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Administration Statement

before the

Subcommittee on Energy and Power

of the Committee on Commerce

U.S. House of Representatives

September 26, 1996

Thank you Mr. Chairman and Members of the Subcommittee.

It is a pleasure for us to be here today to share with you the results of the recently held Second Conference of the Parties (COP-2) to the United Nations Framework Convention on Climate Change. We would also like to discuss the process through which we reached the U.S. position, and where we expect to go from here.

Most importantly, the U.S. position at COP-2 reflects our increased concern about climate change as reflected in the latest international assessment report of the Intergovernmental Panel on Climate Change. Prepared by over 2,500 of the world's leading experts, this report concluded that the balance of evidence suggests that human actions are influencing the climate system and that many of the possible impacts will be adverse to human health and to our environment.

The U.S. delegation to COP-2 was led by Undersecretary for State for Global Affairs, Timothy E. Wirth, for the Ministerial portion of COP-2. In his July 17 statement to the Parties to the Convention, the United States called for next steps under the Climate Convention for the post-2000 period to include realistic and achievable, legally binding targets that would be implemented through flexible 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 work on a longer-term goal (e.g. 50-100 years) so that we have a clearer pather for the future that allows the private sector to expand sensibly as it plans and makes investment decisions.

We arrived at this basic framework for a number of reasons. It was clear that the Convention's existing framework of a non-binding "aim" was 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 and ensure a level playing field. In addition, from the analyses completed to date, we determined that more flexible approaches offer significant cost-saving opportunities that should be brought into the Convention's basic framework.

Equally important, the U.S. statement at COP-2 specifically rejected existing proposals by other countries because they called for inflexible, one-size-fits-all, policies and measures that would harm U.S. competitiveness; because they contained unrealistic short-term cuts in emissions; or because they failed to provide for cost-effective, flexible implementation.

Finally, the U.S. position fully recognized the need for global climate change to be addressed on a global basis. As a result, we called for a continued commitment by developing nations to enact policies and measures aimed at reducing their emissions of greenhouse gases. While recognizing that developed countries must show leadership in addressing this problem, we also made it very clear that all nations must be part of the solution.

Ultimately, the U.S. statement helped energize Ministers and other heads of delegation to issue a Ministerial declaration, now called the "Geneva Declaration." Ministers from nearly all Parties to the Convention endorsed this statement. The only countries that opposed this Declaration in its entirety were the OPEC countries; limited issues were raised by Russia, Australia and New Zealand.

The Geneva Declaration endorses an approach to next steps that includes a legally binding target for developed countries, in conjunction with advancement and implementation of commitments of developing countries. It affirms the Ministers' intent to complete negotiations on an agreement in time for adoption by the Third Conference of the Parties (COP-3). COP-3 will take place in Kyoto, Japan in December 1997.

Let us briefly review what is contained in the Geneva Declaration, and perhaps equally importantly, what is not.

The Geneva Declaration:

-- endorses the Second Assessment Report of the Intergovernmental Panel on Climate Change, stating that the Report provides the scientific basis for urgently strengthening action at the global, regional and national levels;

-- adopted the U.S. call for legally binding medium-term targets by instructing negotiators to pursue legally-binding targets and timetables in the final agreed instrument;

-- calls for continuing to advance the implementation of existing commitments for all Parties, including developing country Parties;

-- directs negotiators to include in the agreement a mechanism for reviewing and, where necessary, strengthening whatever commitments are set; and

-- calls for commitments to speed up the development, application, diffusion and transfer of climate friendly technologies.

Unfortunately, there has been some confusion in the popular and trade press about the Declaration. Let us clarify some of this confusion by explicitly telling you what is not included in the Geneva Declaration:

-- it does not set either the level or the timetable for greenhouse gas reductions that are to be negotiated over the next 16 months;

-- it does not support any proposed target or timeframe tabled in the negotiations by others;

-- it did not adopt the call by some Parties for "harmonized" policies and measures, so Parties are able to use flexible and cost-effective measures to achieve whatever target is agreed to;

-- it does not reject voluntary programs;

-- it does not in any way close the door on emissions trading or joint implementation; and

-- it calls for advancing the implementation of existing obligations to reduce greenhouse gas emissions for all countries, including developing countries.

While the Administration believes the declaration language is clear on the role of emissions trading and joint implementation, the U.S. delegation wanted to leave no doubt. In a clarifying statement, we noted that meeting a target must allow for maximum national flexibility, including the use of joint implementation and international emissions trading.

With the core elements of the U.S. framework included in the Geneva Declaration, we believe that we have successfully shifted the negotiating process away from rhetorical positions to more meaningful and realistic objectives about what can and needs to be accomplished. Within this framework, the United States will be in a far better position to discuss the environmental challenges and economic consequences of possible actions leading up to COP-3.

The U.S. proposed framework, based on a flexibly implemented, binding target and timetable was arrived at following an extensive and careful consultation process with the private sector, nongovernmental organizations, and

Congress. Since the last meeting of the Ad-Hoc Group on the Berlin Mandate in March, the Administration has been outlining the broad themes of what we would like to see come out of the Berlin Mandate process. These themes were explicitly stated in our testimony before the Committee last June. They included: a realistic goal leading to real and achievable reductions; flexibility in implementation (i.e., a rejection of the notion that a single policy option or set of measures can be harmonized to apply uniformly to all Parties); and an agreement that lays the foundation for continuing progress by all nations in the future. While no formal position had yet been cleared at the time of the June hearing, the above principles presented at the hearing served as the basis for that position.

