

FOIA MARKER

This is not a textual record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

Collection/Record Group: Clinton Presidential Records
Subgroup/Office of Origin: Council of Economic Advisers
Series/Staff Member: Subject Files
Subseries:

OA/ID Number: 21614
FolderID:

Folder Title:
Global Climate Change Questions from Congress 1 of 2

Stack:	Row:	Section:	Shelf:	Position:
S	21	4	10	3

ACTION

DEADLINE: _____

MAY 27 1998

TO: OES for EIZENSTAT

FROM: H - Kaye W. Littlejohn
Rm. 5917, Ext. 7-2137

JY
CC: JF

JA

RL
MJ

AM ← orig.

SUBJECT: Questions for the Record

Following your appearance of 2/11/98 before
the SFRC, SC, ON INT'L. ECONOMIC POLICY, EXPORT & TRADE PROMOTION.

on IMPLICATIONS OF THE KYOTO PROTOCOL additional
questions were submitted for the record. Please prepare responses according to the following
instructions and deliver them to Room 5917.

PUBLIC LAW 102-138 SEC. 196 MANDATES THAT ALL QUESTIONS FROM CONGRESS "EMERGING FROM HEARINGS AND NOMINATION MATTERS" BEFORE THE HFAC AND SFRC BE ANSWERED BY STATE DEPT. OFFICIALS WITHIN 21 DAYS. IF THE DEPARTMENT DOES NOT MEET THIS DEADLINE OR PROVIDE AT LEAST A PARTIAL SUBSTANTIVE RESPONSE, THE LAW REQUIRES THE SECRETARY OF STATE HIMSELF TO SEND A LETTER EXPLAINING WHY A TIMELY RESPONSE CANNOT BE MADE.

If you cannot comply with this timetable, please notify H (Kaye W. Littlejohn x72137) and provide an action memo to the Secretary with a draft letter to the relevant committee explaining the reason for delay.

INSTRUCTIONS

- » Each question should begin on a separate page.
- » The heading of each page should be centered and contain the following information:
 Question for the Record submitted to (witness name).
 (Committee Name)
 (Date of Hearing)
- » The question must be typed single spaced and repeated verbatim. If the question is numbered, repeat the number. The answer must be typed ~~double~~ single spaced.
- » Drafting and clearing information for each Q & A should be provided on a separate page. Each Q & A must be cleared by a Legislative Management Officer in H.

JESSE HELMS, NORTH CAROLINA, CHAIRMAN

RICHARD G. LUGAR, INDIANA
PAUL COVERDELL, GEORGIA
CHUCK HAGEL, NEBRASKA
GORDON H. SMITH, OREGON
CRAIG THOMAS, WYOMING
ROD GRAHAM, MINNESOTA
JOHN ASHCROFT, MISSOURI
BILL FRIST, TENNESSEE
SAM BROWNBACK, KANSAS

JOSEPH R. BIDEN, JR., DELAWARE
PAUL S. SARBANES, MARYLAND
CHRISTOPHER J. DODD, CONNECTICUT
JOHN F. KERRY, MASSACHUSETTS
CHARLES S. ROBB, VIRGINIA
RUSSELL D. FEINGOLD, WISCONSIN
DIANNE FEINSTEIN, CALIFORNIA
PAUL D. WELLSTONE, MINNESOTA

JAMES W. NANCE, STAFF DIRECTOR
EDWIN K. HALL, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON FOREIGN RELATIONS

WASHINGTON, DC 20510-6225

May 22, 1998

The Honorable Stuart E. Eizenstat
Under Secretary of Economic, Business
and Agricultural Affairs
Department of State
Washington, DC 20520

Dear Mr. Secretary:

Attached are further questions and requests for the record in light of your February 11, 1998 testimony and your responses to questions and requests submitted for the record in relation to that hearing on the implications of the Kyoto Protocol.

Please pay particular notice to two repeated requests:

1. Question 2.9 requests that you make available to this committee all economic models and analyses used by the Administration, in particular, the model used by the U.S. delegation in Kyoto, which you refer to in your February 11 testimony.
2. Question 5.6 follows up on a series of questions posed to you regarding the impacts of the Kyoto Protocol on the United States military and any effort the Armed Forces may have made to request a blanket exemption from the provisions of the Kyoto Protocol.

Thank you for your immediate attention to this request.

Sincerely,



Chuck Hagel
Chairman
Subcommittee on International Economic
Policy, Export and Trade Promotion

CTH/kp

**FURTHER QUESTIONS FOR THE RECORD
TO
STUART EIZENSTAT
UNDER SECRETARY OF STATE**

**IN LIGHT OF FEBRUARY 11, 1998 TESTIMONY and
RESPONSES TO FEBRUARY 11, 1998 QUESTIONS FOR THE RECORD**

INTRODUCTORY NOTES

References to Hearing Transcript:

Some of the following questions contain quotations from the stenographic transcript of the Hearing of the Committee on Foreign Relations held on February 11, 1998. Citations of quoted testimony to the transcript are indicated in brackets by page and line numbers, *e.g.*, [14:7-11].

References to Responses to Prior Questions for the Record:

Some of the following questions contain quotations from, or references to, the written responses of Under Secretary Eizenstat to "Questions for the Record for Under Secretary of State Stuart Eizenstat Submitted by Senator Chuck Hagel, United States Senate Committee on Foreign Relations, Hearing on Implications of the Kyoto Protocol, dated February 13, 1998." Citations to such responses are indicated by reference to the "Question for Record," followed by its number.

Requests for Production of Documents:

Some of the following questions contain requests for the production of Documents to the Senate Committee on Foreign Relations.

For purposes of any question requesting the production of Documents:

(1) "Document" or "Documents" include, without limitation, all original and copies, identical or non-identical (including drafts and copies or drafts bearing commentary or notations not appearing on the original or final version), of any handwritten, typewritten, printed, recorded, electronically stored, or graphic material of any kind, including, but not limited to, memoranda, notes, analyses, reports, correspondence, publications or parts thereof, records of meetings or discussions, diaries, data or other information contained in computers or computer printouts, databases, electronic mail (e-mail), and any other form of stored data or other information, as well as computer programs (software) for storing or analyzing data or information.

(2) The request is for the production of a true, complete, and unedited copy of each version of the Document that is in the possession, care, custody, or control of the U.S. Department of State or any of its employees, including, but not limited to, Under Secretary Eizenstat. It is the responsibility of the Department of State to request all of its employees, who reasonably should be believed may have possession, care, custody, or control of a Document, to make a good-faith search for the Document and to produce it. Production should be by attachment to the written responses to questions.

(3) If the Document is not in the possession, care, custody, or control of the U.S. Department of State or any of its employees, including, but not limited to, Under Secretary Eizenstat, the response to the request should so state and, also, should identify each federal department or agency that is believed may be in the possession, care, custody, or control of the Document, as well as the name of the employee(s) of such department or agency who is/are believed to have knowledge as to possession, care, custody, or control of the Document.

Certain Definitions:.

For purposes of these questions:

"Convention" means the United Nations Framework Convention on Climate Change.

"COP" means the Conference of the Parties to the Convention.

"COP/MOP" means the Conference of the Parties to the Convention serving as the meeting of the Parties to the Kyoto Protocol.

"Protocol" (unless the context states or implies otherwise) means the Kyoto Protocol, as adopted by the COP on December 11, 1997.

"Annex I Parties" means nations listed in Annex I to the Convention.

"Annex B" means Annex B to the Protocol.

"Annex B Parties" means nations listed in Annex B.

"EIT" refers to a nation regarded as one that "is undergoing the process of transition to a market economy."

"SBI" means the Subsidiary Body for Implementation.

"SBSTA" means the Subsidiary Body for Scientific and Technological Advice.

1. Please submit for the record "updated," supplementary or different answers to all of the following questions and to your responses to the Questions for the Record, dated February 13, 1998, so as to reflect any and all changes to your initial answers to those questions that, in the interests of completeness or future accuracy, should take into account any changes to the facts, circumstances, or the Administration's views that occur after the date of your initial answers.

1.1 Will you submit such supplementary or different answers promptly after you or any other official of the State Department at or above the level of Office Director become aware of any such changes to the facts, circumstances, or the Administration's views that occur after the date of your initial answers to the following questions and to the Questions for Record? If your answer to this question is not unqualifiedly "yes," please fully explain your answer.

1.2 Will any such supplementary or different answers set forth, at least in summary, an explanation of the changes to the facts, circumstances, or the Administration's views that occur after the date of your initial answers to the following questions and to the Questions for Record? If your answer to this question is not unqualifiedly "yes," please fully explain your answer.

2. DECISION-MAKING BY THE ADMINISTRATION

2.1 The "second" Question for Record 12 (which was misnumbered in the Questions for Record sent to you) asked whether "there currently is in place any interagency body within the Executive Branch that has the responsibility to analyze the economic implications to the nation of the emissions-reduction requirements specified in the Kyoto Protocol for the United States and of alternative domestic policies to achieve those reduction requirements." Your response states that "several competent departments . . . work together on analysis, depending on the issue." Your response then stated that the "Council of Economic Advisors has done the Administration's major economic analysis, presented to the Congress on March 4."

(a) Please identify each federal agency, if any, that contributed to the "economic analysis" that was done by the Council of Economic Advisors and the subject matter of its contribution.

(b) Which federal agencies have continuing responsibility to analyze the economic implications referred to in the "second" Question for Record 12?

2.2 Your response to Question for Record 39 states in relevant part: "To date, no agency or interagency body has been given responsibility to develop potential proposals for legislation or regulation that would be intended to comply with the Kyoto Protocol if it were to become binding on the U.S."

(a) Please identify each department or agency of the Executive Branch that you believe or suspect may have been or currently is engaged, directly or by engaging the services of a contractor, to develop options for legislation or regulations that would be intended to facilitate

compliance by the United States with the Protocol if it were to become binding on the United States.

(b) As to each department or agency identified in your answer to Question 2.5(a), please state, to the best of your knowledge, information, or belief, whether its activity was undertaken:

(i) solely upon the initiative of the department or agency;

(ii) upon the direction of an official of the Administration outside that department or agency, in which case the official should be identified; and/or

(iii) pursuant to agreement of, or discussions by, a group of representatives of departments and/or agencies.

(c) Your response to the "second" Question for Record 12.1 states: "The National Economic Council regularly convened various agencies to consider the economic implications to Kyoto and to arrive at major policy decisions."

(i) Is your answer intended to refer to the period of time prior to COP-3, during COP-3, and/or after COP-3?

(ii) Please identify the "major policy decisions" that were the subject of such convened activities.

2.3 Prior Questions for Record 14, 14.1, and 14.2 concerned information you had as of the time you arrived at the Kyoto Conference or at any time during the Kyoto Conference.

(a) Question for Record 14 asked (in part) whether you were informed of "what the President's October proposal would require of the United States in terms of the tons of carbon-equivalent emissions reductions." Your response stated "yes, in a general sense." Please state in terms of tons of carbon-equivalent (and not in terms of a percentage reduction below a "business as usual" or "baseline" case) what you were informed would be the emissions-reduction requirement of the United States.

(b) Question for Record 14 asked (in part) whether you were informed about "what the economic consequences to the nation likely would be if the President's October proposal were the basis for a protocol." Your response stated "yes," followed by general reference to the benefits of emissions trading and joint implementation." Please state what you were informed regarding:

(i) impacts on gross domestic product (in terms of dollars and percentage change from projected "baseline" GDP for the period(s) about which you were given information);

(ii) impacts on employment (in terms of numbers of jobs and percentage change from projected "baseline" employment for the period(s) about which you were given information);

(iii) impacts on inflation (in terms of percentage point change from projected "baseline" inflation rate for the period(s) about which you were given information);

(iv) impacts on U.S. trade deficit (in terms of dollars and percentage change from projected "baseline" balance of payments for the period(s) about which you were given information);

(v) any other impacts on the economy of the United States;

(vi) the marginal or average cost per ton (carbon equivalent) of emissions reductions required to be made by the United States, without regard to "credits" from international emissions trading and "joint implementation" with other nations;

(vii) the assumptions concerning the amount (in tons of carbon equivalent) of "credits" that the United States likely would be able to acquire during the years 2008 through 2012 by means of emissions trading and, separately, by means of "joint implementation" with other nations, and the cost per ton of each of those types of "credits;" and

(viii) the assumptions concerning any limits (contained either in the Protocol or in decisions made thereunder) on the extent to which an Annex I Party could meet its emissions-limitation/reduction commitment by means of emissions trading and/or "joint implementation" with other nations.

(c) Question for Record 14 asked (in part) whether you were informed of "what domestic laws and regulations likely would be required to enable the United States to abide by the President's October proposal." Your response stated: "No. We did not get to this level of detail." You then referred, insofar as domestic legislation was concerned, to the indication that the President favored an emissions trading system, and his proposals for a Climate Technology initiative and tax incentives.

(i) Please state what, if anything, you inquired about, or were you informed about, concerning:

(A) What sectors of the economy and what sources of greenhouse gas emissions from energy production and/or consumption might be subject to such emissions trading?

(B) Whether domestic legislation might involve carbon taxes, energy taxes of any kind, or fees related to production or consumption of energy, and, if so, the rate or magnitude of such taxes or fees?

(C) Whether automobiles, trucks, electricity generation, or any manufacturing operations might be subjected to new or additional efficiency standards or standards based in any manner on fuel consumption, type of fuel used, or carbon dioxide or other greenhouse gas emissions, and, if so, the type and magnitude of such standards?

(D) Whether the items mentioned in your response to Question for Record 14 would be sufficient to enable the United States to comply with its emissions-reduction/limitation commitment if the President's October proposal were the basis for a protocol?

(ii) When you were informed about the economic consequences to the nation likely to occur if the President's October proposal were the basis for a protocol:

(A) Did you believe that the economic consequences would or could depend, at least in part, on the nature and extent of the domestic legislation and regulations?

(B) Were you led to believe that, insofar as domestic legislation and regulations were concerned, only those items mentioned in your answer to Question for Record 14 were contemplated by the person(s) who developed the assessment of economic consequences?

2.4 Question for Record 14.1 asked (in part) for you to state what you were told about "what the economic consequences to the nation likely would be if the President's October proposal were the basis for a protocol." Your answer stated: "I was not provided with a full-blown economic analysis but received indications that flexible, market-based mechanisms would ensure that the Protocol would be implemented in the most cost-effective manner if elements of the President's proposal (e.g., emissions trading and joint implementation) were included in the final text."

(a) Please explain what you mean by "full-blown economic analysis." Your answer should include a statement as to whether you regard Janet Yellen's March 4, 1998 testimony before the House Commerce Committee as "full-blown economic analysis."

(b) Please state what was told you that you regarded as "indications" that flexible, market-based mechanisms would ensure that the Protocol would be implemented in the most cost-effective manner if emissions trading and joint implementation were included in the final text. Your answer should include identification of each person who provided you information that gave rise to such "indications."

(c) Please explain what you mean by "flexible, market-based mechanisms." Your answer should include a statement as to whether they referred to domestic emissions trading and/or taxes.

2.5 Request for Production of Documents: Please produce all Documents, prepared at any time by any employee(s) of, or consultant(s) to, the Government of the United States or any of its departments or agencies, that set forth, in whole or in part:

(a) estimates, ranges, or analysis of economic costs to the United States (however those costs might be viewed, *e.g.*, effects on gross domestic product, employment, inflation, balance of trade, etc.) that might result from compliance by the United States with:

(i) the President's October 22, 1997 proposal for commitments by Annex I Parties in a protocol to the Convention;

(ii) proposals made by other Parties to the Convention at any time between January 1, 1997 and the COP's adoption of the Protocol (excluding the final version of the Protocol); and/or

(iii) the Protocol.

Please note that the foregoing request for production of documents includes, but is not limited to, all Documents that are comprehended by the expression "quick analyses done on the spot of the economic impact of various options we were considering" (as that phrase is used in your response to Question for Record 20.1).

Furthermore, your attention is called to the following statements in your prior testimony:

"We had with us a representative, John Gruber, from the Treasury Department, who had his handy computer, who at every turn, every time we made any significant proposal or we received one, factored the costs in. He was in constant contact with Washington, with Treasury, and with the Council of Economic Advisors. We did not sneeze without getting an economic analysis of it." [85:21 to 86:2]

[In response to the question "what numbers did you use and where did they come from?"] "They came from Treasury and the Council of Economic Advisors, which, in turn, relied on other models, which they will be prepared, which Janet Yellen will be prepared to testify about in great detail." [86:71-22]

The foregoing Request for Production of Documents includes, but is not limited to, all Documents developed or used by Mr. Gruber, by the Treasury Department, by the Council of Economic Advisors, and/or by any other person or entity, federal or non-federal, which in any manner was the source of economic analysis, costs, or other information that came to the

attention of you, Mr. Gruber, or any other member of the U.S. Delegation at the Kyoto Conference and that is comprehended by your testimony set forth above. Not in limitation of the broad definition of "Documents" and the related instructions set forth on pages 1-2, above, "Documents" shall be understood to include all models and assumptions used in developing any of the aforesaid economic analysis, costs, or other information.

(b) options for potential U.S. legislation or regulations that would enable or facilitate compliance by the United States with:

(i) the President's October 22, 1997 proposal for commitments by Annex I Parties in a protocol to the Convention;

(ii) proposals made by other Parties to the Convention at any time between January 1, 1997 and the COP's adoption of the Protocol (excluding the final version of the Protocol); and/or

(ii) the Protocol.

(c) estimates or analysis indicating that the "7 percent target [of the United States, as set forth in the Protocol] represents at most a 3 percent real reduction below the President's initial proposal of reducing greenhouse gases to 1990 levels by 2008-12," as stated in the State Department's "Fact Sheet: The Kyoto Protocol on Climate Change," dated January 23, 1998.

2.6 With reference to analysis "which showed that the Kyoto Protocol involves 'at most a 3 percent real reduction' of U.S. greenhouse emissions below 1990 levels [and which was] furnished to you while you were in Kyoto Question and before you agreed to the 7 percent reduction," Question for Record 15.1 asked (in part): "Who furnished you the analysis, and when?" Your response stated (in part) that the "analyses were undertaken during negotiations by the U.S. delegation, with assistance from the Administration's economic experts in Washington."

(a) Please identify by name and agency each of the persons on the U.S. delegation who were directly responsible for preparing the analyses upon which you relied and each of the persons among the Administration's economic experts in Washington who provided such assistance.

(b) Please identify by source all previously published data and analyses upon which any of such persons relied.

2.7 Question for Record 15.2 asked whether Chairman Estrada and certain nations were informed that the Protocol, as finally proposed to be adopted by the Kyoto Conference, "would entail at most a 3 percent real reduction of U.S. greenhouse gas emissions below 1990 levels." Your answer is not responsive, because it merely states that the Chairman "and other nations fully recognized that difference in accounting procedures for sinks and the inclusion of the synthetic gases would mean different results for the U.S. target," that "these effects were widely

known," and that "[d]uring my negotiations with the European Union and Japan this was explained."

(a) Please answer Question for Record 15.2 and, in doing so, state whether Chairman Estrada and each of the nations referred to in that Question for the Record explicitly were told by you that the Protocol, as finally proposed to be adopted by the Kyoto Conference, would entail at most a 3 percent real reduction of U.S. greenhouse gas emissions below 1990 levels.

(b) What persons in the U.S. delegation had the authority to determine whether Chairman Estrada, and which nations (if any), would be informed that the Protocol, as finally proposed to be adopted by the Kyoto Conference, would entail at most a 3 percent real reduction of U.S. greenhouse gas emissions below 1990 levels.

2.8 It has been publicly reported that the President has designated Mr. Todd Stern to "head up the White House Climate Change Initiative as Assistant to the President for Special Projects," and that Mr. Stern "will work closely with all of the administrative offices to coordinate the administration's efforts on the issue."

(a) Can you confirm the accuracy of that report?

(b) Please explain the relative responsibilities and authorities of you and Mr. Stern with respect to the domestic and international aspects of the Administration's climate-change policymaking?

2.9 It is reported that, in the Secretary of State's speech on April 21, 1998, she announced that she will "appoint a special coordinator for U.S. diplomatic efforts to encourage developing countries to limit greenhouse gas emissions."

(a) Has that person been appointed? If your answer is "yes," please identify the person.

(b) If that person has not yet been appointed, when do you anticipate the appointment will be made?

