Federation endorsed both joint implementation and emissions trading, although the delegate also called for flexible treatment for Russia and the other economies in transition with respect to a future target.

Korea, too, apparent took our misgivings about their earlier statement on PAMs and redeemed themselves with a better intervention on QERLOS. Here, they basically said they supported some process of differentiation. (We are planning to meet with the Koreans at lunch on Thursday to further express our views about their positions, now that they are an OECD member.)

The EU appeared to be in some disarray on this issue, with France taking the floor (in addition to Ireland) to indicate its view that a uniform, binding emissions target would be inequitable. The French delegate and talked about a differentiation scheme which seems to share points in common with Norway's.

For its part, the EU skirted the question of a level for a target and, in a noteworthy development, tried to calm the rash of attacks against its concept of Annex "X" which appears in its protocol proposal. It did so by apparently retreating from what had been the view of many delegates (including ourselves) that Annex "X" is designed to provide a kind of graduation mechanism for non-Annex I parties. This interpretation had led to a flood of criticism on Tuesday. Clarifying, Ireland (speaking for the EU) said that Annex "X" is only meant for countries applying for OECD membership. (Comment: This backdown appears foolish in the extreme. Aside from its premature timing, all it will accomplish is to provide a firm disincentive for countries to apply to the OECD! End Comment.)

<u>Article 4.1: "Agreeing to Disagree?"</u>

The morning discussion on Article 4.1 commitments followed predictable lines. OPEC (other than Iran and Nigeria) made few noises, but others in the G-77/China all made the same points: (a) Article 4.1 must be read in conjunction with the obligations imposed on developed countries to provide financial assistance and technical transfer to the developing countries; (b) credit must be given to the many activities being taken by developing countries to advance their implementation of commitments; (c) Annex I should live up to its obligations first before calling on non-Annex I to adopt policies and measures.

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Some thoughtful remarks on this topic were made by Zimbabwe, among others, while the Philippines called (without direct attribution) many of the recent proposals by some Annex I countries as "grossly mistaken." Thailand was among those countries echoing this sentiment.

The EU made a statement on this topic noteworthy by what it did not say. Canada, Norway, and Australia all spoke in somewhat gentle terms about the need to find ways to advance the commitments of all countries. The U.S. laid out its contiuum view. In his only editorial comment of the day, Chairman Estrada (perhaps deliberately) dismissed our graduation concept as involving Article 4.2(f) which calls for a review of the annexes of the convention no later than 1998. Estrada said this review is not part of the AGBM's mandate. We clarified our point and -- noting that the concept of graduation should be considered in the Kyoto outcome -- stressed our view that we believe that discussion of this point is legitimate within the AGBM.

At the morning's end, the Chair indicated that there would not be time to discuss the final substantive item on the agenda, that related to a legal instrument. This said, he then let the EU speak on the issue, thereby allowing them to introduce their proposed text for a protocol. Although no numbers are mentioned, it does provide proposed text, or ideas for text, in most areas under discussion. The EU's protocol will be the topic of an informal discussion scheduled for this afternoon. Other countries will intervene on this topic tomorrow.

The afternoon sessions are given over to wide-ranging consultations among regional groups (both WEOG and JUSCANZ will be meeting), plus smaller group discussions with the Chairman on proposed outcomes from this session. The U.S. and four JUSCANZ partners are the first group being so honored, we are told.

<u>Comment</u>

On the basis of discussions to date, it is clear that acceptance of joint implementation with credit will be a very tough sale. Similarly, despite the careful language chosen for our 4.1 discussion, it is also quite apparent that the G-77/China are not willing at present to budge from their position. As for the issue of a target/timetable, as the discussion has indicated, there is no hint of consensus on either the form or the level of a target -- at least, not for the moment!

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6

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**Notes on National Approaches to the Protocol or other Legal Instruments**

The AGBM on the occasion of its fifth session conducted a roundtable on national submissions cocening possible elements of a protocol or other legal instrument. Delegations which had submitted comments to the secretariat were invited to make ten minute presentations on their views. These views were available in FCCC/AGBM/1996/10 and in FCCC/AGBM/Misc.2/Add.3. Fourteen countries make presentations. The most significant of those statements are summarized below.

Australia
Australia recalled the FCCC and BM sections which spoke to differentiation, noting that the Berlin Mandate required differentiation in any ultimate agreement. Differentiation takes into account equity and therefore increases support for the Convention. Because of increased support for the FCCC process, differentiation obtains more for environment than equal percentage reduction approaches. They favor an approach to differentiation that leads to per person equalization of welfare loss across Annex I countries, i.e., countries of similar income levels incurs the same losses in terms of per person economic welfare. The application of five core indicators which are applicable across all parties and gases and are measurable will achieve this.

The indicators proposed are tied to magnitude of task, unit cost of abatement, terms of trade impacts, and international investment effects: GDP growth, population growth, emissions intensity of GDP, emission intensity of exports and net trade in fossil fuels. Emissions intensity correlates to unit cost of abatement. Australia doesn't envision uniform formula for weighting.

Gambia
The varying national circumstances should be accounted for, particularly special attention should be paid to poorer economic circumstances of poorer countries. QELROs and P&M should not restrict developing country growth. Gambia called for legal instrument as soon as possible, since their country study indicated that their fishery will be destroyed by sea level rise.

Ireland on behalf of EU
The EU indicated that a protocol is most suitable way forward. They called for a dynamic protocol that can change with the science. It should provide for parties other than existing Annex I to take on commitments by creating an Annex X. Note: Although unstated, this new annex is met to apply to countries like Korea. The new agreement should provide for P&M of different types according to their original proposal for three annexes. JI important mechanism for ultimate objective, however, it may be used after evaluation of pilot phase and be used with any parties willing to be b ound by QELROs. The EU indicated that they will make proposals on other appropriate sections of a new agreement at a later time.

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Japan
The Japanese indicated that each Party included in Annex I shall select either an objective based upon the total emission or an objective based upon emissions per capita. Japan believes that other QELRO proposals should come forward.

On P&M, Japan blieves that each country should be free to choose the P&Ms most appropriate to their own national circumstances. However, countries would choose appropriate P&M in each of the following areas: efficient use of energy, introduction of carbon free or low-carbon energy, innovative technology development, international technological cooperation and technology transfer, and protection and enhancement of sinks and reserviors. They propose that the agreement include accepted indictors of progress of P&Ms.

New Zealand
NZ noted that a least-cost approach: equalize marginal cost of emissions abatement. Flexibility with uniform targets, not differentiation is requred. They favor cumulative targets, that allow changes in technology and capital stock turnover. Flexibility in time does not imply delayed action. It would be possible to have intermediate milestones to ascertain whether we are on track for target. It is also possible to define an emissions envelope which could get more stringent over time. Banking should be allowed. However they do not support borrowing against future commitments

Mandatory P&Ms are inconsistent with least cost objectives. There are few exceptions, although phase-out of fossil fuel subsizies and a treatment of bunker fuels may be an exception. The ultimate agreement must recognize developing country emissions and they invite developing countries to suggest appropriate transition to global regime

Norway
Norway favors differentiation that might include indicators with appropriate weighting and evolution over time. Possible indicators are emissions per GDP(efficiency criteria), emissions per capita, GDP per capita. They favor a collective target with formula to devise individual targets on baseline projections.

Russia
Russia opposes mandatory P&M. They look at JI as a possible mechanism.

Samoa (on behalf of AOSIS)
AOSIS reieterated their orginal proposal.

Saudi Arabia
Made an extensive presentation on the possible damage that could be done to oil exporting economies by inapproprite measures in Annex I.

Switserland

Switzerland wants ligally binding QELROs and P&Ms in the form of protocol. They support EU proposals. The highest per captita countries should take the lead in emissions reducitons. They believe that harmonized, mandatory should be adopted. They have submitted a list of eight including reform of subsidies.

United Kingdom

The UK presented their original protocol proposal favoring a ten percent reduction by 2010.

USA

The U.S. made the final presentation based on their non-paper.

CLIMATE NEGOTIATIONS GENEVA DECEMBER '96 NGO NEWSLETTER

# eco

11 DECEMBER
NO SURPRISES ISSUE

*Eco has been published by Non-Governmental Environmental Groups at major international conferences since the Stockholm Environment Conference in 1972. This issue is produced co-operatively by CAN groups attending the Climate Negotiations in Geneva, December 1996*

## Who says we can't change the World?

Invigorated by COP 2, the AGBM has got off to a fresh start. The US has promised solutions tomorrow, or possibly the next day, or possibly the day after... provided that we are all flexible about almost everything. With the aid of JI, emissions trading, borrowing, etc., we can confidently expect the climate problem to be solved sometime within the next few millennia, say by the year 3,000. Eco feels confident that with the active (and so far only) support of Canada these proposals are bound to be adopted (or adapted, as Saudi Arabia would prefer).

The new Franco-Japanese initiative on per capita based commitments has met with almost universal approval within the trade ministries of the two nations although, strangely, some states have been reluctant to accept the concept immediately.

Amongst other proposals which, co-incidentally, particularly suit those who propose them, are the Australian fairness criteria for differentiation.

In a recent innovative development to try and convince Japan, Australia has tinkered with its MEGABARE model to show Japan that rather than being the least affected, it will be nearly as badly affected as itself. We will surely all agree that high GDP, population and Toyota growth are essential prerequisites for having minimal commitments, especially if one is already a very well-off country.

Eco is seriously considering the draft fairness criterion based on kangaroos per square kilometers. Also under consideration is the minke whales per capita criterion proposed by Norway. The only problem is that both countries seem as determined to reduce these as fast as possible as they are to increase their emissions.

Alas, the EU machinery has temporarily stalled due to a Spaniard in the works, or possibly a Swede, or possibly something Gallic. Silence from the Atlantic Fringe has been interpreted as an impending parliamentary interregnum compounded if not caused by an outbreak of Mad Cow disease.

Amongst all of these innovative and imaginative ideas, it was clear that the AOSIS suggestion to consider their "old hat" proposal containing real figures for QUELROs was bound to fail. Who says that the AGBM is getting nowhere?

*Eco offers a cordial welcome to even more of our colleagues from the fossil fuel industry*

## Japan – 4 out of 10, must try harder

At the end of COP-2 Eco set some homework for the delegates. For Japan we suggested assertiveness and leadership training. Well, we have examined the homework Japan has handed in at AGBM5 and we are not impressed. A good leader is prepared to *upset* everybody to do what's right for the Convention and the environment. In contrast, Japan wants to negotiate the Kyoto Protocol by trying to *please* everybody by letting them choose the Ps and Qs that make life easiest. What true leadership means is setting an overall goal to substantially reduce $CO_2$ over the next 10 years so that all these expensive meetings will actually do something to protect the climate. No doubt some Parties will be upset, no doubt some Parties will complain, Saudi Arabia may even have to exile a prince or two, but deep down inside everyone will know the leader was right and respect their leadership.