In preparation of our position in Geneva, the Administration held a number of roundtables and briefings to consult with interested parties -- on this issue, on the array of other questions surrounding the implementation of the Convention, and on the course of negotiations on next steps.

For example, Assistant Secretary of State for Oceans, International Environmental and Scientific Affairs Eileen Claussen, hosted three roundtables designed to bring together high level industry and environmental NGO representatives to discuss the international negotiating process and to explore possible U.S. positions. Senior representatives from approximately 30 leading corporations representing the gas, oil, coal, chemical, automotive, insurance and electric utility industries attended two of those gatherings, while more than a dozen top officials from environmental organizations attended the third.

The individuals invited were asked to consider five topics and to come to the roundtable prepared to discuss them. The topics were 1) targets and timetables; 2) policies and measures; 3) developing country commitments; 4) further actions under the Convention after 1997; and 5) the value of multilateral agreement under the Convention and under separate bilateral or regional efforts.

The roundtables were useful and informative. Some participants expressed a number of concerns about the negative impact which mandatory, sector-specific, policies and measures could have on the competitiveness of industry. Other business participants acknowledged global warming as a problem and sent a message loud and clear: create a system that gives a consistent, long-term signal to industry to allow for cost-effective implementation; preserve industrial competitiveness; and don't hurt the economy through ill-considered actions calling for substantial near-term reductions by the 1990 baseline.

Many in this latter group also endorsed the value of continuing the voluntary programs that have already been implemented under the President's Climate Change Action Plan to begin to address greenhouse gas emissions. The Administration remains committed to working with all our partners in the private sector to continue and enhance voluntary approaches.

In addition to these roundtables, a number of additional briefings with industry and environmental organizations took place before and during the COP-2 meetings. Congressional staff were also briefed, formally and informally, prior to, throughout, and following the COP-2 meetings. Staff from key agencies involved in the climate change issue have been holding regular meetings with interested parties to learn about their objectives and concerns.

These meetings and the analyses presented to date have shaped key elements of the proposed U.S. framework. For example, preliminary analyses demonstrated the high costs and impacts on competitiveness of significant short-term reductions while also demonstrating the substantial cost-savings from flexible implementation approaches such as emissions trading and joint implementation. Stakeholder meetings underscored the need to avoid sector-specific harmonized policies and measures and the desirability of working toward a long-term concentration goal to help guide corporate planning and investments.

The Administration continues to develop a reasoned and transparent economic analysis to support our approach in the international climate change negotiations. We intend to understand better the effects on economic growth before formally presenting specific proposals in future negotiations.

It is to this end that the Administration is building a strong analytic capability. A number of departments and agencies, principly among them the Department of Energy and the Environmental Protection Agency, have been involved in an Interagency Analysis Team charged with developing the capability to analyze climate change proposals. Sound analysis requires common approaches to models, underlying assumptions, and the like.

To that end, Under Secretary of Commerce for Economic Affairs Everett Ehrlich has agreed to lead this interagency team and bring the process to closure. In this role, Mr. Ehrlich is meeting regularly with DOE, EPA, Treasury, Commerce, and other agency representatives to discuss analytic approaches and to set in motion a process that leads to conclusions. When the process is concluded, we will have constructed an analytic "toolbox" capable of better assessing the economic effects of a broad range of climate change policies, in terms of growth, employment, sectoral and industry effects, and other issues. Two of the witnesses here today testified at the Subcommittee's June hearing regarding the analytical workshop in June where over 50 papers were presented. Our current efforts are an extension of that process; we commit to involving stakeholders extensively in the review of additional analyses prior to decisions on specific policies.

The United States has not yet proposed a specific target and timetable, nor have we yet defined a structure for such a binding target. We have rejected the proposals tabled to date, including the proposal supported by several small island countries for a 20 percent reduction in CO_2 emissions by Annex I Parties by 2005. We are considering a variety of alternative structures for targets and timetables to maximize flexibility and minimize costs (for example, using a multiyear rolling average). We are working, through our analysis and assessment process, to determine the appropriate target from an economic and environmental perspective. We seek a range of options that can meet our environmental goals while safeguarding economic growth and U.S. competitiveness.

Undersecretary Wirth's July statement specifically called for negotiations to focus on a medium-term target and to continue working toward a longer-term concentration goal. We rejected any target which called for an unrealistic near term goal. We have heard repeatedly from many in industry that the government should send a consistent and long-term signal that allows industry to implement whatever policy is chosen prudently and cost-effectively. We heard that message and incorporated that goal in our decision to call for a binding target. This will give a decade or more of planning lead time to those who may be affected to internalize the target into their decisionmaking, and to begin working now to plan the most

whose?
by firm?

effective way to get there, and speed the development and deployment of the technologies that are needed in a longer-term response to climate change.

We are still in the process of resolving some of the critical issues related to future actions to reduce greenhouse gas emissions. We are continuing to work on the following areas: the type of medium-term target; an emissions trading/joint implementation scheme; questions of compliance and enforcement; and options for advancing the commitments of developing countries. By early next year, we will develop more specific proposals on each of these areas.

We would like to reiterate that the Administration believes that any future commitment must be predicated on ensuring that the U.S. economy remains robust and internationally competitive. We also want to recognize and build on the successes of our partners in the private sector whose early efforts have significantly reduced greenhouse gas emissions and saved consumers and businesses millions of dollars in energy costs through actions taken under the Climate Change Action Plan. We will ensure that partners making voluntary reductions get proper credit for their efforts in any future regime.

We look forward to working with you here in Congress, and with other interested parties, to frame an arrangement that is legitimate, credible, consistent with U.S. economic objectives, and environmentally appropriate.