(c) According to the report of the Secretary's speech, the appointee will "work closely" with you and with Acting Assistant Secretary Melinda Kimble. Who will be the immediate supervisor of the special coordinator?

(d) Please provide a description of the responsibilities of the special coordinator.

2.10 Question for Record 13 concerned whether "you are the senior State Department official who has immediate responsibility for the Administration's policy approach to, and strategies concerning, international climate change negotiations." Your answer stated: "It has not been determined who will take the lead if a new Under Secretary for Global Affairs is confirmed." In view of the fact that the President now has nominated Mr. Loy to be the Under Secretary for

Global Affairs, please describe the discussions you have had with the Secretary, Mr. Loy, or any other presidential appointee concerning whether you or Mr. Loy (if he is confirmed) will have immediate responsibility for the Administration's policy approach to, and strategies concerning, international climate change negotiations."

3. COMMITMENTS BY DEVELOPING COUNTRIES

3.1 In your testimony, you said: "Most significant, we have to work to secure the meaningful participation of key developing countries. We will put on a full court diplomatic press to bring developing Nations into a meaningful role to help solve the global climate challenge. We will accept nothing less nor would we expect the U.S. Senate to do so." [24:16-21].

(a) As far as the Administration is concerned, do the phrases "meaningful participation" and "meaningful role," as used in your testimony, mean the same thing? If your answer to this question is not unqualifiedly "yes," please fully explain your answer.

(b) As far as the Administration is concerned, does the phrase "meaningful participation" of a developing country necessarily require commitments of such country:

(i) which are set forth in an instrument that is:

(A) adopted by the COP? If your answer to this question is not unqualifiedly "yes," please fully explain your answer.

(B) adopted by the COP/MOP? If your answer to this question is not unqualifiedly "yes," please fully explain your answer.

(C) required by the Constitution of the United States to receive the advice and consent of the Senate? If your answer to this question is not unqualifiedly "yes," please fully explain your answer.

(ii) which are legally binding? If your answer to this question is not unqualifiedly "yes," please fully explain your answer.

(iii) which are legally-binding commitments to limit or reduce greenhouse gas its emissions? If your answer to this question is not unqualifiedly "yes," please fully explain your answer.

(iv) which are legally-binding commitments to limit reduce its greenhouse gas emissions within the same compliance period as the United States? If your answer to this question is not unqualifiedly "yes," please fully explain your answer.

(v) which limit, in quantitative terms, the amount or the growth of its greenhouse gas emissions either as of a specified date or during a specified time period? If your answer to this question is not unqualifiedly "yes," please fully explain your answer.

(vi) which are not expressed in terms such as an "aim," "goal," "objective," "target," or similar words? If your answer to this question is not unqualifiedly "yes," please fully explain your answer.

(vii) which cover emissions of each of the greenhouse gases and each of the sources listed in Annex A to the Protocol? If your answer to this question is not unqualifiedly "yes," please fully explain your answer.

(viii) which, insofar as removals by sinks are concerned, are subject (by repetition, cross-reference, or otherwise) to all of the provisions of the Protocol concerning sinks and all of the future decisions pursuant to Article 3.4 of the Protocol that are, or will be, applicable to the current Annex B Parties? If your answer to this question is not unqualifiedly "yes," please fully explain your answer.

(c) In order to gain an understanding as to what the Administration means by the phrase "key developing countries," please:

(i) list by name all of the countries that, in addition to China and India, the Administration currently regards as "key;"

(ii) state whether the phrase "those countries who are most critical to our efforts to control global climate change" (as used in your response to Question for Record 22) is intended to mean exactly the same thing as the phrase "key developing countries" (as used in the President's October 22 speech), and, if they do not mean exactly the same thing, please fully explain the difference;

(iii) state whether you anticipate that the Administration's current list of "key" developing countries is anticipated by you to be expanded and/or contracted in the future;

(iv) state all of the criteria (including, but not limited to, those that may be expressed in quantitative terms and those that pertain to the political significance of a nation in the context of international climate-change policymaking) that influence the Administration's determination as to which nations are "key developing countries" and, in doing so, please note that this question refers to which nations are "key," not what would constitute "meaningful participation;" and

(v) set forth in summary form the information that, in light of your answer to Question 3.1(c)(iv) causes the Administration to believe that China and India are "key developing countries," and, if Argentina, Brazil, Chile, Malaysia, Mexico, Republic of Korea, Saudi Arabia, Singapore, South Africa, and/or Thailand are named on the list in

answer to Question 3.1(c)(i), please provide such information as to each of them. If any of such nations are not on such list, please fully explain why.

(d) state the approximate date on which the Administration first identified a list of "key" developing countries, even though such list might be subject to later change, and please identify the persons who were responsible for preparing such list; and

(e) explain the policy of the Administration concerning achieving the "meaningful participation" of countries not included in your list of "key" developing countries in the effort to achieve the objective set forth in Article 2 of the Convention; and

(f) USAID, in its Global Climate Change Program Booklet (prepared March, 1997) lists a number of projects in "key" countries. Is the USAID definition of a "key" country the same used as your's and the Administration's when you speak of "key developing countries?"

3.2 In your response to Question for Record 21.1, you stated (in part): "Moreover, meaningful participation by key developing countries would capture, by far, the vast majority of future greenhouse gas emissions in the developing world." Please provide an analysis which supports and explains that statement. For example, your analysis should specify the limit on future greenhouse gas emissions for each of the "key" developing countries your answer had in mind.

3.3 In your response to Question for Record 21.1, you stated (in part) that the "recent economic crisis in Asia has highlighted one of the difficulties of establishing scheduled emissions reductions commitments for developing countries," and you also stated that "these projections [of emissions growth] are highly sensitive to unpredictable economic events."

(a) Do you agree that an "economic crisis" in the United States (whether or not of the type or magnitude of Asia's "recent economic crisis"), if it were to occur, also highlights one of the difficulties of establishing scheduled emissions reduction commitments for the United States? If your answer is not an unqualified "yes," please explain your answer.

(b) Do you agree that projections of emissions growth in the United States also are highly sensitive to unpredictable economic events? If your answer is not an unqualified "yes," please explain your answer.

(c) Please explain why, as a consequence of "economic crises" and the sensitivity of projections of emissions growth to unpredictable economic events, it is more difficult to establish scheduled emissions reduction commitments for developing countries than for the United States or for any of the other Annex I Parties.

3.4 Your response to Question for Record 21 does not answer the question.

(a) Please identify by name each developing country that you specifically asked to agree to language in the Protocol that would set forth for that country a new, specified, scheduled

commitment to limit or reduce its greenhouse gas emissions within the same compliance period as would apply to the United States.

(b) Please explain, to the extent not answered in response to Question 3.4(a), what your response to Question for Record 21 meant by the statement "I worked the Hagel-Byrd [sic.] resolution frequently in Kyoto."

3.5 Your response to Question for Record 21.1 states (in part): "The intention always has been that developing countries should take on binding commitments to limit their greenhouse gas emissions." Please state whether that statement:

(a) applies to all developing countries that are Party to the Convention, or only to those that the Administration regards as being "key" developing countries;

(b) means, as to the developing countries contemplated by your answer to Question 3.5(a), legally binding commitments, expressed in quantitative terms, to limit greenhouse gas emissions according to a specified time schedule or within a specified period of time.

3.6 In your testimony, you said: "First, I see a spectrum of developing countries. There are those, for example, who are already members of Western industrial institutions -- for example, the OECD. Mexico and South Korea would be examples and there are other countries, such as Argentina, that are knocking on the door." [30:15-19] You then said: "I think that for those countries, they ought to assume, if they are members, in effect, of an industrialized organization, the kind of binding reductions over time that we have done." [30:20-23].

(a) Is it the position of the Administration that all nations, which already are members of the OECD, but currently are not Annex B Parties, must undertake legally binding commitments, including being listed in Annex B, to limit their emissions of greenhouse gas emissions during the period 2008-12 and, also, during any subsequent commitment period that later is specified in the Protocol (or in an amendment thereto) and is applicable to the United States? If your answer to this question is not unqualifiedly "yes," please fully explain your answer.

(b) If your answer to Question 3.6(a) essentially is "yes":

(i) Is it the Administration's position that Mexico and the Republic of Korea each must be the subject of a proposed amendment to Annex B, which proposes to list such country on Annex B and which has been submitted in accordance with the requirements of the Protocol, prior to President Clinton's signing the Protocol in behalf of the United States? If your answer to this question is not unqualifiedly "yes," please fully explain your answer.

(ii) Is it the Administration's position that (with the concurrence of Mexico and the Republic of Korea, and of any other nation which at the time is a member of the OECD) the COP or the COP/MOP must have adopted one or more amendments to Annex

B that lists each such country on Annex B as a condition precedent to President Clinton's submitting the Protocol to the Senate for its advice and consent? If your answer to this question is not unqualifiedly "yes," please fully explain your answer.

(iii) If Mexico and/or the Republic of Korea were to be the subject of a proposed amendment to Annex B, please state:

(A) whether the base year for each such country must be 1990, except as provided in Article 3.8 of the Protocol. If your answer to this question is not unqualifiedly "yes," please fully explain your answer.

(B) the maximum percentage of each country's greenhouse gas emissions, compared to its emissions in its base year, that is acceptable to the Administration.

(c) Is it the position of the Administration that, from and after today, all nations, as a condition of becoming a member of the OECD, must undertake, either before becoming a member or within a specified time after becoming a member, legally binding commitments, including being listed in Annex B, to limit their greenhouse gas emissions during the period 2008-12 and, also, during any other subsequent commitment period that later is specified in the Protocol (or in an amendment thereto) and is applicable to the United States? If your answer to this question is not unqualifiedly "yes," please fully explain your answer. If your answer involves a requirement that the country undertake such legally binding commitment within a specified time after becoming a member of the OECD, please specify the maximum time period that the Administration would accept.

(d) Your above-referenced testimony used the expression "knocking on the door." Please:

(i) state whether the quoted expression meant that Argentina and the "other countries" currently are seeking membership in the OECD. If your answer to this question is not unqualifiedly "yes," please fully explain your answer.

(ii) identify all countries that currently are seeking membership in the OECD.

(iii) summarize, as to each country currently seeking membership in the OECD, the discussions or negotiations between such country and the United States, as well as between the United States and any other OECD member, concerning proposals for the country's undertaking commitments to limit its greenhouse gas emissions.

3.7 It is my understanding that Argentina and Chile may have informed the United States that each will undertake specific, quantified emissions-limitation commitments within specified time periods. Please state:

(a) Have Argentina and/or Chile so informed the United States?

(b) What other developing countries have informed the United States that it will undertake specific, quantified emissions-limitation commitments within specified time periods?

(c) With as much detail as is known to you, what each such commitment likely will be.

(d) All promises, assurances, or statements of possible benefit that might accrue to the benefit of each such country, which have been made by an official of the United States and which were intended to motivate the such commitment.

3.8 In your testimony, you said: "Second, there are other countries that are not at that stage of development but who can afford to make binding reductions or perhaps, if not reductions, at least reducing the rate of increase by an efficiency standard. One of the things we have said to these countries is if you are concerned about your own stage of industrialization, then you ought to be concerned also about energy efficiency and sustainable development. We are working on a formula that is emissions per unit of GDP so that they would cut their rate of growth." [30:24 to 31:7] For convenience, the following questions sometimes refer to such countries as "this second group."

(a) Did the expression "other countries that are not at that stage of development" mean countries that are not members of the OECD? If your answer to this question is not unqualifiedly "yes," please fully explain your answer.

(b) Does the Administration regard the countries that fit within this second group as being "key developing countries?" If your answer to this question is not unqualifiedly "yes," please fully explain your answer.

(c) Please set forth in detail all of the criteria or factors that, if met, the Administration believes should identify a country, which is not a member of the OECD, as being one that "can afford to make" the type of commitments that should be applicable to this second group.

(d) Please identify all countries that, in the Administration's view, fit within this second group and, as to each listed country, please explain how the circumstances of that country meet the criteria or factors set forth in your answer to Question 3.8(c).

(e) Is it the policy of the Administration that the commitments of all countries in this second group must be set forth in an instrument as described in Question 3.1(b)(i) and that the commitments must have each of the characteristics set forth in Question 3.1(b)(ii) through (iv)? If your answer to this question is not unqualifiedly "yes," please fully explain your answer.

(f) Was the expression "reducing the rate of increase by an efficiency standard" meant to refer to the "formula that is emissions per unit of GDP?" If your answer to this question is not unqualifiedly "yes," please fully explain your answer.

(g) With respect to the expression "a formula that is emissions per unit of GDP so that they would cut their rate of growth":

(i) Please set forth all such formulas that the Administration has considered since January 1, 1997 and please state which of such formulas the Administration currently is considering.

(ii) What, in the Administration's view, are all the reasons "for" and "against" a developing country's commitment to reduce the rate of growth of its greenhouse gas emissions being tied, by formula or otherwise, to its GDP?

(iii) If a developing country's commitment to reduce the rate of growth of its greenhouse gas emissions were tied, by formula or otherwise, to its GDP:

(A) What would be the entity (e.g., name of intergovernmental body) and the source (e.g., identity of a published set of data, special report to the COP/MOP, etc.) to determine each developing country's GDP?

(B) Would GDP be determined on the basis of so-called "purchasing power parity?" If your answer to this question is not unqualifiedly "yes," please fully explain your answer.

(C) How would the "formula" take into account fluctuations in a country's GDP during the commitment period?

(h) Please identify each Party to the Convention to which a representative of the Administration (including, but not limited to, the President or the Vice President) or of the State Department has communicated in any manner the concepts referred to in your testimony at page 30, line 24 to page 31, line 7 at any time since January 1, 1997, and, as to each, to the best of your knowledge, please state:

(i) the dates of all such communications and, as to each, whether it was written or oral and the persons who made and received the communication;

(ii) in summary, the substance of the communication; and,

(iii) in summary, the reaction of the other Party to the communication from the representative of the Administration or the State Department.

3.9 The Republic of China (Taiwan) is not a Party to the Convention, and the United States does not maintain diplomatic relations with it. China asserts that the Republic of China (Taiwan) is a part of China. The Republic of China (Taiwan) for many years has been, currently is, and for the foreseeable future is likely to be engaged in substantial trade competition with the United States.

(i) Please state whether the Administration agrees with each of the statements made in the preceding paragraph. If your answer to this question is not unqualifiedly "yes" in all respects, please fully explain your answer.

(ii) Should China commit to limit the growth of its greenhouse gas emissions, would such commitment, as far as the Administration is concerned, bind the Republic of China (Taiwan)? Please explain the reasons for your answer.

(iii) Please set forth the trade surplus, or trade deficit, as between the United States and the Republic of China (Taiwan), for each of the years 1990 through 1997.

(iv) Is it unfair to the United States, and to the U.S. companies that are engaged in trade competition with the Republic of China (Taiwan) or with its companies, for the Republic of China (Taiwan) not to be subject to legally binding commitments to limit its greenhouse gas emissions or the rate of growth of such emissions? If your answer to this question is not unqualifiedly "yes" in all respects, please fully explain your answer.

(v) What are the Administration's plans to obtain from the Republic of China (Taiwan) legally binding commitments to limit its greenhouse gas emissions or the rate of growth of such emissions?

(vi) Has the Administration sought to persuade -- or has it considered, or is it considering, seeking to persuade -- China to refrain from objecting to the Republic of China's (Taiwan), under that name or any other name, becoming a Party to the Convention and any protocols thereunder? Please provide a detailed explanation of your answer to this question.

3.10 In your testimony, you said: "For still others, there may be other ways to meet those commitments. Bilaterally, sub-regionally, and multilaterally through the international financial institutions we will be working to achieve that result. We, for example, want to make sure if the World Bank, the Asian Development Bank, or the Inter-American Development Bank make large loans or grants for power plants and other projects, that they are done in ways that are environmentally sound." [31:8-15]. For convenience, the following questions sometimes refer to the countries you described as "still others" as "this third group."

(a) Are the countries to which your quoted testimony referred all countries of the world that are neither members of the OECD nor within what we have referred to in Question 3.8 as "this second group?"

(b) What did you mean by the reference on page 31, lines 8-9 to "meet those commitments?"

(c) Is it the policy of the Administration that the commitments of all countries in this third group must be set forth in an instrument as described in Question 3.1(b)(i) and that the commitments must have each of the characteristics set forth in Question 3.1(b)(ii) through (iv)? If your answer to this question is not unqualifiedly "yes," please fully explain your answer.

(d) What did you mean by the reference, on page 31, line 11, to "achieve that result?"

(e) With reference to your testimony, on page 31, lines 11-15, about wanting "to make sure" that multilateral banks (such as the World Bank and others) make loans or grants for "power plants and other projects" "in ways that are environmentally sound":

(i) In what circumstances is it the position of the Administration that loans, or grants, or guarantees of a loan by multilateral banks (including, but not limited to, the World Bank) or other multilateral financial institutions should be conditioned upon a developing country's agreeing to be included in Annex B or making any other legally binding commitments to limit its greenhouse gas emissions or the rate of growth of such emissions? Please explain your answer fully.

(ii) Please explain fully what the Administration would do to "make sure" that such multilateral banks or other multilateral financial institutions make loans, or grants, or loan guarantees for power plants and other projects "in ways that are environmentally sound." The intent of this question is to elicit actions that would be taken by the Administration to encourage or compel the multilateral banks or other multilateral financial institutions to take desired steps, rather than to obtain a description of what those steps by the multilateral banks or other financial institutions would be.

(iii) Please explain fully, including use of illustrative examples, how your answer to Question 3.10(e)(ii) differs from, or is similar to, actions of the Administration, during the period January 1, 1997 to date, concerning loans, or grants, or loan guarantees by multilateral banks or other multilateral financial institutions. For example, please explain how the actions of the Administration referred to in your answer to Question 3.10(e)(ii) would differ from, or be similar to, the actions by the Administration with respect to proposals or requests for loans, or grants, or loan guarantees concerning the Three Gorges Dam in China.

(iv) Please identify the types of "other projects" that are comprehended by your testimony on page 31, lines 11-15.

(v) Please explain fully, including use of illustrative examples, what you meant by the expression "they are done in ways that are environmentally sound."

(A) As far as the Administration is concerned, would a nuclear or coal-fired power plant be eligible for a loan, or grant, or loan guarantee by multi-

lateral banks or other multilateral financial institutions? If so, please describe the circumstances and, in summary form, the requirements for such power plants that the Administration would seek.

(B) In what circumstances would the Administration insist that the project utilize "best available control technologies?" Please state the Administration's views as to the reasons "for" and "against" such a requirement for a loan, or grant, or loan guarantee in regard to a power plant or other project.

(C) In what circumstances would the Administration insist that, as a condition for receiving a loan, or grant, or loan guarantee for a power plant, the Party would have to commit to increase its use of renewable energy resources, including, but not limited to, a requirement that a stated percentage of new power generation must come from renewable energy resources? Please state the Administration's views as to the reasons "for" and "against" such a requirement.

(D) Please describe in detail all changes the Administration will or may seek concerning the current rules, procedures, principles, guidelines, and standards of the multilateral banks or other multilateral financial institutions that bear on environmental considerations or requirements for loans, grants, or loan guarantees by those banks and financial institutions for power plants and other projects.

(vi) Although the International Monetary Fund (IMF) does not provide loans or grants for individual power plants or projects, is it the Administration's intention to seek to assure that IMF funding or other financial assistance will be conditioned upon, or involve the recipient's agreements concerning:

(A) the recipient's planning, procedures, or requirements that relate to whether power plants or other projects are environmentally sound; and/or

(B) the recipient's greenhouse gas emissions, including, but not limited to, agreeing to be included in Annex B or making any other legally binding commitments to limit its greenhouse gas emissions or the rate of growth of such emissions?

Please explain your answer fully, including stating the Administration's views as to the reasons "for" and "against" such IMF requirements.

(f) Since January 1993, the United States has entered into various bilateral agreements with developing countries pursuant to the so-called "Countries Studies Program" and either has entered, or has proposed, or is considering, bilateral agreements with developing countries for, or related to, technology cooperation or financial assistance from the United States in the form of loans, grants, or loan guarantees, as well as political risk insurance. These agreements have

involved, among other entities, the U.S. Export-Import Bank, the Trade and Development Agency, and the Overseas Private Investment Corporation. Please describe in detail any understandings or conditions concerning any of these types of agreements (whether the agreements have been entered into, or have been proposed, or are being considered) that would require, or presuppose, a developing country's making legally binding commitments to limit, or to limit the growth of, its greenhouse gas emissions or that otherwise would constitute "meaningful participation" in the effort to deal with the issue of potential global climate change. Not in limitation of the information sought by this question, please provide the requested information with respect to the several agreements constituting the reported \$1.7 billion financial aid package to Thailand, which you and other Administration officials announced on or about March 13, 1998.