Japan says that its proposal is "neither comprehensive or final", so at least there is something positive to be said about it. Isn't it sad that the nation (and ministry) most known for innovation and technology development is ready to raise the white flag to climate change. Japan could lead the negotiations *and* win the international technology race to reduce greenhouse gases. But on current form, it must try much harder between today and Kyoto.

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THE WHITE HOUSE

WASHINGTON

November 27, 1996

MEMORANDUM TO DISTRIBUTION

FROM: Katie McGinty
Dan Tarullo

SUBJECT: Draft U.S. Position Paper for Geneva Meeting

Attached is the draft paper prepared by the Assistant Secretary-level group on climate change for discussion at the NEC Deputies-level meeting to be held Tuesday, December 3. We would appreciate it if major comments or objections were raised with NEC or CEQ prior to the December 3 meeting so we can be sure to include the issue in the discussion.

Negotiating instructions and an agenda for the meeting will be forthcoming.

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# Climate Change: U.S. Position for December 1996

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## I. Introduction and Background

At the second meeting of the Conference of the Parties (COP-2) to the United Nations Framework Convention on Climate Change (FCCC), the United States called for next steps under the Climate Convention for the post-2000 period to include verifiable, realistic and achievable, legally binding medium term targets for developed countries with maximum flexibility that would be implemented through national programs and begin to reduce the threat of climate change consistent with economic prosperity. The U.S. position also underscored the need for all nations, including developing nations, to take actions to limit greenhouse gas emissions. Finally, we called for continued work on a longer-term global concentration goal (e.g. 50-100 years). We continue to believe that this is the approach that will produce a successful outcome at the third session of the Parties in Kyoto in December 1997.

To this end, we would like to call attention again to the conclusions of the IPCC Second Assessment Report, which found that "the balance of evidence suggests a discernible human influence on global climate." The potential for impacts of climate change on natural systems, the economy and the quality of life for future generations is truly significant; the scientific evidence suggests it could be detrimental for human health, ecosystems, food security and water resources in many regions of the world. The potential for such impacts makes climate change a "high-risk" problem. In our view, all Parties should act on the conclusion Ministers reached last July: that the science provides a compelling basis for urgent action to address climate change.

Notwithstanding the compelling evidence compiled so far, we must continue our efforts to further develop and refine our understanding of the science of climate change, even as we seek to ameliorate its impacts. Such understanding, coupled with advances in the development and application of new technology, will ultimately enable a more efficient and successful long-term approach to addressing this pressing problem.

We believe that next steps must be as cost-effective as possible. Our analyses completed to date suggest that more flexible approaches offer significant cost-saving opportunities, and these must be brought into the Convention's basic framework. Flexibility includes allowing Parties nationally to determine the most appropriate policies and measures to meet the agreed target, and allowing emissions trading and joint implementation between Parties to minimize the cost of reductions.

The United States arrived at this basic framework for a number of reasons. It is clear that the Convention's existing framework of a non-binding "aim" is not working, even though, at the national level, numerous voluntary partnerships with industry are working well. Most developed countries, including the United States, will not achieve the goal of returning emissions in 2000 to 1990 levels. A binding commitment will create a stronger incentive for nations to decide on a realistic target, to make the effort required to meet the target, to ensure a level playing field, and to foster development and deployment of advanced technologies.

Our focus must be on appropriate steps over the medium term, while we continue to develop a longer term goal. We reiterate that short term targets (i.e., before 2010) are unrealistic, and we cannot accept them. Short-term targets would be unnecessarily burdensome to national and global economic growth and development. They could mean that few if any countries would ratify the agreement.

Finally, the United States recognizes the need for global climate change to be addressed on a global basis. As a result, we believe it is imperative that the agreement we reach in Kyoto include an enhanced commitment by developing nations to take further steps to mitigate their emissions of greenhouse gases. While recognizing that developed countries must show leadership in addressing this problem, we believe it is very clear that all nations must be part of the solution.

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The United States believes that the target set in the next step should cover a multi-year period in order to accomplish several objectives. First, a multi-year target would smooth year-to-year variability in weather and economic cycles. U.S. analyses of the effects of such variability provide a striking example of the importance of this issue: unusually hot or cold years can change U.S. gross national emissions by as much as two percent -- or about 40 percent of the emissions reductions sought from the energy sector by the year 2000. Because swings in weather, energy prices or economic cycles cannot be predicted with confidence, a single year target would require each country to build in an extra margin of GHG reductions to ensure compliance, significantly and unnecessarily raising the cost.

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A number of Annex I Parties have suggested proposals for differentiation of commitments of the members of this group. While the United States acknowledges the clear distinctions that can be (and are) drawn between different Parties and groups of Parties, we do not believe that developing a complex, formulaic approach which differentiates at an individual Party level is a viable alternative at this stage in the negotiations. To date, we have seen no formula for a differentiated approach which equitably addresses all Parties' concerns.

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The United States continues to support the inclusion of all greenhouse gases, both sources and sinks, in a comprehensive, verifiable approach to addressing the climate change problem. Gases other than carbon dioxide account for about 30 percent of the radiative forcing from all emissions since the industrial revolution. Furthermore, different gases represent different strategic opportunities from the perspective of effects on the climate system. For example, reductions in methane emissions could yield a lower rate of warming over the next several decades than comparable reductions in carbon dioxide. To forego such a significant source of reduction potential would be both to reduce flexibility and to decrease the cost-effectiveness of the overall effort.

Assuming a comprehensive approach, several issues still require additional consideration, including the different level of certainty with regard to measurement of non-CO2 emissions in various sectors, problems with verification, and the relative importance or weighting to be assigned to different gases. There are also significant technical difficulties concerning accounting of sinks which need to be addressed. We will continue to insist that any agreed approach be fully quantifiable and verifiable, and include appropriate accounting procedures prior to inclusion into the legal instrument. The United States is currently working to address these concerns, and believes that a solution that is technically and politically satisfactory is achievable within the Kyoto timeframe.

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The United States believes commitments adopted in Kyoto must be structured so as to allow Parties flexibility to achieve their emissions target as cost-effectively as possible. It is critical that provisions for international greenhouse gas emissions trading and joint implementation be included in the Kyoto agreement in order to meet the new commitments at the lowest cost.

Definitions: Emissions Trading, Joint Implementation, Activities Implemented Jointly

In the U.S. view, some common definitions and distinctions will help clarify discussions in this area. We envision emissions trading as applying between Parties that have assumed a legally binding target for their greenhouse gas emissions. We envision joint implementation as a mechanism to allow credits for emission reductions between Parties with a target as well as between a Party with a target and a Party without a target. Activities implemented jointly (AIJ) is a pilot program to evaluate the viability of project-based reductions in the absence of targets and without credit. While AIJ will provide valuable insights for JI, we see no role for it in FCCC commitments beyond the year 2000.

Emissions Trading Among Parties With Targets

The United States believes that the Kyoto agreement should include provisions for emissions trading among Parties which have assumed a binding quantified emissions target. This includes Parties that assume such a target in the Kyoto agreement, and additional Parties that do so subsequently. Through emissions trading, such Parties would have the opportunity to meet their emissions target at the lowest cost. This is a matter of ensuring environmental gains in the most cost-effective way.

Trading makes sense when costs of controlling greenhouse gas emissions differ among Parties. In this case, it is more cost-effective for the high-cost Party to buy a portion of the emissions budget of the low-cost Party than to undertake those reductions domestically. This rationalization of emissions reductions would be strictly voluntary, and would occur only if both Parties agreed. Under such an approach, the environment is protected, the high-cost Party saves money, the low-cost Party is compensated, and the combined cost of meeting the targets is reduced.

The United States has had success domestically using emissions trading substantially to reduce the costs of complying with clean air standards for acid rain. Experience with international emissions trading has also been gained under the Montreal Protocol on Substances that Deplete the Ozone Layer through its industrial rationalization provisions.

Based on such successes, the United States believes that an effective and enforceable regime for emissions trading among Parties with a binding target should be developed and should be included in the Kyoto agreement. A number of issues need to be addressed regarding how such an international regime might be structured.

Emissions trading, as noted, would take place only between Parties that have assumed a legally binding emissions target. The target will give each such Party an allowable amount of greenhouse gases it can emit during a time period -- in other words, an "emissions budget" for the relevant period, expressed in metric tons of carbon equivalent. In its most basic form, the emissions trading regime would allow one Party to transfer (sell or trade) some of its allowable emissions to another Party. The first Party would then be responsible for meeting its emissions target, minus the amount transferred. The second Party would be responsible for meeting its emissions target, plus the amount transferred.

We anticipate that many Parties will desire to develop emissions trading further, in order to allow private firms or other entities within their borders to engage in emissions trades with counterparts in other nations. In addition to government-to-government trades and firm-to-firm trades, we can also envision mixed transactions, in which firms from one Party buy directly from the government of another Party.

Certain fundamental institutional features are necessary for Parties that engage in international emissions trading to ensure that trading is verifiable, efficient, and environmentally beneficial. These include compatible mechanisms for accurately measuring, tracking, and reporting domestic emissions. Parties also must have the means to track amounts of emissions transferred to or from other Parties, to reduce or augment their national emissions target accordingly, and to ensure the integrity of trades undertaken by their nationals. The United States believes that guidance for these areas should be developed by and agreed to at COP-3 in Kyoto.

Joint Implementation

The FCCC Parties have been engaged in discussions of joint implementation for several years. During this time, support has grown regarding the value of joint implementation involving a Party that is subject to an emission target and another Party that is not (whereby a Party with a target gains credit for taking actions that reduce emissions in a Party without a target). Such an approach has the potential to reduce the first Party's cost of meeting its target, while increasing investment in and diffusion of technology to the second Party.

The United States believes that the Kyoto agreement should include the establishment of a joint implementation regime providing for emissions credits. Such a regime will encourage the rapid development and implementation of cooperative, mutually voluntary projects between partners; encourage private sector investment and innovation in development and dissemination of technologies; and provide an incentive through financial and technical assistance to further the development of non-Annex I country programs to limit increases in greenhouse gas emissions.

In order to realize the potential of joint implementation, the process of developing criteria, currently underway in the

Subsidiary Body for Scientific and Technological Advice (SBSTA), must continue. Such criteria will be essential to ensure that joint implementation becomes a credible and significant contributor in solving the climate change problem. The U.S. Initiative on Joint Implementation (USIJI) has been one of the most successful and aggressive programs in the development and application of criteria. We intend to remain active in the further development of criteria (working both in the domestic context of the USIJI and internationally). We reiterate our view that criteria development can be completed prior to the year 2000, in time to include JI credits in national GHG reduction compliance programs.