United States Department of State

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

Washington, D.C. 20520

RP

MM

October 17, 1996

MEMORANDUM

TO: Distribution

FROM: OES - Rafe Pomerance, Acting RP

SUBJECT: Submission to Secretariat of the UN Framework Convention on Climate Change

Attached is a revised draft of the proposed United States submission to the Secretariat of the UN Framework Convention on Climate Change. This draft has been revised to reflect comments and suggestions raised by several agencies. In order to ensure that agencies have an opportunity to review the final draft before submission to the Secretariat, I am sending the document for your final clearance.

As background, you should know that this submission is designed to outline in broad terms the key elements of a final agreement that are important for further discussion and consideration. More detailed policies and positions will be developed by the USG in the months ahead with your participation. Our submission at this time is intended to help maintain the momentum we have established in defining the negotiations on terms that are consistent with our interests. In order to ensure that our views are fully reflected in the documentation prepared for the next round of negotiations in December, it is essential that we provide our suggestions for key negotiating elements at this time. The U.S. submission will be compiled along with those of other nations by the Secretariat and will be circulated publicly.

To comply with the Secretariat's deadlines, we would appreciate your clearance by noon, Friday, October 18, 1996. Please fax or phone your comments to me on (o)647-2232 or (f)647-0217.

Thank you for your assistance.

Attachment:
As stated.

Draft Rev. 3 -- 10/17/96

U.S. Submission on Elements of a New Legal Instrument
(October 15, 1996)

General

In the U.S. view, the new legal instrument should respond effectively to the threat posed by global climate change; should reflect outcomes that are real and achievable; should be consistent with economic prosperity; should allow for maximum flexibility and cost-effectiveness in its implementation; and should lay the foundation for continuing progress by all countries.

Meeting the ultimate objective of the Convention will require concerted, long-term efforts by all Parties. While it is important for developed countries to take the lead, it is also essential that the Kyoto agreement recognize the growing contribution of developing country emissions and begin to plan for appropriate, cost-effective ways to address these emissions in a sustainable manner. In this connection, at COP-2 the United States called for continued work toward a longer-term concentration goal (e.g. for the next 50-100 years), recognizing that scientific understanding and technology will improve over time.

In putting forward these suggestions for a new legal instrument, the United States has rejected proposals by some countries calling for short-term targets that we believe could not be realistically achieved. We have also rejected the use of inflexible, harmonized policies and measures. In the spirit of providing individual countries greater flexibility in meeting any agreed upon limitations, we believe that it is critical that flexibility in implementation be accorded all countries, including through emissions trading and joint implementation among nations.

We believe that the following elements would serve as a useful basis for the consideration of topics that would need to be included in a new legal instrument. Given the continuing uncertainties surrounding the form of such an instrument, we have noted particular aspects of these issues that may differ depending on whether the Parties choose a protocol or an amendment to the FCCC to codify their agreement.

Preamble

If the legal instrument takes the form of a protocol, it might include a preamble. If it takes the form of an amendment, it would not, although the decision adopting the amendment could.

Definitions

A protocol would need to incorporate some or all of the definitions in Article 1 of the Convention, include its own definitions, or some combination of the two. An amendment, to the extent it introduces new terms, might also require amendment of Article 1.

Objective

An amendment would, and a protocol should incorporate the objective in the Convention; we do not believe it is either necessary or desirable to develop a separate objective for this legal instrument.

Level and Structure of the Target

The Geneva Declaration calls for a legally-binding target and timetable, consistent with the U.S. call at COP-2, to shift the negotiations away from unrealistic, near-term proposals to medium-term targets that are both realistic and achievable.

The Berlin Mandate calls for adoption of the protocol/other legal instrument at COP-3, making calls to date for differentiated commitments in this timeframe impracticable. Therefore, it will be important that the target/timetable be sufficiently specific (to facilitate compliance), flexible in terms of its implementation (to encourage broad participation) and straight-forward (to ensure negotiation and adoption by COP-3). As we noted at COP-2, the United States opposes efforts to develop inflexible, harmonized policies and measures.

A number of ideas and approaches have been suggested thus far in the discussions within the Ad Hoc Group on the Berlin Mandate (AGBM). Many of these ideas and approaches have focused on a single-year target, but we believe it will be important to consider a broader range of possibilities (e.g., cumulative or aggregate targets, multiple-year rolling average targets, flexibility over time through banking or borrowing, etc.) We anticipate that more such ideas and approaches will be tabled and considered as we work toward a new legal instrument for adoption at COP-3.

The United States is continuing its domestic analysis and assessment efforts so as to contribute to this discussion in upcoming negotiating sessions.

Advancing Article 4.1 Commitments

"Continuing to advance the implementation of Article 4.1 commitments" will be a critical component of next steps and must be reflected in the Kyoto agreement. Given the global nature of this problem, we must work together toward a global solution, recognizing our common but differentiated responsibilities and capabilities. A number of assumptions underlie U.S. views on next steps:

- Article 4.1:
  - -- Applies to all Parties;
  - -- Speaks to issues ranging from inventorying emissions, to reporting, to adopting policies and measures;
  - -- Speaks to the requirement to promote the development and diffusion of technologies;
- The Convention anticipates that the status of countries will evolve over time (e.g., Article 4.2(f))
- Paragraph 2.b of the Berlin Mandate governs what will be included on this issue in the Kyoto agreement

Bearing in mind these assumptions, there are a number of approaches that can be taken through a new legal instrument. For example, the Parties could agree to:

- continued and more systematic support for efforts to develop national action plans (particularly in developing countries) following the revised Annex I Guidelines for National Communications and the newly adopted Non-Annex I Guidelines for Initial Communications
- redoubled efforts to adopt and implement "no-regrets" measures
- expanded programs aimed at developing, diffusing and deploying climate-friendly technologies (including through

systematic efforts to identify and remove barriers to technology diffusion and to enhance the role of international financial institutions in responding to the threat of global climate change)

- further consideration of thresholds at which the status of countries would change, and the process involved in such a change in status
- further consideration of future steps (post-Kyoto) toward the objective of the Convention

International Emissions Trading/Joint Implementation

In the U.S. view, emissions trading/joint implementation will be an essential element of the Kyoto agreement; it will therefore be a priority task to establish the guidelines for a credible emissions trading/joint implementation regime by December 1997.