3.11 Your response to Question for Record 27.1 seems to mean that, even though bilateral or multilateral agreements with developing nations did not make it certain that those nations' commitments to limit or reduce their greenhouse gas emissions were subject to Articles 2, 3, 5, 7, and 8 of the Protocol, as well as enforcement provisions adopted to elaborate Article 17, the Administration still could contend that those bilateral or multilateral agreements would justify the Senate's "ratification" of the Protocol because "[t]here are a variety of different agreements or arrangements that could, in principle, play a part in a determination that a given country was participating meaningfully in the global effort to reduce greenhouse gases."

(a) Is that a fair interpretation of your response to Question for Record 27.1? If your answer is not an unqualified "yes," please fully explain your answer.

(b) If the Senate ever were to give consideration to giving its advice and consent to ratification of the Protocol, please explain why the Senate should not ignore any bilateral or multilateral agreement that did not:

(i) contain provisions applicable to the commitments of the developing country or countries that are the same, or essentially the same as, those set forth in Articles 2, 3.3, 3.4, 6, and 8 of the Protocol; or

(ii) subject the developing country or countries to the same enforcement mechanisms as may be adopted by the COP/MOP to elaborate Article 17?

(c) Please describe your current belief as to the nature of the basic provisions of the different types of bilateral or multilateral agreements that were contemplated by your response. Please note that this question is not intended to "rule out any particular form of agreement."

3.12 The Group of Eight Summit Communique (May 17, 1998) states in part: "We will work together with developing countries to achieve voluntary efforts and commitments, appropriate to their national circumstances and development needs."

(a) The reference to "voluntary efforts and commitments" suggests that the G-8 is thinking merely in terms of an approach whereby developing nations, individually or perhaps in groups smaller than the entirety of developing nations, would "opt" on a voluntary basis over time to assume emissions limitation commitments. Is this a correct understanding of the quoted sentence of the Communique? If your answer is not an unqualified "yes," please explain your answer fully.

(b) Would these "voluntary efforts and commitments" satisfy the Administration's definition of "meaningful participation?"

(c) Although the commitments for each Annex I Party set forth in the Protocol (including but not limited to the commitments identified in Annex B) presumably were "voluntary" on the part of the delegations of those Parties, the commitments were the result of negotiations among those Parties, and the Protocol was adopted by the COP only in the absence of lack of obligation thereto by any Parties to the Convention. Please explain whether the language in the G-8 Communique envisions such a process among all of the Parties to the Convention or all of the Parties to the Protocol (if it ever enters into force) to set forth the emission-limitation commitments of all of the developing nations.

(d) With regard to this quoted sentence from the G-8 Communique, please explain:

(i) the intent of the Administration and of the other G-8 nations as to the date by which such commitments would be obtained;

(ii) whether the commitments are expected of all or only some of the developing nations, and, if your answer indicates only some of the developing nations, please identify which ones and the criteria for selecting them, but not others; and

(iii) whether there is unanimous agreement among all G-8 nations as to the nature, extent, and timing of the commitments sought to be obtained from the developing nations. If your answer is not an unqualified "yes," please identify the differences that exist among the G-8 nations.

(e) Please explain in detail the efforts the President and his subordinates made to have the G-8 Communique state, in essence, that the Group of Eight desires an international agreement, by means of amendment or supplement to the Protocol, whereby all developing nations would undertake legally binding commitments to limit their greenhouse gas emissions as appropriate to their national circumstances and development needs. Your explanations should include identification of those G-8 nations that refused to agree to such language in the G-8 Communique.

(f) Please explain how the phrase "appropriate to their national circumstances and development needs," as used in the G-8 Communique with reference to developing countries,

differs from the criteria that the Annex I Parties used in connection with the commitments identified for them in the Protocol.

3.13 On or about April 23, 1998, a paper, entitled "International Greenhouse Gas Emissions Trading - Structure & Organization of the Emissions Market - (Implications for Developing Countries)," authored by Mr. Frank T. Joshua (Head, Greenhouse Gas Emissions Trading, of the United Nations Conference on Trade and Development) was presented to the European Parliament's "Global Legislators Organization for a Balanced Environment." The paper included a section entitled "Elements of a 'Buenos Aires Mandate.'"

(a) The paper states (at page 31): "Legally-binding limits (for countries that wish to join the emissions trading system) should be based on emissions growth, not emission reductions." Does the Administration believe that legally binding limits on a developing nation's greenhouse gas emissions should be applicable only to developing nations that desire to participate in emissions trading? Please explain your answer fully.

(b) The paper also states (at page 31): "Negotiations could be based on national offers from developing country Parties." Does the Administration agree that, to have any legal significance, a developing nation's "offer" should be required to be accepted by the other Parties to the Protocol by means of an amendment to the Protocol or by means of a separate protocol to which the United States is a Party? If your answer is not an unqualified "yes," please explain your answer fully.

(c) The paper further states (at pages 31-32) that "developing countries should be allowed to introduce 'partial caps' which, for example, could be based on industrial sector limits, and coupled with joint implementation in the uncapped sectors, as a form of progressive restriction toward the imposition of a national cap." Please state whether the Administration would favor or oppose such a proposal, and explain fully the reasons for your answer.

(d) The paper further states (at page 32): "Countries operating industrial sector growth limits would continue to have access to the Clean Development Mechanism for investment and trading in CERs ['certified emission reductions']." Is the Administration willing to propose that the rules and other decisions of the COP/MOP, pursuant to its "authority and guidance" over the Clean Development Mechanism, should include a provision that would prevent a developing country Party from being able to accrue, or to trade, certified emission reductions (pursuant to the Clean Development Mechanism) unless it has undertaken (by means of an amendment to the Protocol or by means of a separate protocol to which the United States is a Party) a legally binding, quantified commitment to limit or reduce its greenhouse gas emissions during the first commitment period specified in the Protocol? If your answer is not an unqualified "yes," please explain your answer fully.

4. PROCEDURE FOR OBTAINING DEVELOPING COUNTRIES' COMMITMENTS

4.1 Is it the Administration's firm position that an amendment to the text of, or to an annex to, the Protocol:

(a) cannot be proposed except by a Party to the Protocol?

(b) cannot be proposed before the Protocol enters into force in accordance with Article 25 thereof and, for purposes of Articles 20 and 21, may not be regarded as having been "proposed" if it were submitted to, or filed with, the Secretariat prior to the Protocol's having entered into force in accordance with Article 25?

(c) cannot be adopted by the COP/MOP until after the Protocol enters into force in accordance with Article 25 thereof? In answering this sub-question, please explain your response to Question for Record 27.2, in which you stated that "[a]mong the options we are exploring are the legal possibilities of amending the Protocol before it enters into force."

(d) cannot be adopted by the COP when it is not serving as the meeting of the Parties to the Protocol?

If your answer to any part of this question is not unqualifiedly "yes," please fully explain your answer.

4.2 It is reported that, in testimony before one or more Committees of the Congress in March, you said, in effect, that the Administration would seek a "supplemental protocol" or a "supplemental agreement." Your response to Question for Record 29 also refers to adoption of "a further instrument, such as a supplementary protocol, which would be an integral part of the Kyoto Protocol and would enter into force at the same time as the Protocol."

(a) Would the subject matter of a "supplemental protocol" or a "supplemental agreement" concern what you have referred to as "meaningful participation by key developing countries"?

(i) If your answer to this question is not unqualifiedly "yes," please fully explain your answer.

(ii) Please describe the key features of a "supplemental protocol" or "supplemental agreement" that currently are being discussed or considered by the Administration, whether or not a final decision has been taken as to what the key features should be.

(iii) Please explain whether (and, if so, to what extent) any "supplemental protocol" or "supplemental agreement" that currently is being discussed or considered by the Administration, whether or not a final decision has been taken, would include provisions that in any way are similar to, or that seek to accomplish the objectives of,

what had been known as proposed "Article 10" of the Protocol, including, but not limited to, the Administration's proposal involving "a mechanism for automatic application of progressive greenhouse gas emissions obligations to Parties, based upon agreed criteria." Your answer should include an explanation as to whether the reference to "Parties" in that proposal, or in any future, similar proposal, would apply only to developing countries, only to current Annex B Parties, or to all nations that are parties to any "supplemental protocol" or "supplemental agreement."

(b) Would the "supplemental protocol" or "supplemental agreement" --

(i) be in the form of a separate protocol to the Convention?

(ii) be in the form of one or more amendments to the Convention?

(iii) be in the form of one or more amendments to the Protocol?

Please explain your answer fully, including stating the Administration's views as to the reasons "for" and "against" each of these three types of a "supplemental protocol" or "supplemental agreement."

(c) Is it the Administration's current intention to seek adoption of a "supplemental protocol" or "supplemental agreement," which is consistent with your answers to the different parts of Question 4.2, at the fourth session of the COP in November 1998? If your answer to this question is not unqualifiedly "yes," please fully explain your answer. If your answer is to the effect that the Administration has not yet determined at what session it will seek adoption of a "supplemental protocol" or "supplemental agreement," please state the Administration's views as to the reasons "for" and "against" its doing so at the fourth session of the COP.

(d) Is it the Administration's current intention to seek at the fourth session of the COP in November 1998 a decision that confers upon an open-ended body of Parties to the Convention the authority to negotiate a "supplemental protocol" or "supplemental agreement" -- in other words, something like the Ad Hoc Group on the Berlin Mandate? If your answer to this question is not unqualifiedly "yes," please fully explain your answer.

(e) Please explain how a "further instrument, such as a supplementary protocol," if adopted by the COP, legally could be regarded as "an integral part of the Kyoto Protocol" without entry into force of an amendment to the Kyoto Protocol that states such to be the case. Your answer should include an explanation as to the legal theory by which, in the absence of such amendment, a nation that had signed and ratified the Kyoto Protocol could be bound by an "integration" provision contained only in the "supplemental protocol" or "supplemental agreement" or in a decisions of the COP or COP/MOP.

(f) Please explain how, in the absence of entry into force of an amendment to Article 25 of the Kyoto Protocol, which specifies that entry into force of that Protocol is conditioned upon

concurrent entry into force of a specified "supplemental protocol" or "supplemental agreement," it would be legally possible to make certain that the two instruments entered into force only concurrently. Your answer should include an explanation as to the legal theory by which, in the absence of such amendment, the Kyoto Protocol would not enter into force if the current requirements of Article 25 were satisfied, but if the "supplemental protocol" or "supplemental agreement" had not by then entered into force in accordance with its provisions.

4.3 In your testimony, you said: "First, it would require an amendment, as you suggest, for major changes in the treaty. However, a mechanism is created by which countries can, if they wish, voluntarily assume binding obligations, and that is one of the things that we will be pressing developing countries to do." [30:7-11]

(a) Was that statement intended to refer to a developing country's being listed on Annex B to the Protocol by means of an amendment to the list of countries in Annex B? If your answer is not an unqualified "yes," please explain your answer fully.

(b) Question for Record 25.8 asked whether a developing nation that is added to Annex B also would undertake the commitments of Annex I Parties set forth in Articles 2, 5, 7, and 8. Your response said: "No, not automatically." There followed a statement concerning requirements of developing countries, under the Convention, concerning publishing greenhouse gas emissions inventories and programs containing measures to mitigate climate change. If the commitments contained in Articles 2, 5, 7, and 8 of the Protocol do not apply "automatically," please explain all procedures by which they could become applicable to developing countries that became listed on Annex B? By what means, other than a developing country's becoming listed on Annex I to the Convention could those Articles become applicable to a developing country?

(c) Article 3.1 of the Protocol provides in relevant part: "The Parties included in Annex I shall, individually or jointly, ensure that their aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A do not exceed their assigned amounts, calculated pursuant to their quantified emission limitation and reduction commitments inscribed in Annex B" (emphasis added). Article 3.7 of the Protocol provides in relevant part: "In the first quantified emissions limitation and reduction commitment period, from 2008 to 2012, the assigned amount for each Party included in Annex I shall be equal to the percentage inscribed for it in Annex B" (emphasis added). Please explain why those provisions, separately and together, do not make clear that the intent of the Protocol is that only Annex I Parties could be listed on Annex B.

(d) Article 3.2 of the Protocol provides: "Each Party included in Annex I shall, by 2005, have made demonstrable progress in achieving its commitments under this Protocol." (emphasis added). If a developing nation became listed on Annex B, but was not also listed on Annex I to the Convention, would that requirement of Article 3.2 apply to such developing nation? If your answer is anything other than an unqualified "no," please explain your answer.

(e) Article 3.3 of the Protocol provides in relevant part: "The net changes in greenhouse gas emissions . . . since 1990, measured as verifiable changes in carbon stocks . . . shall be used to meet the commitments under this Article of each Party included in Annex I." (emphasis added). If a developing nation became listed on Annex B, but was not also listed on Annex I to the Convention, please explain how, and to what extent, that developing nation would take into account changes in its sinks for purposes of meeting its commitment inscribed in Annex B.

(f) Article 3.4 of the Protocol provides in relevant part: ". . . each Party included in Annex I shall provide . . . data to establish its level of carbon stocks in 1990 and to enable an estimate to be made of its changes in carbon stocks in subsequent years." (emphasis added). If a developing nation became listed on Annex B, but was not also listed on Annex I to the Convention, would that requirement of Article 3.4 be applicable to such developing nation? If your answer is anything other than an unqualified "no," please explain your answer.

(g) Article 3.8 provides in relevant part: "Any Party included in Annex I may use 1995 as its base year for" HFCs, PFCs, and SF₆ "for purposes of the calculation referred to in paragraph 7 above." (emphasis added). If a developing nation became listed on Annex B, but was not also listed on Annex I to the Convention, would that developing nation be able to use 1995 as its base year for those gases? If your answer is anything other than an unqualified "no," please explain your answer.

(h) Question for Record 25.6 asked whether you believe that the Government of the United States, under our Constitution, could not deposit an instrument of acceptance to any amendment of Annex B without the advice and consent of the U.S. Senate. Your answer is not responsive to that question, and also is quite troublesome, because you stated only that seeking Senate advice and consent "is the route that is currently anticipated for amendments to Annex B pursuant to Article 20.4 . . . , given the provisions of the Kyoto Protocol."

Will you, in behalf of the Administration, commit to the Senate that the Administration:

(i) will forcefully and publicly state in the COP and the COP/MOP its opposition to, and never consent or agree to:

(A) an amendment to Article 20.4 or to Article 21.7 that in any manner would eliminate the requirements that amendments to Annex B must be adopted, and shall enter into force, only in accordance with the current provisions set out in Article 20?

(B) any other amendment to the Protocol, or any provision in any "supplemental protocol" or "supplemental agreement," that would eliminate, subvert, or override the necessity that amendments to Annex B (or adoption of, or amendments to, any other annex to the Protocol containing or referring to greenhouse gas emissions-limitation or reduction commitments of any nation that, as of today, is not an Annex I Party) shall enter into force as to a Party having accepted it by means of an instrument of acceptance in respect thereof that is deposited by that Party with the Depositary?

(ii) will submit to the Senate, for its advice and consent to ratification, any and all future amendments to Annex B (or any other annex to the Protocol, or amendment thereto, containing or referring to greenhouse gas emissions-limitation or -reduction commitments of any nation that, as of today, is not an Annex I Party)?

If you answer to any portion of Question 4.3(h) is not an unqualified "yes," please fully explain your answer.

4.4 Has the Administration sought, and, if so, has it succeeded in seeking, an agreement to place on the agenda of the June 1998 meetings of the SBI and/or the SBSTA either the general issue of "meaningful participation" by developing countries or any of the sub-issues of that general issue? Please explain your answer in detail.

4.5 Question for Record 32 called for information concerning certain oral or written understandings with, or commitments to, other nations "which were made by the President, by the Vice President, or by any member of the U.S. delegation to the Kyoto Conference." Your response denied any such understandings or commitments made by the President, the Vice President, or you. Please answer Question for Record 32 with respect to "any member of the U.S. delegation to the Kyoto Conference."

4.6 An article in the February 23, 1998 edition of The Washington Post, by Nigel Sizer and Jose Goldemberg (the well-known, former Minister of the Environment of Brazil) stated that "in 1995 destruction of the Amazonian rain forest reached an all-time high," to "more than 29,000 square kilometers -- equivalent to 6-1/2 million football fields." It asserted that, in 1990, there was far less destruction of the Amazon rain forest (11,000 square kilometers) and that the response of the current Government of Brazil to this problem "has been pure public relations," that promised funds for dealing with it "almost never turn up, and the ambitious plans have merely gathered dust on the shelves of the technocrats in Brasilia."

(a) Based on information available to the Administration, do these charges fairly reflect the extent of the destruction of the Amazon rain forest and the response of the Government of Brazil? Please explain your answer.

(b) Please prepare a table showing, as of the most recent dates for which creditable information is available, the amounts of forest land that have been subject to direct human-induced afforestation, reforestation, and deforestation since 1990, together with a reasonable estimate (in tons of carbon) of the resultant net gain or loss of removals by sinks, separately for Brazil, Indonesia, Malaysia, and any other developing countries as to which the Administration believes such information should be taken into account by domestic or international policymakers concerned with the issue of potential global climate change.

(c) Please describe the substance of legally binding commitments by developing countries concerning their human-induced afforestation, reforestation, and deforestation, which could contribute to what you have referred to as "meaningful participation" by developing

countries and which currently are being discussed or considered by the Administration, whether or not a final decision has been taken. If such legally binding commitments currently are not being considered by the Administration, please explain why not.

4.7 Please describe the substance of legally binding commitments by developing countries concerning their population growth, or the rate of their population growth, but which do not in any manner involve advocacy or promotion of abortion and which would contribute to what you have called "meaningful participation" by developing countries, which currently are being discussed or considered by the Administration, whether or not a final decision has been taken. If such legally binding commitments currently are not being considered by the Administration, please explain why not.

4.8 Your response to Question for Record 36 states (in part) that "Articles 4.2(a) and (b) are inadequate because they do not include developing countries."

(a) Is it the intent of that statement to express the view of the Administration that the developing countries (or some of them, in which case please name them) should be added to Annex I of the Convention? If your answer is anything other than an unqualified "yes," please explain your answer.

(b) In terms of commitments to reduce or limit greenhouse gas emissions, which are quantified to any degree, Articles 4.2(a) and (b) refer, at most, to an "aim" to return greenhouse gas emissions to their 1990 levels by the end of the current decade, *i.e.*, the end of 1999. What good would it do to seek to add developing countries to Annex I of the Convention other than to subject them to the provisions of the Protocol that pertain to Annex I Parties?

(c) Aside from lack of inclusion of developing countries in Articles 4.2(a) and (b), please state any and all other respects in which the Administration believes that those Articles are not adequate. Please explain your answer fully.

5. COMMITMENTS OF DEVELOPED COUNTRY PARTIES

5.1 Although the base year for most of the Annex B Parties is 1990 (except insofar as, pursuant to Article 3.8 of the Protocol, a nation elects 1995 as its base year with respect to HFCs, PFCs, and SF₆), Article 3.5 of the Protocol allows EITs to use a different base year or period.

(a) For each Annex B Party that is identified in the Protocol as being an EIT, please identify those which the Administration understands must use 1990 as its base year (except for HFCs, PFCs, and SF₆) for purposes of its commitments under the Protocol.

(b) For each Annex B Party identified in the Protocol as being an EIT and which already has a base year or period other than 1990 established for it pursuant to decision 9/CP.2 of the COP at its second session, please state its base year or period (except for HFCs, PFCs, and SF₆) and identify the document reflecting approval or acceptance thereof by the COP.

(c) For each Annex B Party identified in the Protocol as being an EIT and which is not identified in your answers to Questions 5.1(a) or (b), please state the current belief of the Administration as to the base year or period (except for HFCs, PFCs, and SF₆) it will use for purposes of its commitments under Article 3 of the Protocol.

(d) Which of the Annex B Parties identified in the Protocol as being an EIT has not submitted its first national communication under Article 12 of the Convention as of --

(i) December 11, 1997?