We continue to stress the importance of three criteria in particular: (1) acceptance by the governments of the participating countries; and (2) the importance of the reporting of data and methodological information with regard to the project, and (3) the need to insure "additionality" (i.e., a reduction in net greenhouse gas emissions as a result of the project).

## V. Continuing to Advance the Implementation of Commitments for All Parties (Article 4.1 Commitments)

Recognition is widespread that the threat of climate change is a global problem that can only be overcome through global action. While industrialized countries now account for the majority of the world's past and current greenhouse gas emissions, greenhouse gas emissions are growing most rapidly in the developing countries; emissions there are projected to exceed those of the developed countries by about 2020. The Climate Convention, and the Parties (based on their decisions to date) recognize both realities.

The Berlin Mandate began a process to enable the Parties to take appropriate action for the period beyond 2000. It provides for developed countries to elaborate on policies and measures, and to set quantified emission limitation and reduction objectives for greenhouse gas emissions. For developing country Parties, the Berlin Mandate process will not introduce any new commitments but calls upon Parties to reaffirm existing commitments in Article 4.1 and continue to advance the implementation of those commitments. The Geneva Declaration from the Second Conference of the Parties last July provides that the outcome of the current negotiating effort should fully encompass the remit of the Berlin Mandate.

Two key points emerge from these documents: (1) next steps under the Convention must include all Parties, and (2) actions ultimately taken by developed and developing country Parties should be appropriately balanced, recognizing the common but differentiated responsibilities and respective capabilities noted in the Convention and upheld both in the Berlin Mandate and the Geneva Declaration.

To date, all Parties have been making progress toward implementing their commitments under the Convention, including those related to the submission of first national communications under Article 12. Through the U.S. Country Studies Program, we are aware that many developing countries are already far along in preparing national inventories of greenhouse gas emissions and in developing national action plans. A number of developing countries have also initiated projects under the Pilot Phase for Activities Implemented Jointly.

Beyond these current efforts to implement existing Convention commitments, a wide range of possibilities exist through which we can "continue to advance the implementation of existing commitments" as contemplated by the Berlin Mandate. Much work remains to be done to gauge the level of effort developed country Parties will undertake pursuant to the Berlin Mandate. Still, it is not too early to advance our thinking about the range of possibilities for continuing to advance the implementation of existing commitments, recognizing the need for all Parties to take action.

National Communications/Policies and Measures

While the Parties have adopted guidelines for the preparation of initial communications from developing countries, they have yet to consider options for reviewing those communications. Such a review process could include systematic efforts to assist developing country Parties in identifying and implementing no-regrets and cost-effective options for mitigating greenhouse gas emissions.

The review could seek to identify key sectors and technological options within them. It could also consider the possibilities for promoting voluntary agreements with industry aimed at identifying and encouraging the implementation of "no regrets" measures. Partnership agreements have proven highly effective in the United States at enlisting private sector support for mitigating greenhouse gas emissions, and in helping to capture efficient emissions reductions opportunities that are otherwise obstructed by market barriers.

In addition, we could explore various means through which Parties could obtain both the know-how and the technology needed to implement the options identified.

Next Steps

Beyond these kinds of efforts, we could consider agreeing in the context of the Berlin Mandate negotiations on a specified date in the future by which all Parties would be expected to have quantitative commitments with respect to their greenhouse gas emissions. Two variables might also be considered. First, the date need not be the same for all Parties -- we could envision a schedule for phasing in quantitative commitments. Second, the nature of the quantitative commitments need not be the same for all Parties -- we could also envision establishing different levels of commitment based on various factors, including levels of development.

While it would not be necessary to reach specific agreement now on all issues, it would be important to consider carefully the mandate for such discussions, including when they could begin, when they would conclude and what results should be anticipated.

Another option for consideration would be the development of guidelines for revising the Convention Annexes (that establish which Parties assume which commitments under the Convention), and for considering how better to reflect the common but differentiated responsibilities and capabilities of Parties. In our view, as countries develop to -- and beyond -- a certain point, they must graduate to assume responsibilities commensurate with their development. The present groupings do not reflect dynamic changes in the world that have occurred since 1992 and that will only accelerate in the future.

As noted, the range of possibilities is very wide. It represents a kind of continuum beginning with modest efforts, but potentially extending to those which would bring us significantly closer to a truly global response and to the Convention's ultimate objective. It is as yet too soon to determine precisely where along this continuum we should strive to reach as part of the Berlin Mandate process. Inevitably, this will depend in large measure on the level of action that developed countries are prepared to undertake, and it is not yet clear what that level will be. Still, in our view, it is not too early to think boldly about the possibilities and about how best to position ourselves for the future, recognizing that the steps we take in Kyoto will represent only a second milestone along a much longer path toward the Convention's ultimate objective.

## VI. Compliance

The U.S. has called for a legally binding target both to promote a realistic negotiation and to promote compliance with the result. The question is what other elements should be included in the compliance regime, recognizing that, on the one hand, effective compliance is important for both environmental and economic competitiveness reasons and, on the other hand, that too stringent a compliance regime could result in vague commitments and/or scare off countries from joining the agreement.

There are several categories of elements that could promote compliance; they are discussed below.

### Structure of commitments

In terms of the target, as a matter of drafting, it needs to be articulated as clearly and quantitatively as possible; as a matter of substance, it should be as objectively measurable as possible. In terms of commitments to advance implementation of Article 4.1, these should, ideally, also be as specific as possible. The desire of developing countries for flexibility could be met by providing flexibility in the choice of implementation options rather than by vague, heavily qualified commitments (such as those in the current Convention).

### Ascertaining compliance

Ascertaining compliance will involve a combination of: requirements on parties to monitor and report on their emissions; and an international mechanism to verify such monitoring/reporting. The Convention's current obligations regarding national inventories, national communications, and an international in-depth review process are an excellent basis. The new agreement may require strengthened national and/or international mechanisms. (For example, parties bound by the target could be required to have in place a domestic emissions monitoring system, at a minimum for CO2, at a minimum for specified sources.) There will also be a need to promote uniformity of measurement.

### Supporting implementation

Particularly in terms of developing country performance, the availability of sources of technical assistance (such as systematic support for efforts to develop national action plans) and expanded programs aimed at developing, diffusing and deploying climate-friendly technologies could be effective in promoting compliance.

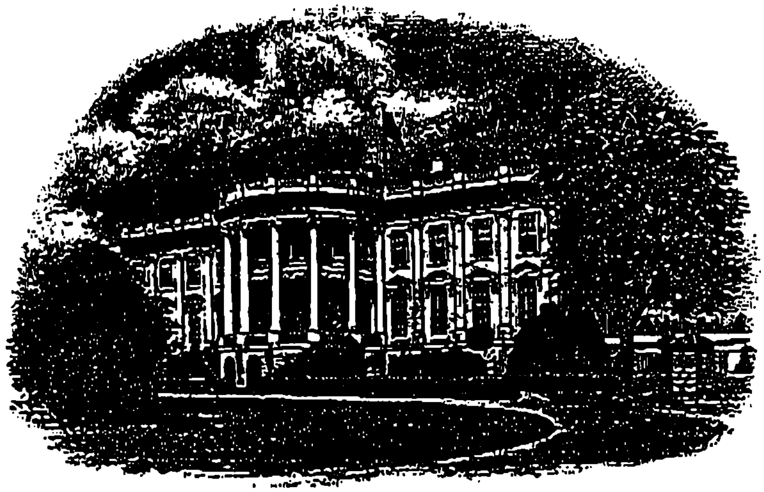
Dispute settlement

The current Convention allows any party to challenge another party's compliance with its obligations before a neutral third party, with a recommendatory result. (Parties can opt for a binding result, but it is not required.) Whether this system would suffice for the new agreement, or whether it would need to be enhanced needs to be considered, taking into account, among other things, the extent to which the target is clear and objectively measurable (which is not currently known). Ways to enhance the system include, for example, requiring the issuance of binding judgments or specifying particular consequences flowing from a binding judgment of non-compliance, such as monetary penalties or sanctions.

Additionally or alternatively, the dispute settlement system could be supplemented by a multilateral consultative process, akin to that being developed under the current Convention. Unlike dispute settlement, such a process is considered non-adversarial in that implementation issues can be raised without asserting an actual treaty violation; the parties, rather than third parties, consider issues; and it is multilateral rather than State-against-State.

Non-parties

Development of a compliance regime regarding a global issue also requires consideration of how to deal with non-parties (the so-called "free rider" problem), so that the environmental objective of the agreement is not undermined. Ways to seek to minimize the non-party problem include: the provision of positive incentives for countries to join the regime (for example, assistance, differentiated obligations, side payments, other participatory privileges); through an entry into force clause that requires ratification by countries that account for a particular percentage of global emissions of greenhouse gases; and/or the use of measures against non-parties.



# FAX Transmission

## National Economic Council
## The White House

**To:** Distribution

**Phone:** ________________ **FAX:** ________________

**From:** Daniel Tarullo
Deputy Assistant to the President
for Economic Policy

Phone: 456-5353
Fax: 456-1605

**Date:** 11/27 **Time:** 3 pm

**Pages to follow:** 13

**Comments:** ________________

MEMORANDUM

COUNCIL OF ECONOMIC ADVISERS

Nov 22, 1996

TO: ALICIA MUNNELL

FROM: RAY PRINCE

SUBJECT: Comments on the Draft Statement of U.S. Position for the December Meeting (Demarche)

GENERAL COMMENT

The statement should focus on two goals: (1) the successful completion of a protocol or amendment to the Framework Convention on Climate Change treaty of 1992; and (2) ratification of the protocol or amendment. The current draft appears to have given due consideration to the first goal but could be improved with regard to the second goal: ratification.

SPECIFIC COMMENTS

There is an opportunity to improve the likelihood of ratification by modifying the statement on three issues: **time-line, redline, allocation.** The time-line issue concerns the future commitment of non-annex I countries. The redline issue is whether deputies want to give more specific instructions to the negotiators about the kinds of targets that are unacceptable. The allocation issues concerns the formula for distributing permits under an international emissions trading program.

**Time-line**

p. 2, second paragraph: The statement about developing countries taking further steps could be seen as unduly weak and, therefore, could reduce the chances of ratification. The deputies might want to consider requiring some timetable for full participation by all nations be included in the protocol/amendment. Developing nations will not be happy about the stronger wording but it is also true that we cannot meet our concentration goals with worldwide participation.

**Redline**

p. 2, fifth paragraph: The Draft states that "we continue to reject the proposals tabled to date by others, which we do not believe will yield a satisfactory outcome to the negotiations." The intent of this statement should be clarified. Does it mean that we are really against everything proposed so far. If not, where is the redline between acceptable and unacceptable? The U.S. rejected the Alliance of Small Independent States (AOSIS) proposal in July. A similar, definitive statement for the December meetings could improve the chances of eventual ratification.