We believe that emissions trading and joint implementation regimes will motivate parties to achieve and strengthen national commitments to reduce or limit greenhouse gas emissions because the cost savings potential in these types of programs can achieve more environmental protection than less flexible, less cost-effective regimes.

Various design questions will need to be resolved by the Kyoto Conference, including, for example, whether inter-gas trading will be allowed; how trades would most effectively be monitored and reviewed; what distinctions might be drawn with respect to participation in an emissions trading/joint implementation regime (e.g., absent national targets, could project-specific baselines be used?)

A number of principles must underlie an emissions trading/joint implementation regime. At a minimum, such a regime must be efficient, transparent and verifiable.

Institutions

For reasons of administrative efficiency and in light of budgetary constraints, a new legal instrument should utilize existing institutions to the maximum extent practicable.

A protocol would need to specify its institutions. In the case of an amendment, the institutions established under the Convention would apply. (Note: We do not believe it would be appropriate for non-Parties to a protocol to be officers of an institution serving the protocol.)

Compliance

The term "compliance" is used in this context to refer to the cluster of processes/mechanisms that provide incentives for the Parties to abide by their legal commitments.

Ensuring effective compliance will be critical for environmental as well as economic reasons. Unless parties comply, there will be little incentive to act and we will not achieve our environmental objectives. Uneven compliance will undermine confidence in the new legal instrument and encourage "free-riding."

A key means of promoting compliance will be to ensure that commitments are realistic and achievable (as noted above). In addition, it will be important to consider supplementary means for promoting compliance, including ways to ascertain whether Parties are meeting their obligations and ways to encourage them to do so. In this context, we will need to consider elaborating existing reporting and review mechanisms.

Unless otherwise provided, an amendment to the Convention would be covered by the Convention's reporting requirements, as well as dispute settlement provisions and any multilateral consultative process that might be established. A protocol would need to specify whether any of these Convention mechanisms would apply, as well as any additional compliance-related provisions.

Decision-Making

Only the Parties to the protocol or amendment should have decision-making authority with respect to that instrument.

Final Clauses

A protocol would need to contain several final clauses, including, for example, provisions on entry into force and amendment. An amendment's final clauses are already set forth in the Convention.

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(FAX CONSIST OF 7 PAGES INCLUDING COVER SHEET)

U.S. Submission on Elements of a New Legal Instrument
(October 15, 1996)

General

In the U.S. view, the new legal instrument should respond effectively to the environmental challenge posed by climate change; should reflect outcomes that are real and achievable; should be consistent with economic prosperity; should allow for maximum flexibility and cost-effectiveness in its implementation; and should lay the foundation for continuing progress by all countries.

We believe that the following elements would serve as a useful basis for the consideration of topics that would need to be included in this instrument. Given the continuing uncertainties surrounding the form of such an instrument, we have noted particular aspects of these issues that may differ depending on whether the Parties choose a protocol or an amendment to the FCCC to codify their agreement.

Preamble

If the legal instrument takes the form of a protocol, it might include a preamble. If it takes the form of an amendment, it would not, although the decision adopting the amendment could.

Definitions

A protocol would need to incorporate some or all of the definitions in Article 1 of the Convention, include its own definitions, or some combination of the two. An amendment, to the extent it introduces new terms, might also require amendment of Article 1.

Objective

An amendment would, and a protocol should incorporate the objective in the Convention; we do not believe it is either necessary or desirable to develop a separate objective for this legal instrument.

Level and Structure of the Target

The Geneva Declaration calls for a legally-binding target and timetable. The Berlin Mandate calls for adoption of the protocol/other legal instrument at COP-3, making negotiation of differentiated commitments in this timeframe impracticable. Therefore, it will be important that the target/timetable be sufficiently specific (to facilitate compliance), flexible in terms of its implementation (to encourage broad participation) and straight-forward (to ensure negotiation and adoption by COP-3). As we noted at COP-2, the United States has serious reservations about efforts to develop harmonized policies and measures.

Tie to GNP etc.

calcd incl.

Ideas proposed thus far include:

-- a flat target (measured against a fixed year or baseline trend)
-- a cumulative or aggregate target (reducing total emissions over a particular time period by an agreed percentage)
-- a target based on a rolling average ← The world
-- a collective target (e.g., "Annex I", OECD, EU)
-- individually pledged (binding) targets
-- differentiated targets (possibly based on a formula)

banking + borrowing

emission targets. reflect Δ GNP, concentration, temperature

Analysis of the effects of each of these ideas will depend not only on the level agreed upon but also on the extent of participation (number of Parties) in the process. The United States is currently developing a toolbox to facilitate analysis of these and other options. We anticipate that, by March 1997, the full array of choices would be tabled by Parties, and that the development of specific language for inclusion in the instrument could be considered.