(ii) the date of your answers to this set of questions?

(e) With respect to the Annex B Parties identified in the Protocol as being EITs, but which are not included in your answer to Question 4.1(b), please identify the deadline by which any such nations could provide the notification referred to in the second sentence of Article 3.5 of the Protocol that it intends to use an historical base year or period other than 1990 for purposes of meeting its commitments under Article 3 of the Protocol. Please explain how you arrived at your answer, including reference to provisions of the Convention, the Protocol, and decisions of the COP.

5.2 Please identify all Annex B Parties that, according to the Administration's current, best information and belief, will not, or probably will not, use 1995 as its base year for HFCs, PFCs, and SF₆, as permitted by Article 3.8 of the Protocol. Please explain the reasons for your answer.

5.3 Article 3.3 of the Protocol states: "The net changes in greenhouse gas emissions from sources and removals by sinks resulting from direct human-induced land-use change and forestry activities, limited to afforestation, reforestation and deforestation since 1990, measured as verifiable changes in carbon stocks in each commitment period, shall be used to meet the commitments under this Article of each Party included in Annex I." (emphasis added) Article 3.4 of the Protocol requires each Annex I Party to provide "data to establish its level of carbon stocks in 1990 and to enable an estimate to be made of its changes in carbon stocks in subsequent years." (emphasis added).

(a) Is it the intent of Articles 3.3 and 3.4, particularly bearing in mind the underscored words and phrases, that, for purposes of determining compliance with a nation's commitments in Article 3 of the Protocol during the first compliance period, the net differences between the nation's carbon stocks in 1990 and its carbon stocks in each of the years 2008 through 2012 (but only to the extent such differences result from direct human-induced land-use change and forestry activities, limited to afforestation, reforestation and deforestation since 1990) must be added to the nation's anthropogenic emissions in each of such years (if there is a net decrease in carbon stocks) and subtracted from the nation's anthropogenic emissions in each of such years (if there is a net increase in carbon stocks)? If your answer to this question is not unqualifiedly "yes," please fully explain your answer.

(b) Is it the intent of Articles 3.3 and 3.4, particularly bearing in mind the underscored words and phrases, that, for purposes of determining compliance with a nation's commitments in Article 3 of the Protocol during the first compliance period, the net differences between the nation's carbon stocks in 1990 and its carbon stocks in each of the years 1991 through 2007 are to be ignored? Please fully explain your answer, including explanation as to why Article 3.4 requires data to establish each nation's level of carbon stocks in 1990 and to enable an estimate to be made of its changes in carbon stocks "in subsequent years," rather than "during each commitment period."

(c) Please provide the following information to assist in understanding the first sentence of Article 3.4 of the Protocol:

(i) Please provide a citation to all decisions and authorities, which have been approved or adopted by the COP and/or by the Intergovernmental Panel on Climate Change (IPCC), that establish principles, rules, and/or guidelines for determining a nation's level of carbon stocks in 1990 and enable an estimate to be made of changes in the nation's carbon stocks in subsequent years.

(ii) Which body -- the SBSTA, or the COP, or the COP/MOP -- has the authority to adopt and/or to modify principles, rules, and/or guidelines for determining a nation's level of carbon stocks in 1990 and enable an estimate to be made of changes in the nation's carbon stocks in the first commitment period?

(iii) Does the Administration intend to submit to the June 1998 session of the SBSTA, for its consideration, principles, rules, and/or guidelines for determining a nation's level of carbon stocks in 1990 and to enable an estimate to be made of changes in the nation's carbon stocks in subsequent years? If your answer essentially is "yes," please attach to your answer a copy of the current version of the Administration's proposal that is under discussion or consideration, whether or not a final decision has been made with respect to it. If your answer essentially is "no," please explain on what basis the SBSTA would "consider" the data required to be submitted by nations pursuant to the first sentence of Article 3.4 of the Protocol?

(iv) Does the SBSTA have the authority under Article 3.4 of the Protocol to approve, reject, or modify a nation's data to establish its level of carbon stocks in 1990 and to enable an estimate to be made of changes in its carbon stocks in subsequent years; or does it merely have the authority to recommend that the COP/MOP approve, reject, or modify such data? If the SBSTA has the former type of authority, may any Party to the Protocol "appeal" the SBSTA's decision to the COP/MOP; and, if so, what are the procedures for doing so? Please explain your answer, including citation to specific language in the Protocol in support of your answer.

(d) Please provide the following information to assist in understanding the second sentence of Article 3.4 of the Protocol:

(i) Is it the Administration's firm position that "forest conservation" and "forest management" activities by humans, occurring after 1990 and which result in preservation or enhancement of forests that would not occur in the absence of such activities, properly can be taken into account --

(A) by a nation, pursuant to Article 3.3, and that they do not have to be approved by the COP/MOP as "additional human-induced activities" under Article 3.4?

(B) in calculating "emission reduction units" for purposes of Article 6?

(C) in calculating "certified emission reductions" for purposes of Article 12?

Please fully explain your answer to each of the foregoing sub-questions.

(ii) Does the Administration intend to submit to the June 1998 session of the SBSTA, for its consideration, modalities, principles, rules, and/or guidelines as to how, and which, "additional human-induced activities related to changes in greenhouse gas emissions by sources and removals by sinks in the agricultural soils and the land-use change and forestry categories shall be added to, or subtracted from, the assigned amounts for Parties included in Annex I?" If your answer essentially is "yes," please attach to your answer a copy of the current version of the Administration's proposal that is under discussion or consideration, whether or not a final decision has been made with respect to it. If your answer essentially is "no," please explain on what basis the SBSTA or the COP/MOP would make a decision on such matters.

(e) Without regard to your answers to Questions 5.3(c)(iii) and 5.3(d)(ii), does the Administration have any reason to believe that any of its answers to Questions 5.3 are, or are not, reflective of the common understanding of all of the other Parties to the Convention? Please fully explain your answer. To the extent some Parties do not have the understanding held by the Administration, what are the Administration's plans to obtain a common understanding that conforms to the Administration's?

5.4 Please prepare a single table (or, if that is not practical, one or more tables, but consolidating information into as few tables as possible) containing as to each Annex B Party the following information according to the Administration's current, best information and belief:

(a) Its "total carbon dioxide emissions for 1990," as that phrase is used in Article 25 of the Protocol, and, in so doing, please state whether or not the information includes data for carbon dioxide emissions by sources and removals by sinks from land-use change and forestry, together with a statement of the Administration's position as to whether or not such data should be included for purposes of Article 25.

(b) Its gross greenhouse gas emissions, individually by gas and in total, in its base year; and, in presenting such information, please separately state the amount of emissions for each such nation, if any, included in your answer that is attributable to the last sentence of Article 3.7 of the Protocol.

(c) Its gross greenhouse gas emissions, individually by gas and in total, that are projected or estimated to occur in each of the years 2008 through 2012.

(d) Its "level of carbon stocks in 1990," as that phrase is used in Article 3.4 of the Protocol.

(e) Its "net changes in greenhouse gas emissions from sources and removals by sinks resulting from direct human-induced land-use change and forestry activities, limited to afforestation, reforestation and deforestation since 1990, measured as verifiable changes in carbon stocks," as that phrase is used in Article 3.3 of the Protocol, which are projected or estimated to occur in each of the years 2008 through 2012.

(f) Its "assigned amount" for the first commitment period, as that phrase is used in Article 3.7 of the Protocol.

(g) Taking into account the provisions of the Protocol concerning "sinks" and choice of base year for emissions of HFCs, PFCs, and SF₆, the amount of its "real" emissions-limitation or reduction requirement in relation to its greenhouse gas emissions in 1990. (This question seeks information for all Annex B Parties that is calculated in the manner that led to the statement in the State Department's "Fact Sheet: The Kyoto Protocol on Climate Change," dated January 23, 1998, that "[t]he 7 percent target [for the United States] represents at most a 3 percent real reduction below the President's initial proposal of reducing greenhouse gases to 1990 levels by 2008-12.")

(h) Any other data, projections, estimates, or information that would assist the reader of your answer to this Question 5.4 to have a more accurate and/or complete understanding of the magnitude of the commitments under Article 3 of the Protocol by each of the Annex B Parties.

For purposes of this Question 5.4:

(1) With respect to Annex B Parties identified in the Kyoto Protocol as being EITs, the "base year" chosen should reflect the base year or period stated in your answers to Question 5.1(a), (b) and (c).

(2) With respect to emissions of HFCs, PFCs, and SF₆, your answer should use 1995 as the "base year" unless use of 1990 or another year would reflect your answer to Question 5.2.

(3) "Greenhouse gas emissions" means anthropogenic emissions of the gases listed in Annex A to the Protocol.

(4) Your answers should be prepared in accordance with Decision 2/CP.3 of the third sessions of the COP. Numerical answers should be expressed in units of measurement that are most common for the particular greenhouse gas and, also, in millions of metric tons and/or fractions thereof (using decimal fractions carried to two decimal places) of carbon dioxide equivalent and carbon equivalent.

(5) Please identify for each item of historic data, projection, or estimate the source of the information by name of the entity that prepared it and the name and date of the publication or document in which the data, projection, or estimate is contained. As to each such source, please state whether you regard the information as being sufficiently accurate and reliable that it should be relied upon by the U.S. Government.

(6) Your answers should not assume adjustments to the "assigned amount" for any nation by reason of operation of Articles 3.10, 3.11, or 3.12 of the Protocol.

5.5 In your testimony, you said: "We also got the concept of differentiated targets for key industrial powers ranging from 6 to 8 percent below baseline levels so that our competitors are taking on similar, and in some cases with respect to the European Union, deeper obligations than we are." [17:10-14].

(a) According to historic data in the U.S. Energy Information Administration's (EIA) publication "Emissions of Greenhouse Gases in the United States 1995" (Table 5) and projections in EIA's "Annual Energy Outlook 1998" (Table 19), total U.S. energy-related carbon emissions will increase by about 459 million metric tons (or 34 percent) between 1990 and 2010 and by about 497.2 million metric tons (or 37 percent) between 1990 and 2012, the end of the first compliance period under the Protocol. Does the Administration dispute such information, and, if it does, please state the reasons therefor.

(b) According to a February 20, 1998 news report by Dow Jones & Company, Inc., based on a study by Wood Mackenzie Global Consultants, of Edinburgh, U.K., "the E.U.'s CO₂ emissions under the 'business as usual' scenario are set to increase by 20% by 2010 from 1990 levels" Does the Administration dispute such information, and, if it does, please state the reasons therefor.

(c) According to Table C.1 of "National Communications - Communications from Parties Included in Annex I to the Convention - First compilation and synthesis of second national communications from Annex I Parties - Addendum - Tables of Inventories of Anthropogenic Emissions and Removals for 1990-1995 and Projections up to 2020," FCCC/SBI/1997/19/Add.1, projected anthropogenic emissions of CO₂ (excluding land-use change and forestry) in 2010 will increase over 1990 levels by 23 percent for the United States compared to an increase of 3 percent for the United Kingdom and a decrease of 16 percent for Germany. Does the Administration dispute such information, and, if it does, please state the reasons therefor. Also, please explain why the increase in U.S. CO₂ emissions during the period

1990 through 2010 is shown as 23 percent, whereas the apparently comparable comparison, according to the EIA, is a 34 percent increase? Was the projection of a 23 percent increase derived from information provided by the Administration?

5.6 Decision 2/CP.3 of the third session of the COP states that the COP "decides that emissions resulting from multilateral operations pursuant to the Charter of the United Nations shall not be included in national totals, but reported separately; other emissions related to operations shall be included in the national emissions totals of one or more Parties involved."

(a) Assume that military or humanitarian relief operations of the United States did not qualify for this exemption because of the circumstances (such as a wholly unilateral operation). Would the emissions occurring in a foreign nation that directly result from U.S. operations, as well as emissions occurring in the United States, be charged against the United States for purposes of determining its compliance with Article 3 of the Protocol? Please explain your answer.

(b) Assume that military or humanitarian relief operations of the United States did qualify for this exemption, as set forth in Decision 2/CP.3, and that, before U.S. armed forces or other personnel entered the foreign nation that was the subject of such operations, preparatory or anticipatory efforts were necessary, such as training of our armed forces or other personnel here or abroad and transportation of personnel, goods, or materiel to airports or seaports within the United States. To what extent would emissions resulting from such training and transportation be charged against the United States for purposes of determining its compliance with Article 3 of the Protocol? Please explain your answer, including how your answer would be affected by (i) the length of time (such as six months) during which such preparatory or anticipatory activities occurred and (ii) cancellation of the operations in the foreign nation before they actually commenced (as in the recent case concerning Iraq).

(c) In your testimony, you said, referring to this Decision of the COP: "This exempts from our national targets not only multilateral operations expressly authorized by the U.N. Security Council, such as Desert Storm or Bosnia, but, importantly, also exempts multilateral operations that the U.S. initiates pursuant to the U.N. Charter without express authorization, such as Grenada." [21:24 to 22:4] Later, you said: "It covers not only multilateral operations expressly authorized by the Security Council, like Desert Storm in [presumably, you meant "and"] Bosnia, it also covers multilateral operations we initiate pursuant to the right of self-defense. Under the U.N. Charter, it does not have to be authorized by the U.N. A perfect example of that is Grenada. When President Reagan went into Grenada to relieve that island of its communist dictators, it was a multilateral effort that we initiated. It wasn't done pursuant to the U.N., but it was, in effect, pursuant to the Charter but not authorized by them. That is perfectly permissible." [78:21 to 79:6].

(i) As you know, certain U.N. Members, apparently including certain members of the U.N. Security Council, take the position, with which the Administration disagrees.

that the Security Council must give new approval to further military action by the United States, whether unilaterally or multilaterally, in response to Iraq's future violation of its agreements with the United Nations concerning weapons inspection. Suppose that the Security Council (assuming no U.S. veto) or the General Assembly adopted a resolution that, in effect, took that position with which the United States disagrees. In such circumstances, and even assuming one or more other nations joined with the United States in a military response to Iraq's violations without new, express approval of the Security Council, would the Administration be able to contend successfully that emissions resulting from such operations were exempt as being "multilateral operations pursuant to the Charter of the United Nations?" Please explain your answer.

(ii) Please identify all the types of "multilateral operations pursuant to the Charter of the United Nations" that would qualify for the exemption specified in the COP's Decision 2/CP.3.

(iii) During the Bush Administration, the United States sent armed forces into Panama for the purpose of capturing Manuel Noriega and returning him to the United States to face criminal prosecution under U.S. laws. Would those operations qualify for the exemption specified in the COP's Decision 2/CP.3? Please explain your answer.

(iv) During the Reagan Administration, the United States bombed Libya for the purposes, among others, of retribution for, and deterrence against further, terrorist activities by, or sponsored by, Libya. Would those operations qualify for the exemption specified in the COP's Decision 2/CP.3? Please explain your answer.

(v) Assume that the United States had a treaty with another nation concerning limitations on its armed forces or weapons and that the United States believed that the other nation was in violation of the treaty, although we did not believe we were in danger of imminent military attack? Would military operations by the United States, for the purpose of inspections to determine the nature and extent of such violation, qualify for the exemption specified in the COP's Decision 2/CP.3 if those operations were (i) unilateral, (ii) multilateral, or (iii) not specifically authorized by the Security Council? Please explain your answers.

(d) Does the Administration have any reason to believe that any of its answers to Questions 5.6(a), (b), and (c) are, or are not, reflective of the common understanding of all of the other Parties to the Convention? Please fully explain your answer.

(i) To the extent some Parties do not have the understanding held by the Administration, what are the Administration's plans to obtain a common understanding that conforms to the Administration's?

(ii) Can COP Decision 2/CP.3 be amended or rescinded? If your answer essentially is "yes," please explain whether amendment or rescission could occur

separately from amendment to the Protocol, which body (the COP or the COP/MOP) could amend or rescind the Decision, and what the voting requirement for such action would be.

(e) In your testimony you said, in response to a question from Senator Kerry about a recent letter to President Clinton from Jeanne Kirkpatrick, Richard Cheney, Caspar Weinberger, and others regarding Decision 2/CP.3: "If they would have checked with our uniformed military and with our Defense Department, they would know that every requirement the Defense Department and the uniformed military who were at Kyoto by my side said they wanted they got." [78:15-18].

(i) Please state the names and ranks or positions of the highest ranking uniformed military personnel and civilian personnel in the Department of Defense who "signed off" on Decision 2/CP.3, and identify any uniformed military or civilian Department of Defense personnel who disagreed with the sufficiency or adequacy of that Decision.

(ii) Request for Production of Documents: Please attach to your answer a true and complete copy of the memorandum, dated on or about September 5, 1997, from Deputy Under Secretary of Defense for Environmental Security Sherri Goodman to Department of Defense officials regarding what she called a "national security waiver," as well as all other Documents commenting on, or otherwise dealing with the subject matter of, the Goodman memorandum.

(A) Did you ever have occasion to consider the Goodman memorandum or to discuss it with any other U.S. civilian or military personnel? Please fully explain your answer.

(B) Please explain the extent to which COP Decision 2/CP.3 does not provide as broad an exemption as would have been provided by the "national security waiver" referred to in the Goodman memorandum.

(f) In your testimony, you said: "There was also a concern by our military because of our unique situation with NATO where we have troops based in South Korea and in Europe and in many other countries that, somehow, countries would want to throw out U.S. troops because they would be concerned that somehow the emissions coming from bases and so forth would count against them. We got that taken care of by allowing a negotiation. We are willing to assume that ourselves." [79:8-15].

(i) Please list all nations in which U.S. armed forces currently are stationed and identify those nations as to which greenhouse gas emissions resulting from activities of the U.S. armed forces would, and would not, be exempted by reason of COP Decision 2/CP.3.

(ii) Please explain your statement, "We got that taken care of by allowing a negotiation. We are willing to assume that ourselves." For those nations indicated in your answer to Question 4.6(f)(i) as to which greenhouse gas emissions resulting from activities of the U.S. armed forces would not be exempted by reason of COP Decision 2/CP.3, please identify those nations as to which the United States is "willing to assume that ourselves" and state, as to each such nation, the essential terms of any agreement or understanding concerning that subject.

(g) On May 20, 1998, the House of Representatives, by a vote of 420 to zero, adopted an amendment to Title XII of H.R. 3616, the Defense Department Fiscal Year 1999 Authorization Bill, which provides, among other things, that, "[n]otwithstanding any other provision of law, no provision of the Kyoto Protocol to the United Nations Framework Convention on Climate Change, or any regulation issued pursuant to such protocol, shall restrict the procurement, training, or operation and maintenance of the United States Armed Forces."

(i) Please state the Administration's position as to whether it supports or opposes inclusion of that amendment in the Defense Department Fiscal Year 1999 Authorization Bill. Please explain your answer fully, including a complete statement as to what, if any, changes the Administration would like to see in that amendment.

(ii) Assuming that H.R. 3616, including this amendment, becomes law, please state the Administration's belief as to whether its effect would be to prevent the President, or any other official of the Executive Branch, or any other officer of the United States Armed Forces from making any decision restricting the procurement, training, or operation and maintenance of the United States Armed Forces when a primary purpose of such decision is to limit or reduce greenhouse gas emissions of the United States Armed Forces. If your answer is not an unqualified "yes," please fully explain answer fully.

(h) Which body, the COP or COP/MOP, has the authority to decide the extent to which, if at all, a Party's greenhouse gas emissions from the operations of its armed forces will not be taken into account for purposes of determining the Party's compliance with Article 3 of the Protocol? Please explain your answer fully, including quotation from what the Administration believes are the relevant provisions of the Convention and/or the Protocol.

(i) Can such authority be exercised by decision of such body (the COP or the COP/MOP), or must it be exercised by amendment to the Protocol? Please explain your answer fully, including quotation from what the Administration believes are the relevant provisions of the Convention and/or the Protocol.

(ii) If the Protocol were to enter into force as to the United States, would the previously quoted provision of Decision 2/CP.3, as far as the Administration is concerned, constitute a "regulation issued pursuant to such protocol" for purposes of this amendment to H.R. 3616? Please explain your answer fully.

(iii) Please state whether, to what extent, and in what circumstances the requirements of this amendment to H.R. 3616 would or could be regarded as being inconsistent with the previously quoted provision of Decision 2/CP.3. Please explain your answer fully.