**Allocation**

p. 8: Some statement describing the nature of the allocation formula in an international trading program could help avoid the impression that we intend to give away the store and avoid raising expectations beyond what the U.S. could reasonably be expected to agree to. An acceptable statement might say that emissions per $ of GDP will be a factor in the allocation formula.

**Other - banking and borrowing**

p. 4, last paragraph: Banking and borrowing allows nations limited ability to adjust annual targets. This is the only place where the Draft specifically addresses the issue of how to introduce "when" flexibility into the protocol/amendment. While banking and borrowing could prove too complex to implement, the potential importance of when flexibility in reducing the costs of climate change policy argues that we not prejudice this option with statements such as those contained in the last sentence on p. 4. In addition, it is not good bargaining strategy to signal a willingness to concede a point. It will not be perceived as having given up something of value.

c: J. Stiglitz, J. Frankel, M. Mazur, M. Jolin.

Cc: JHF
RP
JF

TO: *See attached list

FROM: OES - Eileen B. Claussen

SUBJECT: Revised Climate Change Paper

Thank you for the valuable comments on the climate change paper, both at our meeting last Friday and subsequently. We have substantially revised the paper, shortening it and incorporating comments received. Please review it quickly and let us know by noon today, November 26, whether there are any serious problems. We will plan to transmit it to the White House for formal distribution this afternoon.

Attachment:
As stated.

# Climate Change: U.S. Position for December 1996
(draft 11/26/96 9:00 a.m.)

**Contents**



## I. Introduction and Background

At the second meeting of the Conference of the Parties (COP-2) to the United Nations Framework Convention on Climate Change (FCCC), the United States called for next steps under the Climate Convention for the post-2000 period to include verifiable, realistic and achievable, legally binding medium term targets for developed countries with maximum flexibility that would be implemented through national programs and begin to reduce the threat of climate change consistent with economic prosperity. The U.S. position also underscored the need for all nations, including developing nations, to take actions to limit greenhouse gas emissions. Finally, we called for continued work on a longer-term global concentration goal (e.g. 50-100 years). We continue to believe that this is the approach that will produce a successful outcome at the third session of the Parties in Kyoto in December 1997.

To this end, we would like to call attention again to the conclusions of the IPCC Second Assessment Report, which found that "the balance of evidence suggests a discernible human influence on global climate." The potential for impacts of climate change on natural systems, the economy and the quality of life for future generations is truly significant. The scientific evidence suggests climate change, if unabated, could be detrimental for human health, food security and water resources in many regions of the world. The potential for such impacts makes climate change a "high-risk" problem. In our view, all Parties should act on the conclusion Ministers reached last July: that the science provides a compelling basis for urgent action to address climate change.

Notwithstanding the compelling evidence compiled so far, we must continue our efforts to further develop and refine our understanding of the science of climate change, even as we seek to ameliorate its impacts. Such understanding, coupled with advances in the development and application of new technology, will ultimately enable a more targeted and successful long-term approach to solving this pressing problem.

We believe that next steps must be as cost-effective as possible. Our analyses completed to date suggest that more flexible approaches offer significant cost-saving opportunities, and these must be brought into the Convention's basic framework. Flexibility includes allowing Parties nationally to determine the most appropriate policies and measures to meet the agreed target, and allowing emissions trading and joint implementation between Parties to minimize the cost of reductions.

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The United States believes commitments adopted in Kyoto must be structured so as to allow Parties flexibility to achieve their emissions target as cost-effectively as possible. It is critical that provisions for international greenhouse gas emissions trading and joint implementation be included in the Kyoto agreement in order to meet the new commitments at the lowest cost.

Definitions: Emissions Trading, Joint Implementation, Activities Implemented Jointly

In the U.S. view, some common definitions and distinctions will help clarify discussions in this area. We envision emissions trading as applying between Parties that have assumed a legally binding target for their greenhouse gas emissions. We envision joint implementation as a mechanism to allow credits for emission reductions between Parties with a target as well as between a Party with a target and a Party without a target. Activities implemented jointly (AIJ) is a pilot program to evaluate the viability of project-based reductions in the absence of targets and without credit. While AIJ will provide valuable insights for JI, we see no role for it in FCCC commitments beyond the year 2000.

Emissions Trading Among Parties With Targets

The United States believes that the Kyoto agreement should include provisions for emissions trading among Parties which have assumed a binding quantified emissions target. This includes Parties that assume such a target in the Kyoto agreement, and additional Parties that do so subsequently. Through emissions trading, such Parties would have the opportunity to meet their emissions target at the lowest cost. This is a matter of ensuring environmental gains in the most cost-effective way.

Trading makes sense when costs of controlling greenhouse gas emissions differ among Parties. In this case, it is more cost-effective for the high-cost Party to buy a portion of the emissions budget of the low-cost Party than to undertake those reductions domestically. This rationalization of emissions reductions would be strictly voluntary, and would occur only if both Parties agreed. Under such an approach, the environment is protected, the high-cost Party saves money, the low-cost Party is compensated, and the combined cost of meeting the targets is reduced.

The United States has had success domestically using emissions trading substantially to reduce the costs of complying with clean air standards for acid rain. Experience with international emissions trading has also been gained under the Montreal Protocol on Substances that Deplete the Ozone Layer through the industrial rationalization provision of the London Amendments.

Based on such successes, the United States believes that an effective and enforceable regime for emissions trading among Parties with a binding target should be developed and must be included in the Kyoto agreement. A number of issues need to be addressed regarding how such an international regime might be structured.

Emissions trading, as noted, would take place only between Parties that have assumed a legally binding emissions target. The target will give each such Party an allowable amount of greenhouse gases it can emit during a time period -- in other words, an "emissions budget" for the relevant period, expressed in metric tons of carbon equivalent. In its most basic form, the emissions trading regime would allow one Party to transfer (sell or trade) some of its allowable emissions to another Party. The first Party would then be responsible for meeting its emissions target, minus the amount transferred. The second Party would be responsible for meeting its emissions target, plus the amount transferred.

We anticipate that many Parties will desire to develop emissions trading further, in order to allow private firms or other entities within their borders to engage in emissions trades with counterparts in other nations. In addition to government-to-government trades and firm-to-firm trades, we can also envision mixed transactions, in which firms from one Party buy directly from the government of another Party.

Under such a system, it would be necessary for the firms involved in international emissions trades to report the amounts bought or sold to their respective governments. One Party would then have the responsibility to meet its target as augmented by purchases by its firms. The other Party would have the responsibility to meet its target as reduced by the emissions sold by its firms.

Certain fundamental institutional features are necessary for Parties that engage in international emissions trading to ensure that trading is verifiable, efficient, and environmentally beneficial. These include compatible mechanisms for accurately measuring, tracking, and reporting domestic emissions. Parties also must have the means to track amounts of emissions transferred to or from other Parties, to reduce or augment their national emissions target accordingly, and to ensure the integrity of trades undertaken by their nationals. The United States believes that guidance for these areas must be developed by and agreed to at COP-3 in Kyoto.

Joint Implementation

The FCCC Parties have been engaged in discussions of joint implementation for several years. During this time, support has grown regarding the value of joint implementation involving a Party that is subject to an emission target and another Party that is not (whereby a Party with a target gains credit for taking actions that reduce emissions in a Party without a target). Such an approach has the potential to reduce the first Party's cost of meeting its target, while increasing investment in and diffusion of technology to the second Party.

The United States believes that the Kyoto agreement must include the establishment of a joint implementation regime providing for emissions credits. Such a regime will encourage the rapid development and implementation of cooperative, mutually voluntary projects between partners; encourage private sector investment and innovation in development and dissemination of technologies; and provide an incentive through financial and technical assistance to further the development of non-Annex I country programs to limit increases in greenhouse gas emissions.

In order to realize the potential of joint implementation, the process of developing criteria, currently underway in the Subsidiary Body for Scientific and Technological Advice (SBSTA), must continue. Such criteria will be essential to ensure that joint implementation becomes a credible and significant contributor in solving the climate change problem. The U.S. Initiative on Joint Implementation (USIJI) has been one of the most successful and aggressive programs in the development and application of criteria. We intend to remain active in the further development of criteria (working both in the domestic context of the USIJI and internationally). We reiterate our view that criteria development can be completed prior to the year 2000, in time to include JI credits in national GHG reduction compliance programs.

We continue to stress the importance of three criteria in particular: (1) acceptance by the governments of the participating countries; and (2) the importance of the reporting of data and methodological information with regard to the project, and (3) the need to insure "additionality" (i.e., a reduction in net greenhouse gas emissions as a result of the project).

## V. Continuing to Advance the Implementation of Commitments for All Parties (Article 4.1 Commitments)

Recognition is widespread that the threat of climate change is a global problem that can only be overcome through global action. While industrialized countries now account for the majority of the world's past and current greenhouse gas emissions, greenhouse gas emissions are growing most rapidly in the developing countries; emissions there are projected to exceed those of the developed countries by about 2020. The Climate Convention, and the Parties (based on their decisions to date) recognize both realities.

The Berlin Mandate began a process to enable the Parties to take appropriate action for the period beyond 2000. It provides for developed countries to elaborate on policies and measures, and to set quantified emission limitation and reduction objectives for greenhouse gas emissions. For developing country Parties, the Berlin Mandate process will not introduce any new commitments but calls upon Parties to reaffirm existing commitments in Article 4.1 and continue to advance the implementation of those commitments. The Geneva Declaration from the Second Conference of the Parties last July provides that the outcome of the current negotiating effort should fully encompass the remit of the Berlin Mandate.

Two key points emerge from these documents: (1) next steps under the Convention must include all Parties, and (2) actions ultimately taken by developed and developing country Parties should be appropriately balanced, recognizing the common but differentiated responsibilities and respective capabilities noted in the Convention and upheld both in the Berlin Mandate and the Geneva Declaration.

To date, all Parties have been making progress toward implementing their commitments under the Convention, including those related to the submission of first national communications under Article 12. Through the U.S. Country Studies Program, we are aware that many developing countries are already far along in preparing national inventories of greenhouse gas emissions and in developing national action plans. A number of developing countries have also initiated projects under the Pilot Phase for Activities Implemented Jointly.

Beyond these current efforts to implement existing Convention commitments, a wide range of possibilities exist through which we can "continue to advance the implementation of existing commitments" as contemplated by the Berlin Mandate. Much work remains to be done to gauge the level of effort developed country Parties will undertake pursuant to the Berlin Mandate. Still, it is not too early to advance our thinking about the range of possibilities for continuing to advance the implementation of existing commitments, recognizing the need for all Parties to take action.

National Communications/Policies and Measures

While the Parties have adopted guidelines for the preparation of initial communications from developing countries, they have yet to consider options for reviewing those communications. Such a review process could include systematic efforts to assist developing country Parties in identifying and implementing no-regrets and cost-effective options for mitigating greenhouse gas emissions.