Advancing Article 4.1 Commitments

In the U.S. view, next steps must involve actions by all Parties, recognizing their common but differentiated responsibilities and capabilities, and these must be reflected in the Kyoto agreement. There are a number of assumptions that underlie U.S. views on next steps:

- Article 4.1:

  -- Applies to all Parties, not just to developing country Parties;

  -- Speaks to issues ranging from inventorying emissions, to reporting, to adopting policies and measures;

-- Speaks to the requirement to promote the development and transfer of technologies;

- The Convention anticipates that the status of countries will evolve over time (e.g., Article 4.2(f))

- Paragraph 2.b of the Berlin Mandate governs what will be included on this issue in the Kyoto agreement

Bearing in mind these assumptions, there are a number of approaches that can be taken through a new legal instrument. The Parties can agree to:

- continued and more systematic support for efforts to develop national action plans (particularly in developing countries) following the revised Annex I Guidelines for National Communications and the newly adopted Non-Annex I Guidelines for Initial Communications

- redoubled efforts to adopt and implement "no-regrets" measures

- expanded programs aimed at developing, diffusing and deploying climate-friendly technologies (including through systematic efforts to identify and remove barriers to technology transfer and to improve the performance of existing financial institutions)

- further consideration of thresholds at which the status of countries would change, and the process involved in such a change in status

- further consideration of future steps (post-Kyoto) toward the objective of the Convention

e.g. Korea

<u>Emissions Trading/Joint Implementation</u>

In the U.S. view, emissions trading/joint implementation will be an essential element of the Kyoto agreement; it will therefore be a priority task to establish the guidelines for a credible emissions trading/joint implementation regime by December 1997.

Various design questions will need to be resolved by the Kyoto Conference, including, for example, whether inter-gas trading will be allowed; how trades would most effectively be monitored and reviewed; what distinctions might be drawn with respect to participation in an emissions trading/joint implementation regime (e.g., absent national targets, could project-specific baselines be used?)

A number of principles must underlie an emissions trading/joint implementation regime. Such a regime must be efficient, transparent and verifiable and must produce real reductions. A preliminary elaboration of these principles should already be possible; in the U.S. view, the regime should:

what is baseline?

- allow parties to trade or exchange credits toward and against national greenhouse gas reduction or limitation commitments;
- ensure that emissions reductions are created by actions that verifiably and reliably reduce accrued, net emissions;
- minimize costs, especially transaction and administrative costs;
- motivate parties to achieve and strengthen national commitments to reduce or limit greenhouse gas emissions;
- motivate economic actors to find and implement on a continuous basis cost-effective greenhouse gas emission reductions;
- be as flexible as possible to accommodate differing national approaches to achieving emissions commitments;
- promote compatibility among national approaches to facilitate trading/exchanging credits
- be as inclusive of Parties, sub-national entities, gases and sectors as possible;
- ensure transparency eg through stringent monitoring, record-keeping and reporting; cost effective e.g. random monitoring
- provide incentives for compliance -- and mechanisms to limit the benefit accorded to non-compliant Parties, and to ensure that non-compliance does not adversely affect environmental progress under the agreement.

banking + borrowing

Institutions

For reasons of administrative efficiency and in light of budgetary constraints, a new legal instrument should utilize existing institutions to the maximum extent practicable.

A protocol would need to specify its institutions. In the case of an amendment, the institutions established under the Convention would apply. (Note: We do not believe it would be appropriate for non-Parties to a protocol to be officers of an institution serving the protocol.)

eg. S. Bdy Techn Advice

Compliance

The term "compliance" is used in this context to refer to the cluster of processes/mechanisms that provide incentives for the Parties to abide by their legal commitments.

Ensuring effective compliance will be critical for environmental as well as economic reasons. Unless parties comply, actions taken are likely to be inadequate and global warming will continue unabated. Uneven compliance will undermine confidence in the Convention and encourage "free-riding."

In addition to promoting compliance by including commitments that are realistic and verifiable (as noted above), the instrument should provide supplementary means, for example, with respect to ascertaining whether Parties are meeting their obligations and with respect to appropriate consequences for non-compliance.

An amendment to the Convention would be covered by the Convention's reporting requirements, as well as dispute settlement provisions and multilateral consultative process, once established. A protocol would need to specify whether any of these Convention mechanisms would apply, as well as any additional compliance-related provisions.

Decision-Making

Only the Parties to the protocol or amendment should have decision-making authority with respect to that instrument.

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drafted: OES/EGC - DAReifsnyder/SBiniaz/JCPershing
SEEGC 9731
10/10/96

cleared: OES/E - RPomerance
OES - MHambley
OES - EClaussen
G - DHarwood

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON, D.C. 20500

MEMBER

October 15, 1996

MEMORANDUM FOR JOE STIGLITZ
~~JEFF FRANKEL~~
~~RAY PRINCE~~

FROM: ALICIA MUNNELL AM/ff

SUBJECT: U.S. Submission on Elements of a New Legal Instrument

The attached document will be sent to the Secretariat within the next day or so. This means that it will become a public document. If we have any disagreements, we need to alert the State Department by COB today, Tuesday, October 15.

I think we should have a brief meeting this afternoon.

Attachment

To Secretariat

DRAFT

U.S. Submission on
Elements of a New Legal Instrument
(October 15, 1996)

General

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We believe that the following elements would serve as a useful basis for the consideration of topics that would need to be included in this instrument. Given the continuing uncertainties surrounding the form of such an instrument, we have noted particular aspects of these issues that may differ depending on whether the Parties choose a protocol or an amendment to the FCCC to codify their agreement.