(iv) Is the Administration willing, beginning with the June 1998 sessions of the SBI and the SBSTA, to seek a modification of the previously quoted provision of Decision 2/CP.3, so that it would completely and unqualifiedly exempt greenhouse gas emissions from a Party's armed forces, regardless of the activity causing such emissions, for purposes of determining the Party's compliance with Article 3 of the Protocol?

5.7 Article 3.14 of the Protocol requires Annex I Parties to "strive to implement the commitments mentioned in . . . [Article 3.1] in such a way as to minimize adverse social, environmental and economic impacts on developing country Parties, particularly those identified in Article 4, paragraphs 8 and 9, of the Convention."

(a) Please describe, in as much detail as is possible, how the Administration plans to honor its commitments under Article 3.14 of the Protocol.

(b) Please list the types of "adverse social, environmental and economic impacts on developing country Parties" that the Administration believes are comprehended by Article 3.14 of the Protocol, and, in doing so, please explain which of the following impacts the Administration regards as being so comprehended:

(i) diminished exports by developing countries to the United States and/or to other Annex I Parties; and/or

(ii) higher cost of goods, particularly energy-intensive goods, imported by developing countries from the United States and/or from other Annex I Parties.

(c) Does the Administration intend to submit to the June 1998 sessions of the SBSTA and/or the SBI, for their consideration, proposals or analyses relevant to the second and third sentences of Article 3.14? If your answer essentially is "yes," please attach to your answer a copy of the current version, including outlines, of the Administration's proposals and/or analyses that are under discussion or consideration, whether or not a final decision has been made with respect to them. If your answer essentially is "no," please explain the reasons for your answer.

5.8 Your response to Question for Record 18.1 states (in part) that "the United States made clear that it would be in compliance with such a provision [Article 3.2 of the Protocol] if it had the necessary implementing legislation in place to meet its target during the 2008-12 commitment period."

(a) Please state to whom, when, and where such position was "made clear." Was it stated in a meeting of the Committee of the Whole or any session of COP-3?

(b) If an effort were made in the COP, or the COP/MOP, or the SBI, or the SBSTA to obtain a decision that (contrary to the view stated in your response to Question for Record 18.1) Article 3.2 is to be implemented by means of establishing a relationship between an Annex I Party's greenhouse gas emissions in 2005 and its projected baseline emissions for 2005 or its actual emissions in 1990, what are the arguments that will be advanced by the United States in support of the position stated in your response to Question for Record 18.1?

5.9 The Group of Eight Summit Communique (May 17, 1998) states in part that the Heads of State or Government of those eight nations, including the United States agree: "We will each undertake domestically the steps necessary to reduce significantly greenhouse gas emissions."

(a) Please explain whether or not this G-8 commitment in any manner changes the current legal or political commitments of the United States under the Convention or the commitments proposed to be undertaken by the United States in the Protocol.

(b) Is this G-8 commitment intended to mean that the United States will "undertake domestically the steps necessary to reduce significantly [its] greenhouse gas emissions" prior to entry into force of the Protocol as to the United States? If your answer is not an unqualified "no," please fully explain your answer, including answers to the following questions:

(i) Please explain the Administration's understanding of the word "significantly," including a statement as to what that word means in quantified terms.

(ii) Is the reduction in reference to greenhouse gas emissions in, or compared to, any particular year, and, if so, what year does the Administration have in mind?

(iii) Please explain in detail the entirety of the decisions of the Administration which have been made or are being contemplated (indicating which), that would enable the United States to "undertake domestically the steps necessary to reduce significantly [its] greenhouse gas emissions" prior to entry into force of the Protocol as to the United States," as well as the process by which the Administration would make decisions to enable the United States to honor the quoted commitment.

(c) Please explain why this G-8 commitment referred to taking steps "domestically."

5.10 The Group of Eight Summit Communique states in part: "As the Kyoto Protocol says, to supplement domestic actions, we will work further on flexible mechanisms such as international market-based emissions trading, joint implementation and the clean development mechanism, and on sinks."

(a) Please identify all language in the Protocol that requires that certified emission reductions acquired pursuant to the Clean Development Mechanism may only "supplement domestic actions." In this regard, do you agree that the language in Article 12.3(b) of the Protocol does not require the COP/MOP to decide that "part" of compliance to which certified

emission reductions acquired pursuant to the Clean Development Mechanism may contribute must be less than 100 percent?

(b) Is the intent of this quoted G-8 commitment that use of sinks may only "supplement domestic actions" or that sinks may only "supplement" domestic reductions of gross emissions?

(i) Please explain why the reference to sinks was included in a sentence that has as its predicate the phrase "supplement domestic actions" and what relevance the quoted phrase has to sinks, insofar as the Administration is concerned.

(ii) Please identify all language in the Protocol that requires that reduction of net greenhouse gas emissions, by means of sinks, should "supplement domestic actions."

6. SO-CALLED "FLEXIBILITY" PROVISIONS OF THE KYOTO PROTOCOL

6.1 I am informed that, at a press conference by Raul Estrada-Oyuela (former Chairman of the Ad Hoc Group on the Berlin Mandate and former Chairman of the Committee of the Whole of the COP), held in Washington, D.C. on March 16, 1998, he said, in effect, that the emissions trading system provided for by the Protocol must be "phased out" over time.

(a) Please state whether you can confirm the substantial accuracy of that comment attributed to Mr. Estrada-Oyuela and, if it was made, please state your understanding of his reasons.

(b) Will the Administration commit to the Senate that it never will agree to any agreement, decision of the COP or of the COP/MOP, rule, principle, modality, or guideline that has, or is intended to have, the effect of phasing down or phasing out over time the ability of the United States to meet its commitments under the Protocol or any similar agreement by means of emissions trading? If your answer is not unqualifiedly "yes," please explain your answer fully. Among other things, your answer should consider the possibility that some nation might propose rules or other decisions of the COP or COP/MOP that, however expressed, have the effect of reducing over time the amount of emissions reduction units, or any part of an assigned amount, which a Party may acquire from another Party and add to the assigned amount for the acquiring Party, or which otherwise reduce over time the portion of a Party's emissions-reduction or limitation requirements that may be met by acquisition of emissions reduction units or any part of another Party's assigned amount.

6.2 At the third session of the COP in Kyoto, there was considerable debate over whether, and to what extent, so-called "hot air" and/or "superheated (hot) air" could be transferred under Article 17 of the Protocol by a Party, such as the Russian Federation or Ukraine. Those are political terms, so there are various ways to calculate the amount of a Party's "hot air" and "super-heated (hot) air" depending on the definition actually used. Please state the Administration's understanding of the definitions of "hot air" and "super-heated (hot) air" as they most commonly were

used by the Parties during the negotiation of the Protocol, and apply those definitions in your answers to Questions 6.2(a) through (d).

(a) Please prepare a table that shows for each of the Annex B Parties, according to the Administration's current, best information and belief, the accumulated amounts of "hot air" and "super-heated (hot) air" that separately are estimated or projected to be possessed by each such Party as of the end of 2007. Please identify for each item of historic data, projection, or estimate the source of the information by name of the entity that prepared it and the name and date of the publication or document in which the data, projection, or estimate is contained.

(b) Under the Protocol, as written, would a nation such as Russia or Ukraine be able to sell, pursuant to Article 17, all or part of the "hot air" or "super-heated (hot) air" it accumulated as of the end of 2007? Please explain your answer fully, including identification of the part that could be sold and quotation of any language in the Protocol that supports your answer.

(c) If your answer to Question 6.2(b), in effect, is that the Protocol does not completely resolve the issue of whether, and to what extent, a Party may sell all or part of the "hot air" and/or "super-heated (hot) air" it has accumulated as of the end of 2007, is that one of the issues you anticipate will be resolved by decision of the COP at its fourth session in November 1998 pursuant to the first sentence of Article 17? Please explain your answer fully.

(d) What is the position of the Administration as to whether Parties, such as Russia or Ukraine, should be allowed to sell, pursuant to Article 17, all or part of the "hot air" and/or "super-heated (hot) air" it accumulated as of the end of 2007? Please fully explain the reasons for your answer.

(e) According to a report of a meeting of the European Parliament or its Committee on the Environment, Public Health and Consumer Protection held on or about December 18, 1997, E.U. Commission Member Bjerregaard said, with respect to so-called "flexibility" measures: "However, such measures should provide for true cost-effectiveness and not just allow for trading 'hot air,' the selling of emissions reductions already achieved. The agreed text is not very clear on this point. 'Hot air' from the years before the first budget period cannot be traded -- a very important point pushed by the E.U."

(i) If the E.U. insists on the point of view that "hot air" and/or "super-heated (hot) air" from the years before the first budget period cannot be traded, do you anticipate that the COP, at its fourth session, will be able to make decisions to define "the relevant principles, modalities, rules and guidelines, in particular for verification, reporting and accountability of emissions trading, pursuant to Article 17 of the Kyoto Protocol," as provided in Decision 1/CP.3 adopted by the COP in Kyoto? Please explain your answer fully.

(ii) If the E.U. insists on such point of view, what is your belief as to whether Russia, Ukraine, and other nations possessing "hot air" or "super-heated (hot) air" will

deposit their instruments of ratification, acceptance, or approval of the Kyoto Protocol within a time frame that would enable such deposits of instruments to contribute to bringing about the Protocol's entry into force, pursuant to Article 25 of the Protocol, prior to: (i) 2000, (ii) 2005, (iii) 2008? Please explain your answer concerning each such nation.

6.3 In your testimony, you said: "Indeed, we went even further by achieving a conceptual understanding with several countries, including Australia, Canada, Japan, New Zealand, Russia, and the Ukraine, to trade emissions rights with each other." [19:1-4].

(a) Please state all of the features and elements of, and the assumptions by the Administration concerning, the "conceptual understanding" as of (i) the Kyoto Conference and (ii) as of the date of your answer to this question. Request for Production of Documents: Please attach to your answer copies of all Documents that refer or are related to the "conceptual understanding."

(b) Insofar as membership in the "umbrella group" is concerned, please:

(i) list all current members;

(ii) list all other nations that the Administration currently believes should be considered for membership;

(iii) explain why the current members of the European Union (E.U.) are or are not included in your answer to Question 6.3(b)(ii);

(iv) explain whether nations of Central and Eastern Europe, which are EITs and which currently are seeking, or believed by the Administration to have a future intention to seek, membership in the E.U. likely would or would not join the "umbrella group" if invited to do so. Your answer should comment on the likelihood that, either by express or implied understanding, such nations would be required to commit to the E.U., as a condition of E.U. membership, that, either during the period 2008-12 or, perhaps, during periods after 2012, they would engage in emissions trading pursuant to Article 17 exclusively with E.U. members or, at minimum, would confer on E.U. members what, in effect, amounted to a "first right of refusal" to trade.

(c) With respect to the possibility that there might be an express or implied agreement or understanding, however formulated, among some or all of the members of the E.U., which, during the period 2008-12 and/or during periods after 2012, had the effect of limiting emissions trading by any E.U. member to trading exclusively with other E.U. members or would confer on other E.U. members what, in effect, amounted to a "first right of refusal" to trade, please state:

(i) whether the Administration has any reason to believe that any such, or similar, agreement or understanding has been, or may be reached, among E.U. members; and

(ii) whether, in the Administration's view, any such, or similar, agreement or understanding would violate the rules or principles of international trade, including those of the World Trade Organization. Please explain fully your answer to part (ii) of this question, including explanation of the effect, if any, of Article 4 of the Protocol on your answer.

(d) Please identify the nations that attended the March 1998 meeting in Washington of the "umbrella group" and summarize the purposes of the meeting and the discussions that were held. Request for Production of Documents: Please attach to your answer copies of all Documents pertaining to that meeting.

(e) Please identify the nations that have attended any other meetings with Administration officials, following the March meeting in Washington of the "umbrella group," where one of the principal purposes of the meeting was to discuss emissions trading issues. Please summarize the discussions that were held on that issue. Request for Production of Documents: Please attach to your answer copies of all Documents pertaining to any such meeting with respect to emissions trading.

6.4 Please state your best estimate of the first year in which emissions trading, pursuant to Article 17 and/or pursuant to an essentially comparable emissions-trading provision in a "supplemental protocol" or "supplemental agreement," will involve emissions trading by:

- (a) the United States or by a U.S. company;
- (b) all, or substantially all, of the Annex B Parties;
- (c) all of the developing nations you regard as "key developing nations;"
- (d) all, or substantially all, of the developing nations.

Please explain the reasons for your answers, including giving an estimate of the amounts of "emission reduction units" that you estimate likely will be traded in the first year by each of these four groups of nations.

6.5 Please prepare a table that shows for each of the Annex B Parties, according to the Administration's current, best information and belief, the amounts (in tons of carbon equivalent) of the "emission reduction units or any part of an assigned amount" that, for each such Party, is estimated to be --

(a) likely to be legally capable, under the terms of the Protocol, of being sold by the Party pursuant to Article 17 of the Protocol, if it desired to engage in such sale, before the end of the first commitment period;

(b) the portion of your answer to Question 6.5(a) that is likely to be retained or "banked" by the Party for its own use in a future commitment period; and

(c) likely to be sold or bought (indicating which), pursuant to Article 17 of Protocol, before the end of the first commitment period. Your answer to this Question 6.5(c) should state, separately for each such Party, the price or range of prices the Administration believes at which the Party would engage in such buying or selling, and, also, should indicate whether (and, if so, to what extent) the amounts listed for sellers include the information you have provided in the table in answer to Question 6.2(a). Please identify for each Party the source of the estimates for it by name of the entity that prepared it and the name and date of the publication or document containing such estimate.

Please state the level or degree of confidence you have in the information provided in the requested table, taking into account your statements in your response to Question for Record 33.1: "It is impossible to know exactly the magnitude of the cost reduction associated with international trading, because of many uncertainties. Some of these uncertainties will be addressed in subsequent negotiations; however, many uncertainties are associated with the inability precisely to predict the state of the U.S. and global economies a decade or more from now."

6.6 In your testimony, you said: "In addition, let me be unmistakably clear. We will not accept nor do we anticipate an approach that would require prior approval of individual emissions trades by any international body. Trading will be done between interested Nations and their companies based on market principles." [22:25 - 23:4]

(a) Were you referring exclusively to emissions trading under Article 17 of the Protocol?

(b) Article 6.3 of the Protocol states: "A Party included in Annex I may authorize legal entities to participate, under its responsibility, in actions leading to the generation, transfer or acquisition under this Article of emission reduction units." Article 12.9 of the Protocol states: "Participation under the clean development mechanism, including in activities mentioned in paragraph 3(a) above and in the acquisition of certified emission reductions, may involve private and/or public entities, and is to be subject to whatever guidance may be provided by the executive board of the clean development mechanism."

(i) Why did Article 17 make no reference to participation by "legal entities" or "private and/or public entities" in emissions trading?

(ii) With respect to participation by U.S. companies in actions leading to the acquisition of "emissions reduction units" under Article 6.3, in the acquisition of "certified emissions reductions" under Article 12, and in emissions trading pursuant to Article 17, please state:

(A) whether the Administration currently anticipates requiring any U.S. Government approval prior to a U.S. company's participation in such transactions and, if so, whether U.S. Government approval would be with respect to each transaction, or whether a U.S. company desiring to participate could receive what, in effect, is "blanket" approval to participate in all future transactions;

(B) the types of requirements the Administration would impose on U.S. companies in order for them to be eligible to participate in such transactions.

(c) Do you anticipate that, at least initially, the parties to such trading will have to be Parties to the Protocol (i.e., governments) and that a U.S. company would not be able to purchase "emission reduction units," pursuant to Article 17, directly from another Party to the Protocol or directly from one of its companies? Please explain your answer.

(i) What is the date by which the Administration desires that a U.S. company would be able to purchase "emission reduction units," pursuant to Article 17, directly from another Party to the Protocol or directly from one of its companies?

(ii) What is the date by which you estimate such desire likely will be achieved?

(d) If the system developed under Article 17 of the Protocol does not require prior approval of individual emissions trades by any international body, please:

(i) explain how a U.S. company purchasing "emission reduction units" pursuant to Article 17 would know with confidence that the purchased "emission reduction units" were bona fide and that it would be guaranteed that it could "credit" such "emission reduction units" against whatever emissions "cap" might be imposed on it under U.S. laws and not be at any risk that such "credit" later would be revoked?

(ii) explain how the Government of the United States could know with confidence that "emissions reduction units" purchased either by the Government or by a U.S. company pursuant to Article 17 were bona fide and that the U.S. Government would be guaranteed that it could add them to its assigned amount, pursuant to Article 3.10 of the Protocol, and not be at any risk that such addition later would be revoked?

(e) Trading "based on market principles" occurs on a daily basis in the United States with respect to securities and commodities; yet, various governmental bodies (such as the SEC) and private bodies (such as the major stock and commodities exchanges and the National Association of Securities Dealers) prescribe rules and regulations governing many aspects of such trading. Please describe the types of rules and regulations that the Administration anticipates will be prescribed by the COP, the COP/MOP, other intergovernmental bodies, individual Parties to the Protocol (including the United States), and/or non-governmental bodies (including what might be regarded as "emission reduction units exchanges") with respect to trading under Article 17 of the Protocol.

6.7 Your response to Question for Record 34.1(b) states (in part): "Among the issues likely to be addressed are . . . coordination with domestic trading regimes." Please fully explain what you meant by that statement.

6.8 Under the Protocol, as written, could a developing nation, which is not listed on Annex B and which retains "certified emissions reductions" from a project within its territory pursuant to Article 12, sell or transfer all or any of those "certified emissions reductions" pursuant to Article 17 or any other provision of the Protocol to any other nation (other than to a nation to the extent that the "certified emissions reductions" resulted from a transferee nation's investment in the project that generated the certified emissions reductions" under Article 12)? Is your answer affected by whether the purchaser or transferee is not listed on Annex B? Please fully explain your answers.

6.9 The important subject of rules, guidelines, principles, and modalities concerning the Clean Development Mechanism referred to in Article 12 of the Protocol (CDM), and any other decisions that elaborate or enable implementation of Article 12, are not included in the list of subjects set forth in Paragraph 5 of Decision 1/CP.3 of the third session of the COP, with the exception of the subject identified in Paragraph 5(e). For convenience, these matters hereinafter are called the "CDM Issues."

(a) Why are the CDM Issues (except for the matter identified in Paragraph 5(e)) not included in the list of subjects set forth in Paragraph 5 of Decision 1/CP.3?

(b) Did the U.S. delegation at the Kyoto Conference seek to have the CDM Issues included in the list of subjects set forth in Paragraph 5 of Decision 1/CP.3, so that they could be addressed by the fourth session of the COP in November 1998? If your answer essentially is "yes," please describe such efforts and explain why they did not succeed, what Parties or officials of the COP opposed the U.S. efforts, and the reasons given for such opposition. If your answer to this question essentially is "no," please explain the reason why the U.S. delegation did not seek inclusion of the CDM Issues in Paragraph 5 of Decision 1/CP.3.

(c) May the CDM Issues (other than the matter identified in Paragraph 5(e)) be addressed or decided by the COP at its fourth session in November 1998? If your answer essentially is "no," when can they first be addressed by the COP or by the COP/MOP? Please explain the reasons for your answers to these questions.

(d) May the CDM Issues be addressed by the SBSTA and/or the SBI at their June 1998 sessions, pursuant to Paragraph 6 of Decisions 1/CP.3?

6.10 Please prepare a table that shows for each of the non-Annex I Parties (or, if such information is not available, a table that shows for each of the regions generally identified in the United Nations as Africa, Asia, and Latin America), according to the Administration's current best information and belief, the amounts (in tons of carbon equivalent) of the "certified emissions reductions" that each such non-Annex I Party (or each such region) is estimated to be likely to

transfer to Annex B Parties, pursuant to the CDM in Article 12 of the Protocol, before the end of the first commitment period. Your answer should state, separately for each such non-Annex I Party (or each such region): (i) the percentages of the total "certified emissions reductions" resulting from CDM projects in each such non-Annex I Party (or each such region) that, respectively, would be transferred or retained and (ii) the "effective price" or range of "effective prices" the Administration believes at which transfers of "certified emissions reductions" by each such non-Annex I Party (or each such region) would occur. As used herein, "effective price" means the dollar amount of the total investment in the CDM project (including all dollar amounts charged or set aside pursuant to Article 12.8) made by the Party or entity acquiring "certified emissions reductions" that is over and above what the total investment would be expected to be if a transfer of "certified emissions reductions" were not involved, divided by the amount of the "certified emissions reductions" that are transferred (in tons of carbon equivalent). Please identify for each nation (or each such region) the source of the estimates for it by name of the entity that prepared it and the name and date of the publication or document containing such estimate.