The review could seek to identify key sectors and technological options within them. It could also consider the possibilities for promoting voluntary agreements with industry aimed at identifying and encouraging the implementation of "no regrets" measures. Partnership agreements have proven highly effective in the United States at enlisting private sector support for mitigating greenhouse gas emissions, and in helping to capture efficient emissions reductions opportunities that are otherwise obstructed by market barriers.

In addition, we could explore various means through which Parties could obtain both the know-how and the technology needed to implement the options identified.

Next Steps

Beyond these kinds of efforts, we could consider agreeing in the context of the Berlin Mandate negotiations on a specified date in the future by which all Parties would be expected to have quantitative commitments with respect to their greenhouse gas emissions. Two variables might also be considered. First, the date need not be the same for all Parties -- we could envision a schedule for phasing in quantitative commitments. Second, the nature of the quantitative commitments need not be the same for all Parties -- we could also envision establishing different levels of commitment based on various factors, including levels of development.

While it would not be necessary to reach specific agreement now on all issues, it would be important to consider carefully the mandate for such discussions, including when they could begin, when they would conclude and what results should be anticipated.

Another option for consideration would be the development of guidelines for revising the Convention Annexes (that establish which Parties assume which commitments under the Convention), and for considering how better to reflect the common but differentiated responsibilities and capabilities of Parties. In our view, as countries develop to -- and beyond -- a certain point, they must graduate to assume responsibilities commensurate with their development. The present groupings do not reflect dynamic changes in the world that have occurred since 1992 and that will only accelerate in the future.

As noted, the range of possibilities is very wide. It represents a kind of continuum beginning with modest efforts, but potentially extending to those which would bring us significantly closer to a truly global response and to the Convention's ultimate objective. It is as yet too soon to determine precisely where along this continuum we should strive to reach as part of the Berlin Mandate process. Inevitably, this will depend in large measure on the level of action that developed countries are prepared to undertake, and it is not yet clear what that level will be. Still, in our view, it is not too early to think boldly about the possibilities and about how best to position ourselves for the future, recognizing that the steps we take in Kyoto will represent only a second milestone along a much longer path toward the Convention's ultimate objective.

## VI. Compliance

The U.S. has called for a legally binding target both to promote a realistic negotiation and to promote compliance with the result. The question is what other elements should be included in the compliance regime, recognizing that, on the one hand, effective compliance is important for both environmental and economic competitiveness reasons and, on the other hand, that too stringent a compliance regime could result in vague commitments and/or scare off countries from joining the agreement.

There are several categories of elements that could promote compliance; they are discussed below.

Structure of commitments

In terms of the target, as a matter of drafting, it needs to be articulated as clearly and quantitatively as possible; as a matter of substance, it should be as objectively measurable as possible. In terms of commitments to advance implementation of Article 4.1, these should, ideally, also be as specific as possible. The desire of developing countries for flexibility could be met by providing flexibility in the choice of implementation options rather than by vague, heavily qualified commitments (such as those in the current Convention).

Ascertaining compliance

Ascertaining compliance will involve a combination of: requirements on parties to monitor and report on their emissions; and an international mechanism to verify such monitoring/reporting. The Convention's current obligations regarding national inventories, national communications, and an international in-depth review process are an excellent basis. The new agreement may require strengthened national and/or international mechanisms. (For example, parties bound by the target could be required to have in place a domestic emissions monitoring system, at a minimum for $CO_2$, at a minimum for specified sources.) There will also be a need to promote uniformity of measurement.

Supporting implementation

Particularly in terms of developing country performance, the availability of sources of technical assistance (such as systematic support for efforts to develop national action plans) and expanded programs aimed at developing, diffusing and deploying climate-friendly technologies could be effective in promoting compliance.

Dispute settlement

The current Convention allows any party to challenge another party's compliance with its obligations before a neutral third party, with a recommendatory result. (Parties can opt for a binding result, but it is not required.) Whether this system would suffice for the new agreement, or whether it would need to be enhanced needs to be considered, taking into account, among other things, the extent to which the target is clear and objectively measurable (which is not currently known). Ways to enhance the system include, for example, requiring the issuance of binding judgments or specifying particular consequences flowing from a binding judgment of non-compliance, such as monetary penalties or trade sanctions.

Additionally or alternatively, the dispute settlement system could be supplemented by a multilateral consultative process, akin to that being developed under the current Convention. Unlike dispute settlement, such a process is considered non-adversarial in that implementation issues can be raised without asserting an actual treaty violation; the parties, rather than third parties, consider issues; and it is multilateral rather than State-against-State.

Non-parties

Development of a compliance regime regarding a global issue also requires consideration of how to deal with non-parties (the so-called "free rider" problem), so that the environmental objective of the agreement is not undermined. Ways to seek to minimize the non-party problem include: the provision of positive incentives for countries to join the regime (for example, assistance, differentiated obligations, allowing opt-outs from certain obligations, side payments, other participatory privileges); through an entry into force clause that requires ratification by countries that account for a particular percentage of global emissions of greenhouse gases; and/or the use of trade measures against non-parties.

drafted: OES/EGC - JCPershing/DAReifsnyder
L/OES - SBiniaz
SEEGC 9859
11/25/96

revised with written and oral comments from:

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EB - ALarson/BCates
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DOC - JHunker
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CLIMATE CHANGE MEETING ASSISTANT SECRETARY EILEEN CLAUSSEN

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cc: JH

THE WHITE HOUSE

Office of the Press Secretary
(Port Douglas, Australia)

For Immediate Release November 22, 1996

REMARKS BY THE PRESIDENT
AT INTERNATIONAL CORAL REEF INITIATIVE EVENT

Port Douglas Park
Port Douglas, Australia

1:45 P.M. (L)

THE PRESIDENT: Thank you very much. Premier and Mrs. Borbidge, Mayor Berwick, Minister Hill and Mrs. Hill, members of the Great Barrier Reef Marine Park Authority, and to Minister Moore and Mrs. Moore. Especially to Alicia Stevens for reminding us what this is all about today. (Applause.)

Hillary and I and our party have had a wonderful visit to Australia. We understand now why it is called the Lucky Country. But we believe that there is more than luck involved here. Today we celebrate the commitment of a people of this country, of the United States and people all over the world to the proposition that we must preserve the natural resources that God has given us. We are here near the biggest, best managed protected marine and coastal area in the world, for a clear reason: Australia has made a national commitment to be good stewards of the land with which God blessed you.

I am especially pleased today, as has already been said, that the government of Australia is honoring the United States by naming a section of the Great Barrier Reef after Rachel Carson. Rachel Carson was the great American environmentalist; she was a marine biologist. Vice President Gore wrote about Rachel Carson: She brought us back to a fundamental idea lost to an amazing degree in modern civilization -- the interconnection of human beings and the natural environment. That interconnection clearly imposes upon all of us a shared responsibility. To preserve a future for our children and grandchildren, we must care for our shared environment. It is a practical and a moral imperative.

We are citizens not only of individuals nations, but of this small and fragile planet. We know that pollution has contempt for borders -- that what comes out of a smokestack in one nation can wind up on the shores of another an ocean away. We know, too, that recovery and preservation also benefits people beyond the borders of the nation in which it occurs. We know

MORE

that protecting the environment can affect not only our health and our quality of life, it can even affect the peace. In too many places, including those about which we read too often now on the troubled continent of Africa, abuses like deforestation breed scarcity, and scarcity aggravates the turmoil which exists all over the world. (Applause.)

I am very proud of the work our two nations have done to preserve our natural heritage. Just as we have been allies for peace and freedom, we must be allies in the 21st century to protect the Earth's environment. Our work together on the International Coral Reef Initiative is a shining example of what we can achieve. Founded in 1994 by Australia, the United States and six other governments, this initiative helps nations and regions to conserve, manage, and monitor coral reefs.

Pollution, overfishing, and overuse have put many of our unique reefs at risk. Their disappearance would destroy the habitat of countless species. It would unravel the web of marine life that holds the potential for new chemicals, new medicines, unlocking new mysteries. It would have a devastating effect on the coastal communities from Cairns to Key West, Florida -- communities whose livelihood depends upon the reefs.

Steadily we are making progress. In this part of the world the ICRI has played a crucial role in slowing the use of cyanide to harvest coral reef fish. Around the world, more than 75 nations and scores of organizations have participated in ICRI programs. Today, with your knowledge and leadership, we are seeing to it that the world's reefs make it into the next century safe and secure. And I thank you for that. (Applause.)

Let me say that our effort to save the world's reefs is a model for the work that we can do together in other environment areas, and there is a lot of work to do. Deforestation is claiming an area of South Korea every year. Let us, together with the United Nations, develop a strategy for the sustainable management of all our forests. (Applause.)

Toxic chemicals and pesticides banned here and in the United States can still find their way into our lives, endangering our land, our water and our children. Rachel Carson, whom we honor here today, helped alert us in the United States to these dangers. Let us now forge a global agreement to stop these toxic substances from being released into the world around us. (Applause.)

Today, thanks to the Montreal Protocol, we are slowing the production and the consumption of chlorofluorocarbons, the chemicals that have been eating a hole in the Earth's ozone layer. We're on our way to closing the ozone hole that threatens Antarctica and Australia. Now we must see to it that this landmark treaty is enforced from one corner

MORE

of the Earth to the other. We need no more new holes in the ozone. (Applause.)

Finally, we must work to reduce harmful greenhouse gas emissions. These gases released by cars and power plants and burning forests affect our health and our climate. They are literally warming out planet. If they continue unabated, the consequences will be nothing short of devastating for the children here in this audience and their children.

Not literally true

New weather patterns, lost species, the spread of infectious diseases, damaged economies, rising sea levels -- if present trends continue, there is a real risk that sometime in the next century, parts of this very parks we are here in today could disappear, submerged by a rising ocean. That is why today, from this remarkable place, I call upon the community of nations to agree to legally binding commitments to fight climate change. (Applause.)

We must stand together against the threat of global warming. A greenhouse may be a good place to raise plants; it is no place to nurture our children. And we can avoid dangerous global warming if we begin today and if we begin together.

If we meet all there challenges, we can make 1997 a milestone year in protecting the global environment. We can do it in a way that encourages sustainable development. One thing we've learned in recent years is that protecting the environment and promoting human progress are not incompatible goals, they go hand in hand. I am very pleased that the United Nations General Assembly will have a special session in New York next year to review our progress in advancing sustainable development since the Earth Summit in Rio.

An Australian folk tale has it that in the beginning the sky was so close to the Earth that it blocked out all the light. Everyone was forced to crawl in the darkness, collecting with their hands whatever they could find to eat. But the birds of that land decided that if they worked together they could raise the sky and make more room to move about. Slowly, with long sticks, they lifted the sky. The darkness passed and everyone stood upright.