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Level and Structure of the Target

The Geneva Declaration calls for a legally-binding target and timetable. The Berlin Mandate calls for adoption of the protocol/other legal instrument at COP-3, making negotiation of differentiated commitments in this timeframe impracticable. Therefore, it will be important that the target/timetable be sufficiently specific (to facilitate compliance), flexible in terms of its implementation (to encourage broad participation) and straight-forward (to ensure negotiation and adoption by COP-3). As we noted at COP-2, the United States has serious reservations about efforts to develop harmonized policies and measures.

No. tie to GDP, currently temp. concentration meaning simpler not necessarily good. OK. Each country use own tools

Ideas proposed thus far include:

-- a flat target (measured against a fixed year or baseline trend)
-- a cumulative or aggregate target (reducing total emissions over a particular time period by an agreed percentage)
-- a target based on a rolling average The world
-- a collective target (e.g., "Annex I", OECD, EU)
-- individually pledged (binding) targets
-- differentiated targets (possibly based on a formula)

Analysis of the effects of each of these ideas will depend not only on the level agreed upon but also on the extent of participation (number of Parties) in the process. The United States is currently developing a toolbox to facilitate analysis of these and other options. We anticipate that, by March 1997, the full array of choices would be tabled by Parties, and that the development of specific language for inclusion in the instrument could be considered.

numbers.

Advancing Article 4.1 Commitments

In the U.S. view, next steps must involve actions by all Parties, recognizing their common but differentiated responsibilities and capabilities, and these must be reflected in the Kyoto agreement. There are a number of assumptions that underlie U.S. views on next steps:

- Article 4.1:

  -- Applies to all Parties, not just to develop~~ing~~ed country Parties;

  -- Speaks to issues ranging from inventorying emissions, to reporting, to adopting policies and measures;

-- Speaks to the requirement to promote the development and transfer of technologies;

- The Convention anticipates that the status of countries will evolve over time (e.g., Article 4.2(f))

- Paragraph 2.b of the Berlin Mandate governs what will be included on this issue in the Kyoto agreement

Bearing in mind these assumptions, there are a number of approaches that can be taken through a new legal instrument. The Parties can agree to:

- continued and more systematic support for efforts to develop national action plans (particularly in developing countries) following the revised Annex I Guidelines for National Communications and the newly adopted Non-Annex I Guidelines for Initial Communications

- redoubled efforts to adopt and implement "no-regrets" measures

- ? expanded programs aimed at developing, diffusing and deploying climate-friendly technologies (including through systematic efforts to identify and remove barriers to technology transfer and to improve the performance of existing financial institutions)

- further consideration of thresholds at which the status of countries would change, and the process involved in such a change in status

- further consideration of future steps (post-Kyoto) toward the objective of the Convention
  atmos. stab. of atmos at safe level

LDG graduation e.g. Korea

Emissions Trading/Joint Implementation

In the U.S. view, emissions trading/joint implementation will be an essential element of the Kyoto agreement; it will therefore be a priority task to establish the guidelines for a credible emissions trading/joint implementation regime by December 1997.

Various design questions will need to be resolved by the Kyoto Conference, including, for example, whether inter-gas trading will be allowed; how trades would most effectively be monitored and reviewed; what distinctions might be drawn with respect to participation in an emissions trading/joint implementation regime (e.g., absent national targets, could project-specific baselines be used?)

A number of principles must underlie an emissions trading/joint implementation regime. Such a regime must be efficient, transparent and verifiable and must produce real reductions. A preliminary elaboration of these principles should already be possible; in the U.S. view, the regime should:

- allow parties to trade or exchange credits toward and against national greenhouse gas reduction or limitation commitments;

what is baseline?

- ensure that emissions reductions are created by actions that verifiably and reliably reduce accrued, net emissions;

Defined at macro level. But no one knows, or could know, at micro level.

- minimize costs, especially transaction and administrative costs;

This will kill it, which is what some want.

- motivate parties to achieve and strengthen national commitments to reduce or limit greenhouse gas emissions;

- motivate economic actors to find and implement on a continuous basis cost-effective greenhouse gas emission reductions;

We'd define baseline as the techn. that would be most sensible economically for their stage of development (like GEF or W. Bk) before taking into acct environment.

- be as flexible as possible to accommodate differing national approaches to achieving emissions commitments;

- promote compatibility among national approaches to facilitate trading/exchanging credits

- be as inclusive of Parties, sub-national entities, gases and sectors as possible;

- ensure transparency e.g. through string~~ent moni~~toring y, record-keeping and reporting; through cost-effective or through e.g. random monitoring

- provide incentives for compliance -- and mechanisms to limit the benefit accorded to non-compliant Parties, and to ensure that non-compliance does not adversely affect environmental progress under the agreement.

Institutions

For reasons of administrative efficiency and in light of budgetary constraints, a new legal instrument should utilize existing institutions to the maximum extent practicable.

A protocol would need to specify its institutions. In the case of an amendment, the institutions established under the Convention would apply. (Note: We do not believe it would be appropriate for non-Parties to a protocol to be officers of an institution serving the protocol.)

Compliance

The term "compliance" is used in this context to refer to the cluster of processes/mechanisms that provide incentives for the Parties to abide by their legal commitments.

Ensuring effective compliance will be critical for environmental as well as economic reasons. Unless parties comply, actions taken are likely to be inadequate and global warming will continue unabated. Uneven compliance will undermine confidence in the Convention and encourage "free-riding."

In addition to promoting compliance by including commitments that are realistic and verifiable (as noted above), the instrument should provide supplementary means, for example, with respect to ascertaining whether Parties are meeting their obligations and with respect to appropriate consequences for non-compliance.