6.11 Please prepare a table that shows for each of the Annex I Parties, according to the Administration's current, best information and belief, the amounts (in tons of carbon equivalent) of the "emissions reduction units" that each such Annex I Party is estimated to be likely to transfer to another Annex I Party, pursuant to Article 6 of the Protocol, before the end of the first commitment period. Your answer should state, separately for each such Annex I Party: (i) the percentages of the total "emissions reduction units" resulting from projects qualifying under Article 6 in each such Annex I Party that, respectively, would be transferred or retained and (ii) the "effective price" or range of "effective prices" the Administration believes at which such transfers of "emissions reduction units" by each such Annex I Party would occur. As used herein, "effective price" means the dollar amount of the total investment in the project made by the Party or entity acquiring "emissions reduction units" that is over and above what the total investment would be expected to be if a transfer of "emissions reduction units" were not involved, divided by the amount of the "emissions reduction units" that are transferred (in tons of carbon equivalent). Please identify for each Annex I Party the source of the estimates for it by name of the entity that prepared it and the name and date of the publication or document containing such estimate.

6.12 Assume that the marginal cost of emissions reductions in the United States, in order to meet the requirements of Article 3 of the Protocol, could range between \$100 and \$265 per ton of carbon equivalent if all such reductions were undertaken domestically and without any transfers or trading pursuant to Articles 6, 12, or 17 of the Protocol. Further assume that a knowledgeable seller or transferor of "emission reduction units," pursuant to those provisions of the Protocol, possessed such assumed information as to marginal costs in the United States. Based on your experience (including dealing with other nations concerning the Protocol both before and after its adoption by the COP), please state:

(a) the maximum discounts below such marginal U.S. costs at which you believe a nation would sell or transfer "emission reduction units" pursuant to Articles 6, 12, or 17; and

(b) the effect (expressed in dollars per ton of carbon equivalent) on the prices to be paid by the United States (or by U.S. companies) for "emission reduction units," pursuant to Article 6, 12, and 17, if nations were permitted to trade (under Article 17) so-called "hot air" or "super-heated (hot) air," as you defined those terms in answer to Question 6.2.

Please explain your reasons for your answers.

6.13 Please identify all proposals (whether included in negotiating drafts that led to the Protocol, or that surfaced during negotiations of the Protocol or after its adoption by the COP), which the Administration believes likely may be advanced by any Party to the Convention during deliberations over rules, guidelines, principles, or modalities concerning elaboration of the phrases "supplemental to domestic actions," as used in Articles 6.1(d) and 17 of the Protocol, and "compliance with part of their quantified emissions limitation and reduction commitments," as used in Article 12.3(b). For example, I understand that one or more Parties may propose a percentage limit on the portion of an Annex B Party's emissions-reduction requirement that may be met by its acquiring emissions reduction credits pursuant to Articles 6, 12, and/or 17.

(a) Please state the Administration's position with respect to each of the proposals identified in your answer to the question in the immediately preceding paragraph.

(b) Does the Administration intend to submit to the June 1998 sessions of the SBSTA and/or the SBI, for their consideration, proposals concerning the issues referred to in this Question 6.13? If your answer essentially is "yes," please attach to your answer a copy of the current version, including outlines, of the Administration's proposals and/or related analysis that are under discussion or consideration, whether or not a final decision has been made with respect to them.

(c) The April 8, 1998 issue of "Daily Environment Report," published by the Bureau of National Affairs, reports on the April 3-5 meeting of the G-8 Environment Ministers. The article contains the following statement of EPA Administrator Carol Browner: "'Once you've accomplished everything that is conceivable through your domestic program, it will then make sense to have an international [emissions] trading program for a variety of reasons,' Browner said." Assuming that the statement accurately quoted Ms. Browner:

(i) Does Administrator Browner's statement accurately reflect the Administration's position? Please explain your answer fully.

(ii) If your answer to Question 6.13(c)(i) is anything other than an unqualified "no:"

(A) Is that the Administration's understanding of the meaning of the phrase "supplemental to domestic actions," as used in Article 17 of the Protocol?

(B) Does the statement of Administrator Browner mean that a Party to the

Protocol should not be eligible to engage in emissions trading, pursuant to Article 17 of the Protocol, until it has "accomplished everything that is conceivable through . . . domestic program[s]" of that Party?

(C) As far as the Administration is concerned, does the word "accomplished" mean:

- the emissions reductions anticipated to result from the domestic programs have to be achieved?
- the domestic programs have to be adopted pursuant to the laws of the Party?
- the domestic programs have to be instituted pursuant to the laws of the Party?

(D) What body -- the subject Party, the COP/MOP, or some other body -- should have the authority to determine whether a Party has "accomplished everything that is conceivable through . . . domestic program[s]" of that Party?

(E) What are all of the criteria, which the Administration would support, for determining whether a Party has "accomplished everything that is conceivable through . . . domestic program[s]" of that Party? In answering this question, please explain whether, as far as the Administration is concerned, the domestic programs for the United States, in order to satisfy the criteria, would include a carbon tax or new energy taxes, or their substantial equivalent in effect, regardless of what they are called?

(d) According to the press release issued by the European Union's Council of Environment Ministers on March 23, 1998, the Ministers' conclusions included the following statement: "The Council reaffirms that domestic action should provide the main means of meeting the commitments under Article 3 of the Protocol and that the modalities, rules and guidelines for the operation of flexible mechanisms should ensure that those mechanisms do not undermine this principle or weaken the commitments under Article 3. In this context a concrete ceiling on the use of flexible mechanisms has to be defined to achieve these aims."

(i) What is the Administration's understanding of the statement that "domestic action should provide the main means of meeting the commitments under Article 3 of the Protocol?"

(ii) Is it the Administration's understanding that the phrase "a concrete ceiling" refers to a "ceiling" that is expressed in quantitative terms? If your answer is anything other than an unqualified "yes," please explain your answer fully.

(iii) Is it the Administration's understanding that the statement, taken as a whole, indicates that the E.U. will seek a decision of the COP or the COP/MOP that, in effect, limits use of the flexibility mechanisms under Article 6, 12, and/or 17 of the Protocol to 50 percent or less of the emissions reductions a Party would be required to make in order to comply with its commitments pursuant to Article 3 and Annex B of the Protocol? If your answer is anything other than an unqualified "yes," please explain your answer fully.

(iv) If the E.U. were to propose that use of flexibility mechanisms be limited as suggested in Question 6.13(d)(iii), what will be the Administration's position?

(v) Is the Administration willing to accept any quantitatively expressed limitation on the use of the flexibility mechanisms referred to in Articles 6, 12, and/or 17? Please explain your answer fully.

(e) The May 7, 1998 Communiqué of the meeting of G-8 Environmental Ministers contained the following statement: "Flexible mechanisms such as international emissions trading, joint implementation and the clean development mechanism shall be supplemental to domestic action."

(i) What is the Administration's understanding of the meaning of that statement? Your answer should explain whether, as far as the Administration is concerned, it is the intent of the phrase "shall be supplemental to domestic action" that limitations or ceilings on the use of flexibility mechanisms to meet emissions limitation or reduction commitments under Article 3 would apply: (A) to the aggregate of emissions reduction units acquired pursuant to Articles 6, 12, and 17, or (B) to emissions reduction units separately acquired pursuant to Articles 6, 12, or 17, or (C) to both the aggregate of emissions reduction units and to emissions reduction units separately acquired pursuant to Article 6, 12, or 17. Please state the reasons "for" and "against" each of these approaches, which approaches the Administration will support, and which the Administration will oppose.

(ii) As far as the Administration is concerned, does the statement modify in any way the intent of the similar statement contained in Articles 6.1(d) and 17 of the Protocol or indicate an understanding among the Environment Ministers as to the meaning of the similar statement in those Articles? If your answer is anything other than an unqualified "no," please explain your answer fully.

(iii) Article 12 of the Protocol does not use the expression "supplemental to domestic action." Instead, Article 12.3(b) provides that Annex I Parties may use certified emissions reductions accruing from Article 12 projects "to contribute to compliance with part of their quantified emission limitation and reduction commitments under Article 3, as determined by the" COP/MOP.

(A) Is it the intention of the Administration that the quoted statement of the G-8 Environment Ministers' Communique means that certified emissions reductions accruing from Article 12 projects may, or should, be used to meet the U.S. emissions-reduction commitment under Article 3 only to the extent that they are "supplemental" to emissions reductions achieved as a result of U.S. domestic programs? If your answer is anything other than an unqualified "no," please explain your answer fully.

(B) Does the Administration agree that, under Article 12.3(b), the COP/MOP would be free, if it so desired, to decide that any "part" of a Party's emissions limitation or reduction commitment under Article 3 could be met by certified emissions reductions accruing from Article 12 projects, provided that the "part" is less than 100 percent? If your answer is anything other than an unqualified "yes," please explain your answer fully.

(C) Did EPA Administrator Browner have prior authority from, or the approval of, the President or the Vice President to agree to the statement in the Communique of the G-8 Environment Ministers to apply the phrase "shall be supplemental to domestic action" to certified emissions reductions that could accrue from Article 12 projects? Did Administrator Browner consult with you on that issue?

(D) Please explain all of the reasons why the Administration agreed in the Communique of the G-8 Environment Ministers to apply the phrase "shall be supplemental to domestic action" to certified emissions reductions that could accrue from Article 12 projects.

6.14 Please identify, separately as to Articles 6, 12, and 17 of the Protocol, each of the specific issues, not fully discussed in your prior answers to this Question 6, that the Administration believes remain to be resolved under those Articles. Your answer to this question should not merely state "rules," or "guidelines," or "principles," or "modalities," but, rather, should state the specific subjects and issues that should be addressed by such rules, guidelines, principles, or modalities.

6.15 Does the Administration intend to submit to the June 1998 sessions of the SBSTA and/or the SBI, or to the fourth session of the COP in November 1998, proposals for modalities, principles, rules, and/or guidelines, or any analysis, related to the matters identified in Paragraph 5 of Decision 1/CP.3 of the third session of the COP? If your answer essentially is "yes," please identify such matters and attach to your answer a copy of the current version, including outlines, of the Administration's proposals and/or analysis that are under discussion or consideration, whether or not a final decision has been made with respect to them. In answering this Question 6.15, you should omit duplication of material contained in your prior answers to any part of Question 6.

6.16 Question for Record 35 raised questions about which developing countries will be entitled to receive funding, pursuant to Article 12.8 of the Protocol, to assist in meeting the costs of adaptation. Your response stated (in part): "The U.S. believe that this category should be limited to countries which are vulnerable to changes in climate, and that it should not include countries demanding compensation for loss of income resulting from international efforts to mitigate climate change (e.g., through reductions in oil exports)." What is the Administration's position concerning eligibility to receive funding to assist meeting the costs of adaptation if the developing country demanding such compensation also is a country that is vulnerable to changes in climate?

7. MONITORING, VERIFICATION, AND ENFORCEMENT OF COMMITMENTS

7.1 In your testimony, you said: "First of all, Annex 1 parties have to have in place a measurement system for greenhouse gas emissions. We already basically have ours. Most of the developed countries do." [71:12-15]

(a) Your testimony referred to "measurement systems," whereas Article 5.1 of the Protocol refers to "a national system for the estimation" of greenhouse gas emissions and sinks. (emphasis added). What is the difference, if any, between the quoted phrases?

(b) Please provide the citations to all federal laws and regulations that the Administration believes prescribe for the United States a "measurement system" for (or "system for the estimation" of) all greenhouse gas emissions that are listed in Annex A to the Protocol.

(c) To what extent, if at all, does the Administration currently believe that it will or may be necessary to require additional laws or regulations concerning "measurement systems" for (or a "system for the estimation" of) greenhouse gas emissions in order to enable the United States to assure its compliance with its commitments under the Protocol? Your answer should include identification of the greenhouse gases that would be subject to such additional requirements and, at least in summary form, a description of what additional or modified systems would be necessary.

(d) Please identify the Annex B Parties that the Administration believes currently have in place "measurement systems" for (or a "system for the estimation of) greenhouse gases that are comparable to those that are required under the federal laws and regulations cited in your answer to Question 6.1(b). Your answer should identify all studies or assessments relied upon for your answer, including the name of the entity that prepared it and the name and date of the publications or documents containing such studies or assessments.

(e) Under current federal law, certain types of emissions sources are, or at a future date will be, required to employ so-called "continuous emissions monitoring systems" (CEMS) for carbon dioxide emissions, among others; and there are regulatory requirements for auditing or verifying the emissions recorded under CEMS.

(i) Please identify the Annex B Parties that the Administration believes currently have in place "measurement systems" for carbon dioxide emissions that are essentially similar to the CEMS required in the United States.

(ii) Are the measurement systems currently used by the other Annex B Parties, as well as the auditing and verification systems related thereto, as reliable and accurate, for measuring or estimating carbon dioxide emissions from sources to which CEMS applies in the United States, as the CEMS? Please explain your answer.

(iii) If your answer to Question 6.1(e)(ii) essentially is "yes," will the Administration support revocation of the CEMS requirement for monitoring carbon dioxide emissions in the United States? If your answer to Question 6.1(e)(ii) essentially is "no," will the Administration insist that the other Annex B Parties be required to require CEMS systems, with respect to carbon dioxide emissions, to the same extent as they are required in the United States? Please explain the reasons for your answers.

(f) Does the Administration intend to present to the SBSTA or the SBI, at its June 1998 session, proposals for guidelines concerning the nature and extent of "national systems for the estimation of" greenhouse gas emissions and sinks that should be adopted by the COP/MOP for purposes of the first compliance period?

7.2 In your testimony, you said: "What I am saying, Senator, is that compliance under this agreement -- and this is something we insisted on -- is essentially national. It relies on the United States to do the heavy compliance work." [69:21-24]. Later, you said: "This is essentially self-reporting . . ." [71:3].

(a) Will the "guidelines" for "national systems" to "estimate" greenhouse gas emissions and sinks, to be decided upon by the COP/MOP pursuant to Article 5.1 of the Protocol, contain requirements for each Annex B Party to have national laws or regulations that provide for (i) reporting of emissions by domestic emissions sources, in a prescribed manner, to its national government, (ii) auditing procedures by the national government of such reports, and (iii) criminal penalties (involving fines and/or imprisonment) for intentional under-reporting by emissions sources? Please explain, as far as the Administration is concerned, the reasons "for" and "against" all such requirements and the Administration's intentions to propose or oppose such requirements in the COP/MOP and in any U.S. legislation or regulations.

(b) When an Annex B Party "self-reports" its emissions, pursuant to Article 7 of the Protocol, is the only method for verifying the accuracy of such reports contained in Article 8 of the Protocol? If your answer is not an unqualified "yes," please explain your answer fully.

(c) Please describe the methodologies and procedures the Administration believes would be necessary and appropriate for a review team, acting pursuant to Article 8, to:

(i) verify that the hundreds, perhaps tens of thousands, of reports from domestic emissions sources relied upon by a national government in preparing its report pursuant to Article 7 of the Protocol are accurate and conform to the requirements of its domestic laws; and

(ii) audit the reports submitted by national governments pursuant to Article 7 to assure they are accurate and conform to the requirements of the "guidelines" therefore adopted by the COP/MOP pursuant to Article 5.1 of the Protocol?

(d) Do you agree that the Environmental Protection Agency and the Department of Justice have "track records" that demonstrate generally strict enforcement of U.S. environmental protection laws, including both their substantive provisions and those that require reports by U.S. companies under such laws? If your answer essentially is "yes," please explain, as far as the Administration is concerned, the reasons "for" and "against" a requirement, pursuant to Article 8 of the Protocol, that would empower the review teams to investigate sites of emissions sources within an Annex B Party, together with related records of the source, without approval of the Party or the source, if the COP/MOP (or the SBSTA) determines that the "track record" of the Party fails to demonstrate generally strict enforcement of the Party's laws concerning greenhouse gas emissions or other environmental protection laws, including both their substantive provisions and those that require reports by domestic companies under such laws?

7.3 In your testimony, you said, with reference to the review teams under Article 8 of the Kyoto Protocol: "They will not be from any Secretariat. They will be chosen by the countries who will be participating in the reviews -- for example, the Annex I countries. So there will be Canadians on the team and so forth." [70:5-9]

(a) Do you agree that, under Decision 2/CP.1 of the first session of the COP, the Secretariat is empowered (i) to "coordinate" the review process, "including the organization of the in-depth reviews of individual national communications" and (ii) "[t]o select, under the guidance of the Chairmen of the subsidiary bodies the members of the in-depth review teams from among the names provided by the Parties and intergovernmental organizations?"

(b) What changes, if any, does the Administration advocate or anticipate with respect to such authorities of the Secretariat in connection with reviews under Article 8 of the Protocol?

(c) Please explain, as far as the Administration is concerned, the reasons "for" and "against" a developing country Party, which is not an Annex B Party, to be a member of a review team insofar as the review deals with compliance by an Annex B Party with its commitments under Article 3.

7.4 It has been suggested by some that an Annex B Party, which failed to meet its commitments under Article 3, would suffer public embarrassment when such non-compliance came to light, presumably as a result of a report by a review team, and that such "consequence" would deter

non-compliance with Article 3 commitments. Does the Administration agree? Please state your reasons for your answer.

7.5 Please provide a list of all violations of the Montreal Protocol on Substances that Deplete the Ozone Layer by each of the Parties thereto, which have occurred from inception to date. As to each violation, your answer should include an estimate of the quantity of "controlled substances" that were involved, the date of the violation, and the consequences that the violator suffered.

7.6 Article 6 of the Protocol provides that an Annex I Party "does not acquire any emissions reduction units if it is not in compliance with its obligations under Articles 5 and 7."

(a) Why was a similar provision not included in Articles 12 and 17?

(b) Would the COP/MOP have authority under Article 18 or any other provision of the Protocol to forbid transfer or acquisition of "certified emission reductions" under Article 12, or transfer or acquisition of "emission reduction units" under Article 17, if a Party were not in compliance with its obligations under Articles 3, 5, and/or 7?

7.7 Article 18 of the Protocol provides that the COP/MOP "shall, at its first session, approve appropriate and effective procedures and mechanisms to determine and to address cases of non-compliance with the provisions of this Protocol" It also provides: "Any procedures and mechanisms under this Article entailing binding consequences shall be adopted by means of an amendment to this Protocol."

(a) Does the Administration intend to present to the SBSTA or the SBI, at its June 1998 session, proposals for such procedures and mechanisms? If your answer essentially is "yes," please attach to your answer a copy of the current version, including outlines, of the Administration's proposals that are under discussion or consideration, whether or not a final decision has been made with respect to them.

(b) Please explain the rationale for the requirement of an amendment to the Protocol, as provided in the last sentence of Article 18.

8. ROLE OF UNEP CONCERNING CLIMATE CHANGE CONVENTION

According to a report in the March 9, 1998 issue of "Daily Report for Executives," published by the Bureau of National Affairs, Klaus Topfer, who is the new Executive Director of the United Nations Environment Program (UNEP), held a press conference on March 6. The report of Mr. Topfer's remarks includes the following:

"One role for UNEP will be to help integrate U.N. instruments to address the recently completed Kyoto agreement on climate change, Topfer said. The voluminous document

produced at Kyoto raises more political and economic questions than it answers, and UNEP will have to play a role in sorting them out, he said.

"Topfer noted that U.N. conventions and protocols rely on various agencies to carry them out. 'We have a lot of homework to do from Kyoto, and we must be integrated in this implementation,' he said.

"Turning to Kyoto's emphasis on economic instruments to limit greenhouse gas emissions, which he said were placed in the agreement largely at the initiative of the United States, Topfer reported that several bodies were working on the shape of those instruments, including the U.N. Conference [sic.] on Trade and Development, the Organization for Economic Cooperation and Development, and national governments.

"'They are all working on these instruments, but we can only overcome the bottlenecks and criticism from the environmentalists and the G-77 [coalition of developing countries] if we include the voices of the environmental institutions,' he said. 'It will be very difficult if we hear only the voices of the economists.'"

(a) What is the Administration's understanding of the nature and extent of the efforts by UNEP to be "integrated" into efforts to elaborate or implement the Protocol, including but not limited to, Articles 3, 6, 12, and/or 17 of the Kyoto Protocol?