If we work together as those birds did, we can preserve our environment for our children, for their children, for generations beyond. Let us lift our sights and ourselves to that great challenge.

Thank you very much. (Applause.)

END

1:52 P.M. (L)

MEMORANDUM

COUNCIL OF ECONOMIC ADVISERS

November 21, 1996

TO: ALICIA MUNNELL

FROM: MARK MAZUR Mark

SUBJECT: DRAFT STATEMENT OF U.S. CLIMATE CHANGE POSITION

Here are some comments on the draft statement. You may want to combine these with the information from Ray Prince to develop a comprehensive position for the Assistant Secretary-level meeting at the State Department on Friday morning.

**Big Issues:**

- Emissions Trading: The draft says unequivocally that the U.S. strongly supports international trading of emissions permits and joint implementation (page 1, bottom and page 6, middle). The rationale is that this combination will minimize the costs of meeting any agreed-upon target.

  *Concerns:* We have seen no demonstration that an international emissions trading scheme is the most efficient (and cost-minimizing) mechanism (though intuition suggests this may be the case). Moreover, the assertion that such a system is desirable ignores the difficult issue of allocating permits, a necessary part of any trading scheme. If the permits were allocated on the basis of national wealth or current emissions, the U.S. would make out OK; but if allocated on the basis of population, the U.S. would have to make large transfers to developing countries to buy the required permits. I think it is unwise to endorse a system that incorporates massive wealth redistribution without regard to how that redistribution would take place. Accordingly, I would resist including an endorsement of international trading and instead state that international trading potentially can be a means of ensuring flexibility in meeting targets (similar to the language used in the July statement by Tim Wirth). In any event, the Deputies themselves should approve such an endorsement.

  The paper is correct to note that Activities Jointly Implemented should be phased out in 2000, when the demonstration program sunsets. However, the advocacy of a full-blown joint implementation (JI) program rests on the adoption of baseline emissions levels for the developing countries that participate (otherwise there might be no net reduction in worldwide emissions). I suggest that there be 3 categories of countries -- those that can participate in international trading (Annex I countries with legally binding targets); those that can participate in JI (Annex I countries and developing countries with emission baselines); and those outside the JI and trading system (developing countries without baselines and countries that violate the treaty terms).

- The draft clearly states that developing countries "must be part of the solution" (page 2, 2nd paragraph; page 10, 1st paragraph). I take this to mean that eventually all countries must meet binding targets and timetables -- an important marker to lay down.

- The draft states that compliance is "a critical component" of any reasonable regime (page 2, 4th paragraph). This is statement should not be weakened.

- Banking and borrowing: I know that Ray Prince thinks borrowing is crucial to keeping costs down. He would like the draft to more strongly endorse the concept of allowing countries to borrow from future emission allocations.

  *Concerns:* The paper does not go far enough in pointing up potential problems with borrowing (it merely states that borrowing "raises more complex issues"). I believe that the paper should note the substantial increase in complexity that borrowing creates. For instance, a borrowing regime requires that "borrowing" is really "repaid" in a future period. It is plausible that a country will make very optimistic assumptions about future technology and borrow from future emission allocations to emit more carbon dioxide today. When the technology does not pan out, the country will be faced with a decision to either "default" on its borrowing or else cripple its economy by substantially reducing emissions in a short time frame. Default would look mighty attractive in this case. Until legal structures are created to facilitate fully enforceable borrowing, the U.S. should be hesitant to promote an idea that could potentially lead to much greater emissions than expected.

- The draft states that the U.S. rejects "the proposals tabled to date by others" (page 2, last full paragraph).

  *Concerns:* Does the U.S. really have nothing positive to say about any other country's proposal? It seems that some other country must have something of value in its proposal that we can use as a lever in negotiating.

**Minor Issues:**

- Block average: The text states a preference for a block average in determining targets and baselines (page 4, 4th paragraph). I have seen nothing to lead me to believe that a block average is superior to a rolling average or to any other type of averaging scheme. If averaging schemes have more or less the same outcome, the U.S. probably should not endorse any specific one.

- Intermediaries: An emission trading regime would appear to require an intermediary of some sort to keep track of trades, enforce property rights, and disseminate information about prices, etc. There is no mention of such an institution. This could be added to the material on page 9 as an issue to be discussed.

cc: JES, JFrankel, RP, JFurman, SR, MJolin

Fri, 11/22/96, 10:30-12:30 AM

AC: RP

United States Department of State

*Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs*

Washington, D.C. 20520

MEMORANDUM

TO: Assistant Secretaries Group on Climate Change

FR: Eileen Claussen EC

DA: November 20, 1996

RE: Draft Statement of U.S. Position for the December Meeting

We will meet next from 10:30-12:30 on Friday, November 22 at the State Department in Room 7835 to discuss the attached draft U.S. position for the December climate change meeting. This paper is our effort to reflect the discussions we have had as a group.

Please come on Friday prepared to discuss the draft and to offer specific changes as needed. Because of the change of date for our meeting and the need to have all agencies represented, please send a substitute with authority to speak on your behalf if you are not able to attend. We are on a very tight timeline as our goal is to incorporate all the revisions in time to distribute the paper to the Deputies on Tuesday for their consideration at the December 3rd meeting that has now been scheduled.

I look forward to seeing you on Friday morning.

# Climate Change: U.S. Position for December 1996
(draft 11/20/96 3:00 p.m.)

Contents

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## I. Introduction and Background

At the second meeting of the Conference of the Parties (COP-2) to the United Nations Framework Convention on Climate Change (FCCC), the United States called for next steps under the Climate Convention for the post-2000 period to include realistic and achievable, legally binding medium term targets that would be implemented through national programs and produce real environmental benefits. The U.S. position also underscored the need for all nations, including developing nations, to take actions to limit greenhouse gas emissions. Finally, we called for continued work on a longer-term goal (e.g. 50-100 years). We continue to believe that this is the approach that will produce a successful outcome -- both in terms of achieving an agreement within the allotted time prior to the third session of the Parties (in Kyoto in December 1997), and in terms of providing a significant next step to address this critical global environmental problem.

The United States arrived at this basic framework for a number of reasons. It is clear that the Convention's existing framework of a non-binding "aim" is not working. Most developed countries, including the United States, will not achieve the goal of stabilization in 2000 at 1990 levels. A binding commitment will create a stronger incentive for nations to be realistic in deciding on a target, to make the effort required to meet the target, and ensure a level playing field.

In addition, we believe that next steps should be as cost-effective as possible; our analyses completed to date suggest that more flexible approaches offer significant cost-saving opportunities, and we recommend that these be brought into the Convention's basic framework. Flexibility includes allowing Parties nationally to determine the most appropriate policies and measures to meet the agreed target, and allowing full trading and joint implementation between Parties to minimize the cost of reductions.

Answers Ray's "obligation 14."

Equally important, the U.S. specifically rejects any approach which would impose an unrealistic, short-term target. Such an approach would either have a negligible impact on the problem, or would impose such burdensome obligations that few if any countries could ratify the agreement. Instead, our focus must be on appropriate steps over the medium term, while we continue to develop a longer term goal.

Yes

Finally, the United States fully recognizes the need for global climate change to be addressed on a global basis. As a result, we believe it will be imperative that the agreement we reach in Kyoto include a continued commitment by developing nations to take further steps aimed at mitigating their emissions of greenhouse gases. While recognizing that developed countries must show leadership in addressing this problem, we believe it is very clear that all nations must be part of the solution.

The eventual goal

The Ministerial Declaration in Geneva at the Second Conference of the Parties to the Convention has provided climate negotiators with a blueprint for action; its approach is one we strongly endorse. However, it is now time to move beyond general statements of intent, and begin to develop and agree on concrete proposals.

In this paper, we wish to table for consideration a variety of alternative structures for targets and timetables to maximize flexibility and minimize costs. We will also introduce some new ideas for compliance procedures (a critical component of any next step in a legally binding regime), and offer a series of options for consideration with respect to "continuing to advance the implementation of commitments under Article 4.1."

The United States has not yet proposed, nor does it now propose, a specific target and timetable. We expect to have additional proposals on these issues as the results of our analysis and assessment emerge. Furthermore, we continue to reject the proposals tabled to date by others, which we do not believe will yield a satisfactory outcome to the negotiations. We hope that other Parties will join us in developing new proposals to meet our environmental goals while safeguarding all of our economic growth and competitiveness.

ditto

## II. Linkages

The interdependency of key variables presents a difficult issue in coming to grips with next steps in the Berlin Mandate process. For example, the flexibility offered by emissions trading and joint implementation will be crucial in determining what legally-binding, medium-term target is realistic and achievable. Therefore, it will be important to move forward as expeditiously as possible to elaborate provisions regarding emissions trading and joint implementation to provide the assurance of flexibility needed to gauge a legally-binding, medium-term target that is realistic and achievable.

Similarly, it will be necessary to ensure that steps are taken both by developed country Parties and by developing country Parties -- that they reflect the common but differentiated responsibilities and respective capabilities referenced in the Convention's Article 3.1. Because developed country Parties are expected to take the lead, it will be important to know the level of action that they are prepared to undertake to determine what action would be taken by developing country Parties. But determining a legally-binding medium-term target that is realistic and achievable requires considerable further analysis and assessment, most of which has not yet been completed. Hence, it is difficult at this stage in the Berlin Mandate process to be too definitive on how best and proportionately to continue to advance the implementation of Article 4.1 commitments. What we can do at this stage is explore the wide range of possibilities.

A further example of these linkages involves the compliance regime contemplated for the new legal instrument. The specific compliance regime will depend significantly on nature of the commitments agreed upon and upon how they are stated in the new legal instrument. These commitments, much less how they will be articulated, are not yet clear. In addition, the nature of the compliance regime adopted will depend in part on a sober assessment of the number of Parties likely to adopt and implement the new legal instrument -- while strict compliance will be crucial to the integrity of legally-binding commitments, too severe an approach could undermine efforts to attract the broadest possible participation.

Consequently, the Parties will need to proceed deliberately, recognizing that ultimately several elements must come together simultaneously, but accepting that it will be necessary to develop them according to different schedules.

## III. Defining the form of the target

As noted above, at COP-2 in July, the United States specifically called for focusing negotiations on a legally binding, medium-term emissions target, incorporating flexibility in time and place of implementation. The United States also expressed an interest in continuing to work toward a longer-term concentration goal. We rejected any target which called for an unrealistic near term goal -- and we continue to reject such an approach. This paper outlines some of our current thinking on the form and structure of the target.

Averaging

In national reports submitted under the FCCC, several countries unilaterally adjusted their baselines to reflect weather, economic or energy market conditions. While this approach may not have been appropriate in Parties' initial national communications, the United States believes that the target set in the next step should explicitly provide for averaging to smooth interannual or other variability in weather and economic cycles.