An amendment to the Convention would be covered by the Convention's reporting requirements, as well as dispute settlement provisions and multilateral consultative process, once established. A protocol would need to specify whether any of these Convention mechanisms would apply, as well as any additional compliance-related provisions.

Decision-Making

Only the Parties to the protocol or amendment should have decision-making authority with respect to that instrument.

Final Clauses

A protocol would need to contain several final clauses, including, for example, provisions on entry into force and amendment. An amendment's final clauses are already set forth in the Convention.

Add Banking & borrowing

10/09/98 19:00 ☎202647021 ☑001/004

United States Department of State

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

Washington, D.C. 20520

CLIMATE CHANGE MEETING PRINCIPALS ONLY
TUESDAY, OCTOBER 15 - 11:00 - 12:00n

NAME	FAX
Alicia Munell	395-6958
Rosina Bierbaum	456-6025
Elgie Holstein	456-2223
T.J. Glauthier	395-4639
Everett Ehrlich	482-0432
Jeffrey Honker	482-4636
Lois Schiffer	514-0557
Doug Hall	482-6318
Brooks Yeager	208-4561
David Shark	395-4579
Mark Chupka	586-0861
Charlie Rawls	720-5437
Dirk Forrister	586-9626
Mary Nichols	260-5155
David Gardiner	260-0275
Frank Kruesi	366-3997
Joshua Gotbaum	622-2633
Steve Seidel	456-6546
David Sandalow	456-2170
Pete Jordan	456-9500

Attached is the agenda paper for the climate change meeting that Eileen Claussen would like to have on Tuesday, October 15 from 11:00-12:00 in Room 7835, Department of State. Please call Ms. Wiggins at 647-1554 regarding your attendance.

Thank you.

Climate Change: Next Steps

I. Decision Process

- Interagency Working Group (IWG chair: Amb. Mark Hambley, technical level staff from agencies)
  Principal tasks: develop workplan, prepare analyses, develop/recommend policy options, staff U.S. delegation to Climate Convention and related negotiating sessions
- Claussen Group (chaired by A/S Eileen Claussen, A/S level from agencies)
  Principal tasks: manage process; take policy decisions on most issues
- Interagency Analysis Team (IAT chair: U/S Everett Ehrlich; technical staff from analytic agencies)
  Principal tasks: develop analytic toolbox to assess policy options; evaluate selected options
- Deputies Committee (co-chairs Katie McGinty and Dan Tarullo, U/S and Cabinet level)
  Principal tasks: approve/modify Claussen Group decisions as appropriate, make final major policy decisions

II. U.S. Framework

Announced in Geneva at second session of convention Conference of Parties (by Tim Wirth); includes:
- legally binding target and timetable (rejecting common/harmonized policies and measures)
- medium term emissions target (rejecting short term, i.e., 2005), and long term concentration goal
- flexibility (e.g., emissions trading and/or Joint Implementation (JI))
- requirement of a compliance regime
- inclusion of developing countries

III. Negotiating Timeline

September/October:
- Claussen Group Meeting: October 15. Review proposed submission to convention secretariat
- Submission to convention secretariat (due Oct. 15): propose elements of a protocol/legal instrument, to include: JI/trading, legally binding/compliance, non-Annex I involvement, targets (written by IWG, cleared by Claussen Group/Deputies)

November
- U.S. positions prepared by IWG, cleared by Claussen Group and Deputies. Position to be based on elaboration of October submission, to include:
  - emissions trading/JI (including underlying principles, but no operational details)
  - developing country commitments (developing countries must take part in agreement)
  - target design (with no numbers)
  - legally binding/compliance issues
- Claussen Group Meeting: November 24. Review U.S. positions prior to December AGBM; possible agreement on demarche to other countries

Sunday

December
AGBM (Geneva):
- Concept for and structure of instrument to be tabled/discussed;
- Meeting output will likely take form of outline for agreement

February /March 1997
AGBM (Bonn):
- Initial tabling of language for agreement
- FCCC Secretariat to compile bracketed text based on December discussion and interim submissions.
- U.S. will need actual draft agreement language (rather than concepts) on:
  - emissions trading/JI,

- developing country commitments,
- compliance issues.
- Given short time between conclusion of December session and February opening, little new work can be anticipated in U.S. on these beyond that developed or December; however, we may be able to announce completion of some IAT results with respect to targets at this session. (IWG to draft language, IAT to prepare analyses, Claussen Group to clear)

April/May
Submission of negotiating text to FCCC:
- Submission date not yet set; however, can be anticipated to be needed to insure compliance with 6-month rule;
- Expect Secretariat to compile as single "bracketed text" on basis of submissions; U.S. will need to insure that any options we are still considering be submitted and included in this text

May/June (?) 1997
AGBM (tentative; Bonn):
- Expect a session to be held late Spring/early Summer to insure compliance with 6 month rule
- Focus on discussion of/revision to bracketed text;
- All issues at play;
- Seek resolution of least contentious matters, possibly including final clauses

October (?) 1997
AGBM (tentative; Bonn)
- Expect to need at least one Fall session prior to Kyoto/COP-3; none now scheduled, and would require additional financial support
- Focus on further resolution of bracketed text for instrument, possibly including with respect to trading, compliance and institutional issues

December 1997
COP-3 (Kyoto):
- Likely to need high level bilateral discussions prior to session to resolve final disagreements such as targets, developing country activities, and possibly Rules o Procedure
- Expect both officials' and ministerial-level session at COP-3;
- Focus at former will be to resolve all brackets – but will likely leave some issues unresolved pending arrival of ministers
- Anticipate adoption, but no formal signing ceremony in Kyoto
- May also require "interim operating agreement"– to allow for additional technical details to be resolved (e.g., on trading).