(b) To what extent might these "integration" efforts result in UNEP's playing a different role than it already does?

(c) Does the Administration support such efforts? Please state your reasons for your answer.

9. CERTAIN RATIFICATION ISSUES

9.1 According to the Report of the third session of the COP in Kyoto, the COP "further decided that, for the purposes of Article 25 of the Protocol relating to entry into force, a table indicating the total carbon dioxide emissions of Annex I Parties in 1990, to be prepared on the basis of secretariat documents relating to first national communications, should be annexed to the report of the Conference (see the annex to Part Two of this report)."

(a) Does the State Department agree with all of the data set forth in the Annex attached to Document FCCC/CP/1997/7/Add.1? If you do not agree, please explain your reasons.

(b) As far as the Administration is concerned, does the phrase "the total carbon dioxide emissions for 1990," as used in Article 25 of the Kyoto Protocol, permit taking into account removals of carbon dioxide by sinks in 1990? Please explain your answer.

(c) To the extent the "in-depth review" of an Annex I Party's first national communication or any other apparently creditable analysis casts doubt on the accuracy or reliability of a Party's report of its "total carbon dioxide emissions for 1990," or raises questions about the methodologies used by a Party in making its calculations (in terms of their comparability to the methodologies used by other Parties, the temperature or other "adjustments" that were employed by the Party, or otherwise), what procedure exists to assure that entry into force of the Kyoto Protocol is in accordance with accurate, reliable, and comparable data? Your answer should include explanation of the procedure for a Party to the Convention to seek a determination that the Protocol either has, or has not, entered into force when there is a challenge by that Party or by any other Party to the accuracy or reliability of the data concerning any Annex I Party's "total carbon dioxide emissions for 1990."

9.2 This past April, the resolution of the Senate, which gave its advice and consent to the ratification of the Chemical Weapons Convention, contained the following introductory paragraph in Section 2: "The Senate's advice and consent to the ratification of the Chemical Weapons Convention is subject to the following conditions, which shall be binding upon the President:" Sub-section 17(B)(ii) of Section 2 stated: "Sense of the Senate. -- It is the sense of the Senate that --

. . . (ii) United States negotiators to a treaty should not agree to any provision that has the effect of inhibiting the Senate from attaching reservations or offering amendments to the treaty; . . ."

(a) Since Article 26 of the Kyoto Protocol states that "[n]o reservations may be made to this Protocol" and the U.S. negotiators of the Kyoto Protocol agreed to such provision, do you agree that such facts constitute a failure of the Administration to satisfy an explicit condition of the Senate to its advice and consent to ratification of the Chemical Weapons Convention? If your answer is not an unqualified "yes," please explain your answer.

(b) If it were determined by competent judicial authority that the facts stated in Question 8.2(a) constitute a failure to satisfy an explicit condition of the Senate to its advice and consent to ratification of the Chemical Weapons Convention, would it logically follow that the Senate's advice and consent to ratification of the Chemical Weapons Convention has been vitiated or rendered of no effect? If your answer is not an unqualified "yes," please explain your answer.

(c) In view of the clear statements of the Senate in Subsection 17 of Section 2 of its resolution concerning the Chemical Weapons Convention, including, but not limited to, the provisions of Subsection 17(B)(ii), please explain:

(i) fully and in detail the efforts made by the U.S. delegation to remove Article 26 from the Kyoto Protocol;

(ii) why the U.S. delegation decided to disregard the sense of the Senate and agree to Article 26 of the Kyoto Protocol;

(iii) what the Senate would have to do to persuade the State Department and the Administration that provisions in treaties such as Article 26 will not be accepted by the Senate and that the Senate will attach such reservations to any treaty as it desires?

9.3 Please identify all bilateral and multinational environmental agreements of any kind that the Administration has negotiated since January 1, 1996, and, as to each, please state the date on which the President intends to send each such agreement to the Senate for its advice and consent to ratification.

9.4 A press release, entitled "Kyoto Protocol on climate change opens for signature," was issued, apparently by (or under the authority of) the Convention Secretariat, on March 16, 1998. The press release states in part: "By signing a treaty a State indicates that it recognizes the authentic text, intends to complete the procedures for becoming legally bound by it, and is committed not to act against the treaty's objectives before being so bound."

Please state whether the Administration: (i) agrees or disagrees, in whole or in part, with the quoted statement; and (ii) believes that, by signing a treaty, a State indicates anything in addition to what was stated in the press release. Please state the reasons for your answers, including an explanation of the phrase "is committed not to act against the treaty's objectives before being so bound." For example, it is plain that one of the Protocol's "objectives" is to impose legally binding emissions-limitation or reduction commitments on Annex B Parties, while not imposing that type of obligation on developing countries. Does signature of the Protocol in any manner limit the ability of the signatory to defeat that "objective" by insisting on an amendment to the Protocol (or on a separate protocol) containing such commitments by developing countries, prior to (and as a condition precedent to) the signatory nation's becoming bound by the Protocol?

9.5 The Group of Eight Summit Communique (May 17, 1998) states in part that the Heads of State or Government of those eight nations, including the United States, "resolve to make an urgent start on the further work that is necessary to ratify and make Kyoto a reality."

(a) Please state all of the activities which the Administration has decided upon and/or is contemplating (indicating which) that would constitute "the further work that is necessary to ratify [the Protocol] and make Kyoto a reality."

(b) Please explain the meaning of the phrase "and make Kyoto a reality," including an explanation of how that phrase differs from the Protocol's entry into force.

(c) What purportedly is an interagency memorandum, dated on or about March 2, 1998, has been published in a recent issue of Inside EPA. The memorandum deals in large measure with the subject of "credit for early actions" by U.S. companies to limit or reduce their greenhouse gas emissions.

(i) Request for Production of Documents: Please attach to your answers a true and complete copy of all Documents constituting the memorandum published in Inside EPA.

(ii) Please identify each department and agency that participated in the preparation of that memorandum.

(iii) The memorandum refers to the “‘staged’ nature of our three-tier climate change strategy.”

(A) Please describe in complete detail such “three-tier strategy” and what is meant by the “staged nature” of that strategy.

(B) Request for Production of Documents: Please attach to your answers true and complete copies of all Documents referring to, or directly or indirectly describing, the “three-tier strategy.”

10. OTHER MATTERS

10.1 The May/June 1998 issue of "Foreign Affairs" contains an article, authored by you, entitled "Stick with Kyoto." In the article, you state that, by the end of the next century, "average July temperatures in Washington, D.C., will have risen by 5 to 15 degrees, with greater humidity."

(a) Request for Production of Documents: Please attach to your answers all Documents that you relied on in making that statement.

(b) Was the Document subjected to scientific peer review?

10.2 In response to India's detonation of a nuclear explosive device on May 11, 1998, the President sent to the Congress a notification, which stated in relevant part: "I have further directed the relevant agencies and instrumentalities of the United States Government to take the necessary actions to impose the sanctions described in section 102(b)(2) of that [Arms Export Control] Act." On May 13, the Press Secretary to the President also stated that the sanctions imposed include "the United States opposition to the extension of any loan for [or?] financial or technical assistance by any international financial institution."

(a) Will the relevant agencies and instrumentalities of the United States Government oppose, in every international financial institution (including, but not limited to, the Global Environment Facility of the United Nations Development Program, the United Nations Environment Program, and International Bank for Reconstruction and Development), any and all loans, grants, or other financial or technical assistance to India (including all agencies of its national and sub-national governments) that in any manner are related to the Convention or to the

subject of potential global climate change? If your answer is not an unqualified "yes," please fully explain your answer.

(b) To the extent that the Global Environment Facility or any other financial institution is in the process of implementing any previously made decision to furnish loans, grants, or other financial or technical assistance referred to in Question 10.2(a), will the relevant agencies and instrumentalities of the United States Government use all available means, including, but not limited to persuasion, to bring an immediate halt to such implementation? If your answer is not an unqualified "yes," please fully explain your answer.

(c) Please identify in reasonable detail all programs and activities of every agency and instrumentality of the United States Government, which currently are in existence, planned, or being contemplated (indicating which), that are intended to benefit India (including any agency of its national and sub-national governments and any private company or other entity located in India) and that in any matter are related to the Convention or to the subject of potential global climate change (including, but not limited to, the U.S. Country Studies Program, the USAID Global Climate Change Program, programs or activities for the analysis or development of policies, measures, and/or programs directly or indirectly related to the subject of potential global climate change, and projects of any kind aimed in whole or in part at reducing greenhouse gas emissions and/or preserving or enhancing sinks).

(d) Will the relevant agencies and instrumentalities of the United States Government immediately cease implementation (or planning or consideration, as applicable) of all of the programs and activities described in your answer to Question 10.2(c)? If your answer is not an unqualified "yes," please fully explain your answer.

(e) Please identify the "relevant agencies and instrumentalities of the United States Government" that would be involved in any of the actions contemplated by Questions 10.2(a), (b), and (d), if such actions were to be undertaken.

(f) Is it the position of the Administration that all of the actions contemplated by Questions 10.2(a), (b) and (d) are required by Section 102(b)(2) of the Arms Export Control Act in view of the President's determination that India, a non-nuclear-weapon state, detonated a nuclear explosive device on May 11, 1998? If your answer is not an unqualified "yes," please fully explain your answer.

10.3 Please provide the total funds provided to the World Wildlife Federation and World Resources Institute for their work as "Implementors" of USAID global climate change initiatives since 1990.

F. JAMES SENSENBRENNER, JR., Wisconsin, CHAIRMAN

SHERWOOD L. BOEHLERT, New York
LAMAR SMITH, Texas
CONSTANCE A. MORELLA, Maryland
BT WELDON, Pennsylvania
A ROHRBACHER, California
BARTON, Texas
CALVERT, California
NICK SMITH, Michigan
ROSCOE G. BARTLETT, Maryland
VERNON J. EHLERS, Michigan
DAVE WELDON, Florida
GIL GUTKNECHT, Minnesota
THOMAS W. EWING, Illinois
CHRIS CANNON, Utah
KEVIN BRADY, Texas
MERRILL COOK, Utah
GEORGE R. NETHERCUTT, JR., Washington
FRANK D. LUCAS, Oklahoma
MARK GREEN, Wisconsin
STEVEN T. KUYKENDALL, California
GARY G. MILLER, California
JUDY BIGGERT, Illinois
MARSHALL "MARK" SANFORD, South Carolina
JACK METCALF, Washington

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON SCIENCE

SUITE 2320 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6301

(202) 225-6371

TTY: (202) 226-4410

<http://www.house.gov/science/welcome.htm>

MNB
RZL
AC
JA
LL

RALPH M. HALL, Texas
Ranking Minority Member

BART GORDON, Tennessee
JERRY F. COSTELLO, Illinois
JAMES A. BARCIA, Michigan
EDDIE BERNICE JOHNSON, Texas
LYNN C. WOOLSEY, California
LYNN N. RIVERS, Michigan
ZOE LOFGREN, California
MICHAEL F. DOYLE, Pennsylvania
SHEILA JACKSON LEE, Texas
DEBBIE STABENOW, Michigan
BOB ETHERIDGE, North Carolina
NICK LAMPSON, Texas
JOHN B. LARSON, Connecticut
MARK UDALL, Colorado
DAVID WU, Oregon
ANTHONY D. WEINER, New York
MICHAEL E. CAPUANO, Massachusetts
BRIAN BAIRD, Washington
JOSEPH M. HOEFFEL, Pennsylvania
DENNIS MOORE, Kansas

May 4, 2000

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

Dear Under Secretary Loy:

My primary purpose in writing to you at this time is to inquire about the process underway this year in anticipation of the Sixth Session of the Conference of the Parties (COP-6) to the Framework Convention on Climate Change (FCCC) scheduled for the period of November 13 to 24, 2000 at The Hague in The Netherlands. That is, as you know, a few days after the Presidential, Congressional and other elections in the United States. As part of this process, I understand that the COP President hosted a non-negotiating intercessional meeting of some FCCC Parties in New York in late April. In addition, I understand that the normal two-week session in June of the subsidiary bodies has been split into two one-week sessions for June and September and that each week will be preceded with a week of workshops and informal meetings. I also understand that an April 6, 2000 "Note of the Executive Secretary" to the FCCC explains that the French Government wants to hold the September session in Paris. In accepting the French offer, the Secretary said (FCCC/SBI/2000/4):

"This offer constitutes a welcome commitment to the ongoing process that will increase political visibility in the run-up to COP-6 in The Hague."

The Note includes an Annex entitled "Possible elements of a provisional agenda" for COP-6, which, pursuant to Rule 9 of the FCCC applied procedures, the Secretary prepared "in agreement" with the COP President. Glaringly absent from the list of proposed "elements" is the mention of commitments of any kind by developing countries for the Kyoto Protocol's first commitment period of 2008-2012. Apparently, the Executive Secretary does not want to "increase political visibility" at The Hague for this important global environmental issue. The Executive Secretary did not even propose the very weak "voluntary commitment" item that was briefly on the proposed agenda for COP-4.

The Honorable Frank E. Loy
May 4, 2000
Page 2

I find it that difficult to understand, particularly in light of an October 26, 1999 letter to the President signed by 34 Democratic Senators objecting to an amendment to the then pending appropriations bills applicable to your Department. The Senators said: "The [amendment's] language on its face prohibits implementation of the Kyoto Protocol without Senate ratification. However, the language could also be read to prevent U.S. diplomatic efforts to address developing country participation, an issue which the Senate highlighted in the 1997 Byrd-Hagel Resolution."

I also note that in her April 10, 2000 "Earth Day" remarks at Fort Lesley J. McNair in Washington, DC, Secretary of State Albright said that your Department is "committed to completing its rules in a manner that will pave the way for US ratification." She added:

"If we get the rules right and involve key developing countries, I am confident the United States will ratify the Kyoto Protocol and thereby take an historic step forward in the fight against global warming."

The Senators' reference to the Byrd-Hagel Resolution (S. Res. 98), which was approved by the Senate in the 105th Congress by a vote of 95-0 before the Kyoto Protocol was adopted at COP-3 in 1997, is clear evidence that bipartisan support continues in the 106th Congress for that resolution and its two principles of (1) inclusion of "new specific scheduled commitments to limit or reduce greenhouse gas emissions for Developing Country Parties within the same compliance period," and (2) no "serious harm to the economy of the United States." While Secretary Albright seems to recognize this in expressing confidence that U.S. ratification is possible "[i]f the Parties 'involve key developing countries,'" she fails to explain how and when the first principle of S. Res. 98 could ever be achieved.

I understand that in an April 25, 2000 speech at a Washington, D.C. conference, the Environment Minister of the Netherlands, Mr. Jan Pronk, who apparently expects to be the COP-6 President, recognized the need for developing country involvement but suggested that it be put off until some period "after 2012." I am sure the developing countries will support his Presidency for COP-6 with this vague suggestion for their commitments. However, that suggestion would not conform to S. Res. 98.

I have difficulty understanding how completion of the "unfinished" Kyoto Protocol can occur if the COP will not even consider, let alone discuss, at COP sessions the issue of developing country commitments. There is no clear program in the COP or its subsidiary bodies to achieve results that are in accord with that principle along with efforts to achieve the S. Res. 98's second principle and, as far as I can tell, the U.S. delegation is doing nothing about it at the COP. I would like to know the reasons why.

The Honorable Frank E. Loy
May 4, 2000
Page 3

The Energy Information Administration's (EIA) "International Energy Outlook" for 2000, which was released in March 2000 reports that, if fossil fuel consumption grows to the levels projected" in EIA's reference case, "global carbon emissions will rise to 8.1 million metric tons by 2020." According to the EIA, much of the "increase" is expected in developing countries, "where energy economics are expected to produce the highest growth rates for energy consumption". The EIA adds that these countries "alone account for 84 percent of the projected increment in the world's carbon emissions between 1990 and 2010 and 79 percent of the increment between 1990 and 2020." EIA concludes (p. 11):

"Continued heavy reliance on coal and other fossil fuels projected for the developing countries ensures that, even if the Annex I countries were to adopt the terms of the Kyoto Protocol, worldwide emissions would still grow substantially over the forecast horizon."

By not insisting that this issue be addressed directly, the United States is letting the "key developing countries" off-the-hook at COP-6. According to your predecessor, Mr. Eizenstat, not all the developing countries are "key." Yet the "key" offenders "in terms of their contributions to global emissions" are allowed to escape the spotlight as they hide among the Group of 77 and China, who collectively oppose adding this item to the COP-6 agenda. In my view, that is not fair and it is certainly not sound environmentally.

I am also concerned that the U.S. delegation may negotiate compromises with other Parties about some Buenos Aires Plan of Action issues in order to give the impression of continued progress or momentum by the COP without addressing legally binding developing country commitments for the first Kyoto Protocol commitment period. These after-the-election compromises could raise questions for the next President as to whether those compromises are in the best interests of the United States and in accord with S. Res. 98, as he prepares for future sessions of the COP and its subsidiary bodies.

Since I presume you will lead the U.S. delegation to The Hague in November, I would like an explanation as to the delegation's plans for June, September and November for addressing this issue of developing country commitments, as provided in S. Res. 98 and influencing the agenda, which, according to the Executive Secretary's note, will not be considered for adoption until November 20. I request your response by June 2, 2000.

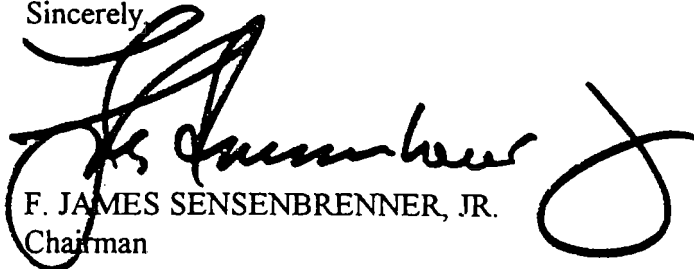
Another matter of concern for COP-6 is the issue of sinks. As Mr. Pronk observed in his April remarks "sequestration of carbon through sinks stands on equal footing with emission reduction activities in both the Climate Convention and the Kyoto Protocol." I understand it also had "equal footing" with the Kyoto mechanisms in the Administration's 1998 economic analysis of the Protocol.

The Honorable Frank E. Loy
May 4, 2000
Page 4

Yet more than two years after adoption of the Protocol, it is really only beginning to receive close attention by the FCCC Parties. I am concerned that as Mr. Pronk and others at COP-6 press for compromises in the waning hours of COP-6 resolution of one or both of the Article 3.3 and 3.4 issues may be deferred, not just to COP-7 but to be negotiated for some future commitment period that is itself uncertain given the shaky status of ratification of the Protocol. I particularly want to learn to what extent the Administration's July 1998 economic analysis relies on both of these Articles for 2008-12 and what, if anything, such a deferral will mean to the Protocol's estimates.

I am also enclosing additional questions concerning Protocol and FCCC matters for reply at the same time, particularly in regards to Articles 3.3, 3.4, 5, 7 and 8 of the Protocol, compliance issues, and Articles 4.8 and 4.9 of the Convention. To the extent some of the issues may involve other agencies, please consult with them to ensure that all questions are answered fully and by June 2. I also request by June 30 a report on the results of the subsidiary body sessions, particularly in regards to your expectations in regards to all sinks issues under Articles 3 and 12.