U.S. analyses of the effects of such variability provide a striking example of the importance of this issue: unusually hot or cold years can change U.S. gross national emissions by as much as two percent -- or about 40 percent of the reduction sought by the year 2000. Because swings in weather, energy prices or economic cycles cannot be predicted with confidence, a single year target would require each country to build in an extra margin of GHG reductions to ensure compliance, significantly and unnecessarily raising the cost.

The period for averaging should be taken to be no less than three years, although additional analysis of the fluctuations in weather, economic and energy indicators would be needed to illuminate how much smoothing would be needed. Data for both the base year (1990) and the target year should be averaged in this way. The United States would recommend that a block averaging mechanism be employed. Under such a mechanism, each defined period would lie end-to-end (e.g., 2010-2014; 2015-2019, etc.). Compliance would be determined at the end of each block.

Banking/Borrowing

The United States recommends further examination of the potential for banking or borrowing between multi-year average periods. Such a process would allow emissions below the target in one calendar year to be carried over to offset higher than target emissions in other years. Parties could then determine the pace at which their emissions budget for the period would be expended (evenly, front-loaded or back-loaded), further enhancing their flexibility and reducing their compliance costs. While allowing banking of emissions could reward efforts to make early reductions, borrowing against a later problematic

period in order to emit more in a current period raises more ~~complex~~ issues. We are interested in exploring the possibilities inherent in both options.

Differentiation

Currently, the FCCC differentiates between five different groups of Parties: (1) Annex II countries (countries that were members of the OECD in 1992 when the FCCC was adopted), (2) countries with economies in transition to market economies (CITs), (3) Annex I Parties (a combination of Annex II Parties and CITs), (4) developing countries, and (5) least developed countries. Each group has undertaken different commitments under the Convention.

While the United States acknowledges the clear distinctions that can be (and are) drawn between different Parties and groups of Parties, we do not believe that developing a complex, formulaic approach which differentiates at an individual Party level is a viable alternative at this stage in the negotiations. To date, we have seen no formula for a differentiated approach which seems to equitably address all Parties' concerns.

An effort to define equity explicitly in this legal instrument will likely derail the negotiations, being either too time-consuming and divisive, or disadvantaging a group of countries which then might choose not to ratify. Either outcome would essentially negate the value of the differentiation effort.

Instead we advocate an approach ~~which~~ that both maximizes flexibility, and ~~which~~ sets an achievable target level. Flexibility would be obtained both through a national determination of the appropriate policies and measures for next steps, and through the use of trading instruments to minimize the costs of incremental reductions. Such an approach would both enable the completion of the agreement by December 1997, and would protect each Party from over-extending and committing to an unrealistic next step.

Comprehensive Approach

The United States continues to support the inclusion of all greenhouse gases, both sources and sinks, in a comprehensive approach to addressing the climate change problem. Gases other than carbon dioxide account for about 30 percent of the radiative forcing from all post-industrial emissions. Furthermore, different gases represent different strategic opportunities from the perspective of effects on the climate system. For example, reductions in methane emissions could yield a lower rate of warming over the next several decades than comparable reductions in $CO_2$. To forego such a significant source of reduction potential would be both to reduce flexibility, and to decrease the cost-effectiveness of the overall effort.

Assuming a comprehensive approach, several issues still require additional consideration, including the different level of certainty with regard to measurement of non-$CO_2$ emissions in various sectors, and the relative importance or weighting to be assigned to different gases. We will continue to insist that any agreed approach be fully quantifiable, verifiable and include appropriate accounting procedures prior to acceptance into the legal instrument. The United States is currently working to address these concerns, and believes that a solution that is technically and politically satisfactory is achievable within the Kyoto timeframe.

## IV. Emissions trading and Joint Implementation

The United States has long held the view that affording flexibility to nations in achieving their emissions targets is critical to the long-term success of the effort to prevent climate change. International greenhouse gas trading and joint implementation allow the attainment of a given commitment at lower cost. We therefore strongly endorse the inclusion of both in the Kyoto agreement.

Definitions: Emissions Trading, Joint Implementation, Activities Implemented Jointly

The United States believes that a useful distinction can -- and should -- be drawn between Emissions Trading (ET), Joint Implementation (JI), and Activities Implemented Jointly (AIJ). We envision that emissions trading will apply only between Parties ~~which~~ that have assumed a legally binding target on their greenhouse gas emissions. Such trades would be subject to meeting certain criteria, particularly criteria that will help ensure transparency, and allow for appropriate monitoring and verification. Conversely, Joint Implementation is envisioned as a mechanism to allow trades of emissions reductions between Parties with a target, and Parties without a target. We anticipate that the rules governing such exchanges might be more complicated than those governing a trading regime, and that such exchanges would be "project" based.

We do not believe that AIJ is an acceptable longer-term option. AIJ has been used as a pilot effort to evaluate the viability of project-based reductions in the absence of targets and without credit. We believe that AIJ will serve no useful purpose beyond its year 2000 sunset date. Instead, the lessons learned from the pilot AIJ program should be used to develop a creditable JI regime, and also be applied, where appropriate, to an emissions trading regime.

Joint Implementation (JI)

The FCCC Parties have been engaged in discussion of Joint Implementation for several years; during that time a growing consensus has emerged regarding the value of a joint implementation approach in lowering the costs of reducing emissions. The United States continues strongly to support a formal, fully-credited Joint Implementation program under the Kyoto agreement. We expect such a program to encourage the rapid development and implementation of cooperative, mutually voluntary projects between partners; to encourage private sector investment and innovation in the development and dissemination of technologies; and to provide an incentive, through financial and technical assistance, to further the development of non-Annex I country programs to combat increases in net greenhouse gas emissions.

In order to realize the potential of Joint Implementation, the process of developing criteria for joint implementation, currently underway in the Subsidiary Body for Scientific and Technological Advice (SBSTA) must continue. Such criteria will be essential to assure that Joint Implementation becomes a credible and significant contributor in solving the climate change problem. The U.S. Initiative on Joint Implementation (USIJI) has been one of the most successful and aggressive programs in the development and application of criteria. We intend to remain active in the further development of criteria (working both in the domestic context of the USIJI and internationally), and note our view that criteria development could easily be completed prior to the year 2000, in time to include JI credits in national GHG reduction compliance programs.

[What is the criterion for additionality?]

We continue to stress the importance of two criteria in particular: (1) acceptance by the governments of the host and donor countries; and (2) the importance of the provision of data and methodological information sufficient to certify a reduction in net greenhouse gas emissions relative as a result of the project (a combination of the "additionality" criterion and an obligation to monitor and report on reductions). Without these, we do not believe a credible Joint Implementation program -- one which assures climate change benefits -- can be realized.

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## Emissions Trading (ET)

To date, Emissions Trading (ET) has had a more limited history within the context of the FCCC than has Joint Implementation; however, ET has found more extensive application beyond the confines of the climate change debate. In particular, the United States has utilized an emissions trading regime substantially to reduce the costs of complying with stringent clean air standards. Experience to date indicates that compliance has been excellent, and costs have been substantially below those anticipated from a regulatory approach.

In part based on such successes, the United States believes that an international trading regime should be carefully developed. Our domestic process has also advanced our thinking on how an international regime might be structured. In particular, we are now considering issues related to: (1) who should trade, (2) what would be traded, and (3) institutional questions.

(1) Who should trade:

As discussed above, in the U.S. view, only Parties that have committed to binding, quantified national emission targets would be allowed to trade emission reductions. We would expect that Parties to the FCCC rather than private entities would be officially responsible for reporting net national emissions to the Convention. However, we envision that within a broad agreed framework, countries could be given considerable flexibility in deciding how to implement any agreed target. We anticipate that both the private sector and non-governmental organizations would be eligible to participate in an emissions trading program.

(2) What would be traded:

We anticipate that, subject to possible technical restrictions, trades would be allowed for both sources and sinks of any greenhouse gas.

What's the difference?

We envision two alternative approaches to trading: a trade in "allowances" and a trade in "credits". The former would be allocated at the outset, and represent a quantity of emissions that a participant would be allowed to emit over a specific period of time. In contrast, "credits" would be earned by participants through reductions achieved that exceed some baseline obligation. The United States has successfully experimented with both alternatives, and would be interested in further exploring the potential of each in an international regime.

(3) Institutional Issues:

Certain common features can be presumed to apply both to a Party's domestic Emissions Trading program, and to an international regime. In particular, these include compatible mechanisms for accurately measuring, tracking and reporting domestic emissions, and an ability to reconcile allowances or credits with domestic obligations. Lessons learned from domestic programs underway, and from the still evolving JI programs could be applied to the development of such a regime.

Simple guidelines can and will need to be established to allow a robust emissions trading regime to be developed. In the U.S. view, the attributes of such a regime are relatively straightforward. An international system should be verifiable, environmentally beneficial, efficient, flexible, comprehensive and should motivate all participants continually to improve their performance. We are optimistic such a regime can be adopted and can be used to substantially reduce costs in our next steps to combat the threat of climate change.

**V. Continuing to Advance the Implementation of Article 4.1 Commitments**

Recognition is widespread that the threat of climate change is a global problem that can only be overcome through global action. While industrialized countries now account for the majority of the world's past and current greenhouse gas emissions, greenhouse gas emissions are growing most rapidly in the developing countries; emissions there are projected to exceed those of the developed countries by about 2020. The Climate Convention, and (based on their decisions to date) the Parties to the Convention recognize both realities.

The Berlin Mandate began a process to enable the Parties to take appropriate action for the period beyond 2000. It provides for developed countries to elaborate on policies and measures, and to set quantified limitation and reduction objectives for greenhouse gas emissions. For developing country Parties, the Berlin Mandate process will not introduce any new commitments, but calls upon Parties to reaffirm existing commitments in Article 4.1 and continue to advance the implementation of those commitments. The Geneva Declaration from the Second Conference of the Parties last July provides that the outcome of the current negotiating effort should fully encompass the remit of the Berlin Mandate.

Two key points emerge from these documents: (1) next steps under the Convention must include all Parties, and (2) actions ultimately taken by developed and developing country Parties should be appropriately balanced, recognizing the common but differentiated responsibilities and respective capabilities noted in the Convention and upheld both in the Berlin Mandate and the Geneva Declaration.

To date, all Parties have been making progress toward implementing their commitments under the Convention, including those related to the submission of first national communications under Article 12. Through the U.S. Country Studies Program, we are aware that many developing countries are already far along in preparing national inventories of greenhouse gas emissions and in developing national action plans. A number of developing countries have also initiated projects under the Pilot Phase for Activities Implemented Jointly.