IV. Other Meetings: Timeline

September/October:
- OECD Meetings (Paris, September 30-October 3): discussion of elements of protocol/legal instrument; possible EU focus on policies and measures; additional discussion of developing countries

November
- Annex I Countries of the Asia Pacific (ACAP: US, Canada, Australia, Japan and New Zealand) (Hawaii, October 31 - November 1): all issues related to December Ad Hoc Group on the Berlin Mandate (AGBM: negotiating body for next steps)
- Developing country contact group (Paris, tentative): issues related to technology, Global Environment Facility (GEF), Article 4.1

April/May
Second Climate Action Report due to FCCC (April)
- Will require announcement of anticipated shortfall in meeting 1990 ghg emission levels by 2000, as well as anticipated additional measures being taken to reduce emissions
- IWG to draft, Claussen Group/Deputies to clear; will require financial support from agencies to prepare and publish; will be circulated internationally at Spring/Summer AGBM

September/October
IPCC to begin Third Assessment Report

DRAFT

U.S. Submission on
Elements of a New Legal Instrument
(October 15, 1996)

General

In the U.S. view, the new legal instrument should respond effectively to the environmental challenge posed by climate change; should reflect outcomes that are real and achievable; should be consistent with economic prosperity; should allow for maximum flexibility and cost-effectiveness in its implementation; and should lay the foundation for continuing progress by all countries.

We believe that the following elements would serve as a useful basis for the consideration of topics that would need to be included in this instrument. Given the continuing uncertainties surrounding the form of such an instrument, we have noted particular aspects of these issues that may differ depending on whether the Parties choose a protocol or an amendment to the FCCC to codify their agreement.

Preamble

If the legal instrument takes the form of a protocol, it might include a preamble. If it takes the form of an amendment, it would not, although the decision adopting the amendment could.

Definitions

A protocol would need to incorporate some or all of the definitions in Article 1 of the Convention, include its own definitions, or some combination of the two. An amendment, to the extent it introduces new terms, might also require amendment of Article 1.

Objective

An amendment would, and a protocol should incorporate the objective in the Convention; we do not believe it is either necessary or desirable to develop a separate objective for this legal instrument.

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Level and Structure of the Target

The Geneva Declaration calls for a legally-binding target and timetable. The Berlin Mandate calls for adoption of the protocol/other legal instrument at COP-3, making negotiation of differentiated commitments in this timeframe impracticable. Therefore, it will be important that the target/timetable be sufficiently specific (to facilitate compliance), flexible in terms of its implementation (to encourage broad participation) and straight-forward (to ensure negotiation and adoption by COP-3). As we noted at COP-2, the United States has serious reservations about efforts to develop harmonized policies and measures.

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- be as flexible as possible to accommodate differing national approaches to achieving emissions commitments;
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U.S. Taking Cautious Approach in Talks on Global Warming

By JOHN H. CUSHMAN Jr.

WASHINGTON, Dec. 7 — The Clinton Administration is taking a cautious approach toward negotiations this coming week on new measures to head off global warming due to air pollution.

In a statement to be delivered to other delegates at a United Nations meeting starting Monday in Geneva, American officials will argue that it would be unrealistic to set new deadlines for reducing emissions of so-called greenhouse gases before the year 2010. And it is too early in the negotiations to specify how big any such reductions should be, they said.

The United States, like other industrial countries, is already experiencing difficulties reducing its own emissions of carbon dioxide from burning fossil fuels. It will be very complicated persuading 153 nations to agree on how strict any new controls should be and on how they should be put into force.

The countries that signed the original climate-change treaty at the Earth Summit in Rio de Janiero in 1992 have since concluded that it ought to be strengthened. The original treaty called for industrial nations, as a first step, to aim at reducing their greenhouse gas emissions by the year 2000 to the levels of 1990. But that goal was not binding, and few nations have met it.

So the treaty partners are now trying to agree on expanded measures to control the growth of greenhouse gas emissions well beyond the turn of the century. The talks are aimed at reaching agreement at a meeting late next year in Japan.

The Administration has been arguing that the new agreement should impose binding, medium-term targets for reducing emissions to levels that are realistic and achievable, while requiring developing countries, not just industrial nations, to control their greenhouse gases.

At a briefing for reporters, a State Department negotiator said that in the Geneva meetings the United States would oppose suggestions by some countries that the next set of targets take effect as early as 2005. She added that the United States also opposes requiring all nations to adopt common policies, like uniform taxes on energy, and instead wants to provide flexibility to each nation.

The United States is urging the United Nation negotiating committee in Geneva to develop a plan that would allow some countries to pay others to make reductions on th behalf, since controlling pollution cheaper in some places than in o ers and since from the planet's po of view it makes no difference wh carbon dioxide comes from.

Environmentalists said they a disappointed with the Administ tion's approach.

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"The proposal would delay the beginning of any legal requirements to reduce greenhouse pollution until at least 2010, and even then emissions could be 'borrowed' from the period after 2020," the Natural Resources Defense Council said in a statement.

"Rather than detailing commitments to protect our children, the staff paper proposes literally borrowing pollution allowances from our children and thereby putting the burden on them," said Dan Lashof of the environmental group.

But an industry coalition opposed to a binding treaty said it was pleased that the Administration "highlighted the growing attention to the economic costs" of measures to fight global warming.

"It is encouraging that the Administration apparently shares our concerns regarding impacts on the U.S. economy from poorly developed or premature policies to reduce greenhouse gas emissions," John Shlaes, executive director of the Global Climate Coalition, said in a statement.

DO NOT FORGET THE NEEDIEST!