Beyond these current efforts to implement existing Convention commitments, a wide range of possibilities exist through which we can "continue to advance the implementation of existing commitments" as contemplated by the Berlin Mandate. Much work remains to be done to gauge the level of effort developed country Parties will undertake pursuant to the Berlin Mandate. Still, it is not too early to advance our thinking about the range of possibilities, recognizing the need for all Parties to take action.

As noted, the range of possibilities is very wide. In an effort to classify them, we discuss the range of options in three categories: (1) those ~~which~~ are explicitly focused on national communications and policies and measures; (2) those
that ~~which~~ are related to financial assistance and international lending; and (3) those ~~which~~ consider next steps for developing country Parties.

## National Communications/Policies and Measures

While the Parties have adopted guidelines for the preparation of initial communications from developing countries, they have yet to consider options for reviewing those communications. Such a review process could include systematic efforts to assist developing country Parties in identifying cost-effective and no-regrets options for mitigating greenhouse gas emissions, including the development of guidelines for domestic processes to implement Article 4.1 commitments.

The review could seek to identify key sectors and technological options within them. It could also consider the possibilities for promoting voluntary agreements with industry aimed at identifying and encouraging the implementation of "no regrets" measures. Voluntary agreements have proven highly effective in the United States at building true partnerships with the private sector and at enlisting private sector support for mitigating greenhouse gas emissions.

In addition, we could explore various means through which Parties could obtain both the know-how and the technology needed to implement the options identified.

Financial/Lending Practices

With regard to continuing efforts in the Subsidiary Body for Implementation to refine the Convention's guidance to the Global Environment Facility (GEF) on policies, program priorities and eligibility criteria, the Parties could choose to link the existence of a national action plan to future funding, particularly as developing countries complete such plans in their efforts to prepare initial communications under Article 12. In this regard, it should be noted that all Parties agreed that ratification or acceptance of the Convention should be a criterion for GEF funding in the climate change focal area well before the Convention entered into force.

We could also consider making cost-effectiveness a key factor in the ranking projects submitted for GEF funding. Such a criterion could help to make funding decisions more objective and to ensure the most efficient use of GEF resources. Moreover, we could revisit earlier efforts to make the Convention a fulcrum for promoting changes in the lending practices of multilateral development banks and other agencies to take the mitigation of greenhouse gas emissions more fully into account.

Next Steps

Beyond these kinds of efforts, we could consider agreeing in the context of the Berlin Mandate negotiations on a specified date in the future by which all Parties could be expected to assume quantitative commitments with respect to their greenhouse gas emissions. The date need not be the same for all Parties -- we could envision a schedule for phasing in such quantitative commitments. Indeed, the nature of the quantitative commitments need not be the same for all Parties -- we could also envision establishing different levels of commitment based on various factors, including levels of development. While it would not be necessary to reach specific agreement now on all issues, it would be important to consider carefully the mandate for such discussions, including when they could begin, when they would conclude and what results should be anticipated.

Another option for consideration would be the development of guidelines for revising the Convention Annexes (which establish which Parties assume which commitments under the Convention), and for considering how to better reflect the common but differentiated responsibilities and capabilities of Parties. In our view, as countries develop to -- and beyond -- a certain point, they must graduate to assume responsibilities commensurate with their development. The present groupings do not reflect dynamic changes in the world that have occurred since 1992 and that will only accelerate in the future.

In order for commitments regarding future steps by developing countries to be meaningful, the agreement would need to require ratification by key countries (e.g., by entering into force only after ratification by states representing a certain percentage of global greenhouse gas emissions).

As noted previously, and as demonstrated by the examples offered, "continuing to advance the implementation of Article 4.1 commitments" embraces a very wide range of possibilities. The range represents a kind of continuum beginning with modest efforts but potentially extending to those which would bring us significantly closer to a truly global response and to the Convention's ultimate objective. It is as yet too soon to determine precisely where along this continuum we should strive to reach as part of the Berlin Mandate process. Inevitably, this will depend in large measure on the level of action that developed countries are prepared to undertake, and it is not yet clear what that level will be. Still, in our view, it is not too early to think boldly about the possibilities and about how best to position ourselves for the future, recognizing that the steps we take in Kyoto will represent only a second milestone along a much longer path toward the Convention's ultimate objective.

## VI. Compliance

In the climate change context, the United States has substantial environmental, economic, and treaty-integrity interests in achieving an agreement that properly balances the right commitments, the right Parties, and the right incentives to comply. In considering this issue, we need to consider how the commitments themselves can be structured to promote implementation, what kind of review process(es) are appropriate, including how to deal with non-compliance of Parties, and how the agreement should deal with non-Parties.

The new legal instrument will contain at least two key sets of commitments: (1) for developed country Parties, a legally binding medium-term emissions target; and (2) for all Parties, commitments that continue to advance implementation of Article 4.1 of the Convention.

In terms of the "Annex I" target, there are at least three ways in which the structure of the commitment could promote compliance:

-- First, as a matter of form, the target could be legally binding, as the United States has already suggested. We are seeking a legally binding target because, in the climate change context, countries tend to make rhetorical and unrealistic proposals when provisions are non-binding, and the existing "aim" has largely not been implemented. A protocol/amendment regime in ;which targets are legally binding will likely lead countries to seek more realistic and achievable targets at the front end and to implement their commitments more fully later on.

-- Second, as a matter of drafting, the commitments could be articulated as clearly and quantitatively as possible. In 1992, demands by various Parties for differentiation were met with vague qualifying phrases now found in Article 4.2(a) and (b). While the United States may not favor differentiation regarding the target, vague phrases to paper over differences on this point could negate the advantage of going to a binding regime.

-- Third, as a matter of substance, the target could be structured so as to be as objectively measurable as possible. This would enhance the ability of the Parties themselves, as well as third Parties, to determine compliance.

Structuring commitments to advance the implementation of Article 4.1 may be more difficult. Ideally, the commitments should be as specific as possible and avoid provisos that could obscure them. In practice, specificity may be difficult to achieve because developing countries, desirous of flexibility, may seek to make any obligations on them vague and heavily qualified. Their desire for flexibility could better be met by providing flexibility in the choice of implementation options rather than by vague, heavily qualified commitments.

Other than appropriately structuring key commitments to promote compliance, certain collateral commitments could also promote compliance. These might include: (1) requiring Parties to report on their implementation (while specifics could vary for different categories of Parties, this commitment could apply to all Parties); (2) providing continued and more systematic support for efforts to develop national action plans, particularly for developing countries; (3) expanding programs aimed at developing, diffusing and deploying climate-friendly technologies (including through efforts to identify and remove barriers to technology transfer and to improve the performance of existing financial institutions); (4) requiring developed country Parties to have in place domestically an emissions monitoring system (at a minimum for specified sources); (5) obligating developed country Parties to enforce their domestic laws related to implementation of the target effectively.

The new legal instrument should contain appropriate review/dispute settlement mechanisms to determine whether Parties are implementing their commitments. Key compliance-related questions include: (1) who should do the reviewing, (2) what should they review and (3) what is the status/consequences of their conclusions?

Options for who reviews include: the Parties themselves (through the Conference of the Parties or other institution); experts nominated by Parties; ad hoc panels; standing bodies outside the treaty; the public. What type of expert or panel member is involved depends on what is being reviewed (e.g., a scientist would not be appropriate for an issue involving treaty interpretation).

As to what is reviewed, there is a basic issue of focus: Should a review mechanism focus on alleged non-compliance (i.e., an actual treaty violation), implementation generally, or a particular aspect of implementation, such as verifying facts? Broader review mechanisms, as opposed to non-compliance procedures, have the advantage of being less adversarial (and therefore more likely to be used) and can deal with a wider range of issues. They are also useful where treaty obligations are so general or caveated that it would be difficult to make out a case of actual non-compliance.

A second basic issue involves whether a particular review process should be set up to review facts, law, or both. For example, a dispute involving Article 4.2(b) of the Convention, if it were legally binding, could involve the factual question of actual emissions, the legal question of whether sinks can be counted, or both. Traditional dispute settlement (e.g., conciliation or arbitration) generally reviews disputed facts, disputed interpretation of a treaty provision, or the application of a treaty provision to facts. However, a review mechanism can be limited to fact-finding alone.

As to status of conclusions of a review process, a review process might have no formal conclusion (e.g., discussion, political pressure) or it could produce one of the following: (1) a recommendatory report on possible next steps to promote compliance (such as technical assistance); (2) a factual report; (3) a recommendatory award; or (4) a binding judgment concerning compliance.

As to consequences, the conclusion of a review process could form the basis for further discussions among the Parties, action by the Conference of the Parties; good faith consideration by a Party (in the case, for example, of bilateral conciliation), or a sanction, such as monetary penalties or trade restrictions. The consequences of a conclusion would depend on its status.

There are numerous compliance review options that could be included in a new legal instrument, and many of these are not mutually exclusive. In this regard, an amendment does not necessarily have to be subject to the same mechanisms in the current Convention, provided the amendment so specifies. Examples include:

-- convening regular meetings of the Parties to support Parties' efforts to comply and provide a forum for raising questions about compliance;

-- establishing a subsidiary body focused on implementation issues;

-- requiring Parties to prepare reports on their implementation that would be made publicly to permit public scrutiny;

-- requiring regular factual reviews of Parties' implementation efforts;

-- enabling a Party to request a factual review of another Party's implementation efforts (generally or with respect to particular obligations);

-- establishing a "friendly," multilateral consultative process designed to address either cases of non-compliance or implementation more generally (provided there were no overlap with the functions of any subsidiary body);

-- providing for traditional bilateral dispute settlement, with non-binding conciliation as a minimum requirement;

-- providing for traditional bilateral dispute settlement with binding arbitration or judicial settlement.

To decide which review processes to support, it will also be important to consider the relationship between these issues and the treaty commitments themselves, particularly the target. Relevant aspects of the target (which are not yet known, thereby complicating the task) include:

-- whether it is clear or clouded by ambiguity;

-- whether it is objectively measurable (is assessing compliance a purely factual endeavor? or does it, for example, involve the application of a subjective standard to objective facts?).

Separate from the issue of how to deal with non-complying Parties is the issue of how to deal with non-Parties. Where a treaty addresses a global environmental issue, a non-Party stands to benefit from the actions of other countries while taking no action of its own (the so-called "free rider"). A non-Party can also affirmatively undermining the treaty's objective

There are numerous ways to seek to minimize the non-Party problem:

-- through the negotiating process itself, i.e., figuring out which countries' participation in the regime is essential and ensuring that they are involved in the negotiation;

-- through positive incentives for countries to join a regime (e.g., financial and technical assistance, differentiated obligations; allowing opt-outs from certain obligations);

-- through an entry into force clause that requires ratification by key countries (i.e., those that would be "free riders" if they did not join) (note that an amendment would require 3/4 of the parties to ratify for entry into force; a protocol would need to set its own entry into force requirement).

-- the inclusion of specific consequences against non-Parties

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