Sincerely,



F. JAMES SENSENBRENNER, JR.
Chairman

FJS/hlw

Enclosure

cc: The Honorable Ralph M. Hall, Ranking Minority Member, Committee on Science, U.S. House of Representatives
The Honorable Martin N. Baily, Chair, Council of Economic Advisers
The Honorable Neal F. Lane, Assistant to the President for Science and Technology and Director, Office of Science and Technology Policy
The Honorable Bill Richardson, Secretary of Energy, U.S. Department of Energy
The Honorable David B. Sandalow, Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs

Developing Country Commitments

- Q1. The April 6, 2000 "Note" of the FCCC's Executive Secretary indicates that the plan for COP-6 is to defer adopting its agenda at the opening session on November 13 until after the subsidiary bodies "finalize as many issues as possible before winding up at the close of business" on November 18 (see FCCC/SBI/2000/4). That is a departure from previous COPs, particularly COP-4 and COP-5.
- Q1.1 What is the reason for the delay in adopting the agenda and putting off any possible opportunity to amend the proposed agenda to include developing country commitments and has the U.S. agreed to this deferral?
- Q1.2 Have the U.S. delegation and the Administration once again agreed not to raise the developing country commitment item for the agenda at COP-6?
- Q1.3 The Netherlands Minister, Mr. Pronk, under the heading "Fairness" of his remarks that I referenced in my covering letter says "those countries that have produced the most CO₂ emissions must act first." He goes on to use, like other environmental ministers of the G-77 and China and in Europe, as well as some politicians in the U.S., that old, worn-out phase "industrialized countries must take the lead," as they "bear the historical responsibility for greenhouse gas emissions and are still the largest emitters." That phase was bantered about when the Convention was negotiated and ratified as well as when the Kyoto Protocol was negotiated. Annex I Parties to the FCCC have taken the lead in implementing the "aim" of the FCCC with positive results, albeit not as successful as the FCCC negotiators hoped in 1992—possibly because the "aim" was more ambitious than they realized

Mr. Pronk recognizes, to his credit, that "[a]ll countries will have to undertake further commitments." However, the developing countries have not taken any as yet. He says "it is only fair that industrialized countries" follow in subsequent periods, thus after 2012." Indeed, he states:

"If we, before or at COP-6, are able to assist developing countries with measures such as technology transfer, capacity-building and adaptation to sea level rise, floods, hurricanes and extreme unstable weather conditions, developing countries might be willing to contribute to further negotiations on the second commitment period. This also is a challenge to The Hague."

As I understand those comments, this Environmental Minister and future COP President wants to give the developing countries a "pass" for the Protocol's commitment period of 2008-12, as well as assistance at COP-6 or before, until a second period or later in the hope that the "developing countries might be willing to contribute to further negotiations on the second commitment period." Is that the view of the U.S. delegation as well, taking into consideration S. Res. 98 and the fact that "negotiations" for "subsequent periods" are not required to be initiated by the Parties to the Protocol (if it should ever enter into force) until

Enclosure: Questions Submitted by Science Committee Chairman F. James Sensenbrenner, Jr. to The Honorable Frank E. Loy on May 4, 2000

Page 2 of 12

“seven years before the end of the first commitment period?” If not, what is the U.S. delegation’s view for 2008-12 on developing country commitments?

- Q2. At COP-5 Argentina announced non-binding commitments or targets for greenhouse gas emissions. However, those commitments are not in accord with S. Res. 98. Nevertheless, I understand that you reportedly have said that some other FCCC Parties may follow Argentina’s lead. However, I presume that none of these Parties are “key” emitters, such as China, India, Brazil, South Korea, Mexico, and Indonesia. Is this correct?
- Q3. I also understand that you have said that the negotiations will focus on including a process under the Kyoto Protocol for developing countries to take on commitments. I recall that Argentina mentioned the development of another Annex (*e.g.*, Annex C) that would allow such FCCC Parties to join the Protocol and not become an Annex I Party to the FCCC or an Annex B Party to the Protocol and that the so-called “commitments” would be voluntary and not legally binding (*i.e.*, not subject to Articles 3, 5, 7, 8, or 18). Is that the “focus” of the negotiations and how would that result conform to S. Res. 98?

Development at COP-6 of Supplemental Agreements to the Protocol to Address the Issue of Developing Country Commitments and/or a Non-Compliance Regime

- Q4. What is the current status or thinking of the U.S. delegation about the development at COP-6 of supplemental agreements (as suggested by your predecessor) rather than amendments to the Protocol to address the issue of developing country commitments and/or a non-compliance regime, including legally binding consequences? Will they be considered at COP-6?

Implementation of Articles 4.8 and 4.9 of the FCCC and the Issue of Credit for Activities Implemented Jointly (AIJ) Under the FCCC

- Q5. It is my understanding that the “package” of FCCC items that are part of the Buenos Aires Plan of Action includes implementation of Articles 4.8 and 4.9 of the FCCC and the issue of credit for activities implemented jointly (AIJ) under the FCCC. As far as I can tell, both matters are far from resolved. In the case of Articles 4.8 and 4.9, two workshops were held in March and a report issued (see FCCC/SB/2000/2) that provides two lists. One is of “possible initial actions to address the adverse effects of climate change on developing countries.” The other is “possible options to address the impact of the implementation of response measures on developing countries.” As to the AIJ issue, I understand that at COP-5, the Parties ended the so-called “pilot phase” of AIJ. However, the decision on credits, which was first discussed at COP-1 in 1995, was deferred once again, reportedly because of resistance by the European Union and the G-77 and China.
- Q5.1 What are the next steps for Articles 4.8 and 4.9 and the above-referenced lists?
- Q5.2 Will the U.S. insist on credits for AIJ projects (past and future), albeit with criteria that such projects reasonably can be expected to meet, at the subsidiary body sessions and at COP-6 and not agree to once again defer this issue to COP-7 or to drop it?

- Q5.3 I understand that there has been discussions that past AIJ projects, in order to get credit, would have to meet the criteria for CDM projects. That is, in effect, a retroactive application of criteria that never existed when the projects were initiated. How is that fair and reasonable?

Late April 2000 and Future Intercessional Meetings with the COP President

- Q6. Who attended the late April 2000 intercessional meeting with the COP President for the U.S. and the other Parties and what were the consensus results?
- Q7. Was the issue of the COP President appointing a "facilitator" discussed? If so, what was the result?
- Q8. When is the next such meeting?

Definition of COP-6 "Success"

- Q9. What will constitute success for the COP and the U.S.?

G8 Environment Ministers' Meeting in Otsu, Japan, 7-9 April 2000 and Energy Policy

- Q10. I understand that environment ministers of the eight major industrialized countries and the European Commissioner (*i.e.*, G8) responsible for the environment, met from 7 to 9 April 2000 in Otsu to discuss "challenging environmental issues."
- Q10.1 Who was the U.S. representative at this G8 meeting?
- Q10.2 Were any NGOs invited by Japan or the other ministers to present their views to the ministers and, if so, did the invitation extend to all NGOs, including those from labor, business and agriculture? Please explain.
- Q10.3 The G8 Communiqué for the April 7-9, 2000 G-8 Environment Ministers' meeting confirms their "commitment to ensure that results achieved at COP-6 help promote the ratification and entry into force of the Kyoto Protocol as soon as possible," which for "most countries, this means no later than 2002." Some have talked about ratification at the "Rio+10" Conference. At COP-5, I believe you did not, to your credit, commit the U.S. to the 2002 timeframe, and I presume that the person attending the G-8 meeting for the U.S. also did not commit to that or any timeframe for U.S. ratification of the Protocol, particularly since the present Administration will not be in office after next January 20. Is this correct?
- Q10.4 What is the "Rio+10" Conference and what plans, if any has the Administration made to date for U.S. participation, financial and otherwise, in that event?

- Q10.5 Paragraph 15 of the G8 Communiqué indicates support for enhancing “energy efficiency,” promoting “environmentally-sound energy mixes.” and promoting R&D to “reduce costs and enhance the marketability of renewable energies.” What is your understanding of the “energy mixes” that the ministers had in mind?
- Q10.6 According to the Energy Information Administration, for at least several decades to come, a diversity of fuels will be needed in “key” developing countries, such as coal, nuclear, and hydro. In the case of the United States, the Electric Power Research Institute (EPRI), in its Executive Report of a recent study entitled “Energy-Environment Policy Integration and Coordination Study,” said:

“Long-term Swings in Fuel Use. Significant technological advances will be needed by 2025 to make the needed shift toward renewable energy sources and renewed coal use in order to meet carbon reduction requirements and maintain U.S. economic prosperity. In this study, development of technologies to capture and sequester carbon emissions, combined with coal gasification, were assumed to allow renewed use of coal for electric generation after 2020. While domestic coal resources are sufficient to meet U.S. needs for 200 years or more, the coal supply infrastructure could be largely dismantled by 2020, given projected decreases in the use of coal for electricity generation. The swing toward dependence on natural gas for electricity generation in the next two decades, only to be followed by a reversal as electric generation swings back to using coal with the help of new, low-emitting technologies, is likely to be an inefficient use of fuels, infrastructure, and investment capital.

“While renewable energy sources (*e.g.*, wind, biomass, and hydro) could plan an important role, they should not be expected to supply more than about 25% of U.S. electricity by 2050. A new generation of nuclear power plants might also help meet U.S. energy needs as gas usage declines. However, this would require technological and economic advances as well as renewed public acceptance of nuclear power. This study did not project construction of any new nuclear power plants.

“Productivity of U.S. Energy Assets. Under the Current Policy Direction, over 60% (nearly 200,000 megawatts) of existing coal-fired electric generating capacity is projected to be retired by 2020, most of it after 2010. As a result, much of the emission control equipment installed on coal-fired power plants by 2003 to meet limits on NO_x emissions would fall into disuse as utilization of those plants declines. The unprecedented investment in new gas generating capacity that would replace existing coal plants in the next twenty years is projected to become similarly unproductive before the end of its useful life as gas prices rise and other fuels become more economic for electricity generation after 2025.

“Effect on Development and Commercialization of Advanced Energy Technologies. Constructing the new gas-fired electricity generation fleet would effectively lock in today’s electric generation technologies, investments in gas plants will be “sunk,” giving them a competitive advantage over alternatives, including those alternatives, including those using renewable energy sources or clean coal technologies, until gas prices increase significantly. This could slow the introduction of new technologies and inhibit timely private investment in technology R&D.

“Effects on the U.S. Economy. As limits on carbon emissions go into effect in about 2008, energy prices projected to rise and the growth of the U.S. economy to slow. The price of electricity would increase 50% by 2020, affecting industrial, commercial, and residential electricity consumption. Pressures on the energy sector will produce a ripple effect in the general economy, which will boost inflation by over 2% between 2005 and 2020.

“Needed: Coordination of Technology Development with Environmental Advances. Results of this study indicate the extent to which the Current Policy Direction could change the U.S. energy system, especially the electricity sector. These changes could effectively determine U.S. energy policy, elevating environmental considerations over other energy policy goals such as maximizing productivity of the energy system and minimizing exposure to disruptions.

“The root cause of the changes that would occur under the Current Policy Direction is that substantial reductions in carbon emissions would be required *before* the development and commercial deployment of advanced technologies would provide the basis for a transition to a *sustainable* low carbon-emitting energy system. One way to avoid this gap in timing is to delay the schedule for emission reductions — to wait for technology to catch up. Another is to accelerate the pace of technology development through an aggressive R&D campaign so that technology can catch up more quickly. A separate EPRI effort, the “Electricity Technology Roadmap,” is underway to chart a course for the development of new electricity generation and utilization technologies in the coming decades. Some combination of these two approaches will be necessary to enable the U.S. energy system to help achieve the long term stabilization of atmospheric carbon levels without inefficient swings in fuel use, loss of productive use of energy assets, and avoidable impacts on the U.S. economy.”

Q10.6.1 I understand that today U.S. electricity generation still is over 55% coal-fired, while gas use is about 15% and renewables are less than 1%. Yet the G8 Environment Ministers, who do not include developing countries, are only calling for R&D

increases for renewables. They appear to ignore the need for technologies in the U.S. and in the developing countries regarding a diversity of fuel use, notwithstanding the fact that the report, supra, of the workshops on Articles 4.8 and 4.9 indicates—in paragraph 21(e)—a need for enhanced R&D for “advanced fossil-fuel technologies that sequester or reduce carbon dioxide emissions.” That “renewable-only” thinking also prevails in the President’s budget for 2001. Please explain the reasons for the G8 and U.S. R & D support for renewables and near silence on equivalent R&D support for a diversity of fuel technologies, particularly for the long-term.

Q10.6.2 Does the Administration agree or disagree with the above EPRI comments about the impact of current G8 and U.S. policy toward coal, nuclear, hydro, and renewables on future energy policy, “elevating environmental considerations over other energy policy goals such as maximizing productivity of the energy system and minimizing exposure to disruptions”? What is the basis for your response?

Q10.6.3 In particular, does the Administration agree that there will continue to be a need for diversity fuels for decades to come and that we should maintain that diversity?

Possible Restriction of the Scope of Clean Development Mechanism (CDM) Projects

Q11. I am concerned that some Parties and some NGOs apparently want to restrict the scope of Clean Development Mechanism (CDM) projects through the COP by adopting policies that would, directly or indirectly, exclude those related to nuclear power, coal, hydro, and sinks, including conservation management of forests and sinks.

Q11.1 Will the U.S. oppose and not agree at COP-6 to any such direct or indirect exclusions? Please explain

Q11.2 Will the U.S. insist at COP-6 that such sinks projects be eligible under the CDM? Please explain.

Sinks Issues

Q12. Minister Pronk’s April 25, 2000 remarks about sinks were as follows:

“Environmental integrity also plays a major part in relation to *sequestration activities* or *sinks* in both the North and the South. A number of countries are worried about the environmental credibility of sinks. What exactly is at stake regarding sinks?

“The sequestration of carbon through sinks stands on an equal footing with emission reduction activities in both the Climate Convention and the Kyoto Protocol. Afforestation, reforestation and deforestation already have a place in the Protocol, which also opens the door to additional activities, to meet both present and future commitments.

Enclosure: Questions Submitted by Science Committee Chairman F. James Sensenbrenner, Jr. to The Honorable Frank E. Loy on May 4, 2000

Page 7 of 12

“Many Parties agree that we should be liberal in allowing such activities since this lowers the cost of achieving the objectives. Sinks activities are cheaper than emission reductions. However some caution is appropriate, for three reasons:

- firstly, because sequestration through sinks is less permanent than emission reductions. While carbon can be captured in trees and other sinks, the amount that can be captured stabilizes and there is a risk that carbon captured will be released at some future date.
- secondly, scientific uncertainty still surrounds a number of sinks activities, making their real environment benefit difficult to calculate.
- thirdly, the long-term objective of the Climate Convention can only be achieved through the reduction of emissions. Sinks projects can cost effectively delay the moment in time at which emission reductions must be undertaken, but they do not represent a sustainable alternative from a climate change perspective.

“I would like to advocate a combination of flexibility and caution. Accept the potential sinks have for a number of countries to fulfill their commitments. However, be cautious in determining the rate at which new sinks related activities are allowed as against the commitments. Carry on with research, recognizing that we still have many budget periods to go.”

- Q12.1 If, as the Protocol provides, sinks and emission reduction activities are “on an equal footing” and if sinks “are cheaper” than emission reductions, why does it appear so difficult for the Parties to treat them in such a manner and to “be liberal in allowing such activities since this lowers the costs?”
- Q12.2 Please provide the U.S. delegation’s understandings of each of the above “bullets” and their effect on the U.S. position on Articles 3.3 and 3.4. Also, please explain to what extent the delegation agrees or disagrees with each bullet.
- Q12.3 What is the U.S. delegation’s position and/or objective for Articles 3.3 and 3.4?
- Q12.4 Do the provisions of Articles 3.3 and 3.4 include ocean sinks? If not, why not and what is known about such sinks?

Issues Concerning Compliance Under the Kyoto Protocol

- Q13. I understand that the Kyoto Protocol does not spell out a compliance regime if and when the Protocol enters into force. I also understand that Article 18 of the Protocol provides that at its first meeting the COP, “serving as Parties” to the Protocol (i.e., the COP/moP), if and when it enters into force, is to “approve appropriate and effective procedures and mechanisms to determine and to address cases of non-compliance with the provisions of this Protocol.” I further understand that prior to the March 1-3, 2000 Workshop on Compliance in Bonn, some Parties met intercessionally in Poland and adopted the phrase “in or under the Protocol” that was used under the heading “Coverage” by the U.S. in its Compliance submission (see FCCC/SB/2000/MISC.2, Mar. 7, 2000, p. 104) and coincidentally the

submission of the European Union in its submission under the same heading (see, *supra*, p. 64). The EU particularly referenced Article 2 (policies and measures); Article 3 (basic commitment); Articles 5 and 7 "as well as guidelines and modalities developed under those Articles"; and "any obligations arising under the relevant principles, rules, modalities and guidelines developed" under Articles 6, 12, and 17. under the heading "Scope of Application," the working paper of the Co-Chairs for Compliance, dated February 11, 2000, reads: "apply to all commitments in or under the Protocol; distinct treatment may be applied to some specific commitments," where the term "in or under the Protocol" includes relevant guidelines, rules, etc., adopted by the COP/moP.

I understand, however, that there was not a consensus at the Bonn Workshop on Compliance with respect to this "Note." I also understand that as a result, the "Note by the Co-Chairman of the Joint Working Group on Compliance" of April 4, 2000 (FCCC/SB/2000/1,) changed the above wording as follows (p. 4):

"The compliance system should apply to all commitments under the Protocol.
Distinct treatment may be applied to some specific comments."

- Q13.1 Does the U.S. delegation agree with the EU that Article 2, paragraphs 1, 2 and 3 of the Protocol, which relate to policies and measures, create an obligation for compliance/non-compliance purposes as the EU appears to assert? Please explain.
- Q13.2 The EU, using the words "in and under the Protocol," also includes as an obligation for compliance/non-compliance Articles 5 and 7 "guidelines and modalities," Article 6 "guidelines," Article 12 "modalities" and Article 17 "principles . . . modalities and guidelines." It is my understanding that the U.S. delegation also relied on those words for which there apparently is no consensus among the Parties to the FCCC and reached a similar conclusion. Is that right and if yes, what is the basis for that understanding or interpretation of those words?
- Q13.3 Is your conclusion in response to question 13.2 the same after the change adopted by the Co-Chairs in their April Note? If yes, please explain why.
- Q13.4 Please explain how, in the view of your Department's legal advisor and treaty office, the guidelines, modalities, principles, and procedures referenced in the above Articles by the EU (which are not "provisions of the Protocol," but are decisions of the COP/moP) can be construed to create an "obligation" for non-compliance purposes under Article 18 of the Protocol and also entail "binding consequences," whether or not the latest Note of the Co-Chairs prevails at COP-6.
- Q13.5 The Co-Chairs "Note" states that "the JWG may wish to request the Co-Chairmen to develop the text of a compliance system" for negotiations in the "thirteenth sessions" of the subsidiary bodies, which, according to the Executive Secretary's April 6 Note, *supra*, will be in September and "be regarded as resumed" in November. However, paragraph 5 of the Note indicates that certain "procedural and operational matters regarding the compliance system

may be more appropriately dealt with in the rules of procedure of the compliance institution” and therefore “could be developed in a separate instrument.” That is a difficult concept to understand. As I understand the matter, a compliance system is all “procedural and operational.” The substance stems from Article 3 and other Protocol articles. In short, procedure is the essence of such a system. It should not be deferred or considered separately from the “text of a compliance system.” If you disagree, please explain why.

- Q13.6 I am concerned that the U.S. submission (*supra*, p. 100) appears to have used the compliance system to address issues of “eligibility requirements for the various Kyoto mechanisms” and their “linkages” with the compliance regime. The U.S. appears to step into this morass before it knows for certain what is the universe of the so-called “eligibility requirement.” The U.S. submission lists Articles 5 and 7 and applies them to all three mechanisms, even though they are only referenced in one, namely Article 6 of the Protocol. Thus, the U.S. has volunteered before the negotiation starts on the substance, (namely the mechanism text and the details and scope of Articles 5 and 7) that Articles 5 and 7 should also apply to all three mechanisms, including Article 17, which the Administration’s economic analysis of the Protocol in 1998 relies on heavily to justify its view on the economic impact of the Protocol. To what extent did the State Department and the Council of Economic Advisors take into consideration, in preparing the analysis (and since then), the effect of such eligibility matters on the U.S. and other Parties that might be trading partners under Article 17 and is the U.S. assured that the list of such requirements will not grow to include other requirements, such as qualitative supplementarity or other matters?
- Q13.7 As you know, the Article 3 commitment period is for 5 years (2008-12). Inventories, which are only estimates of emissions, etc., are due on April 15 of each year (but are often later) or, in the case of 2008, April 15, 2010. At the Workshop on Compliance, I understand that the Secretariat provided a table showing that (assuming the inventory for 2012 is on time) it will take 38 months for a decision on non-compliance with the Article 3 commitment, which is probably a conservative estimate. No estimate was provided for compliance/non-compliance actions for alleged violations by Parties of eligibility requirements in regards to the Kyoto mechanisms. However, there is nothing in the Co-Chairs paper of April 4 to indicate that such allegations will be resolved quickly or to ameliorate any adverse impact on such a pending allegation could have on the mechanisms of a Party, especially Article 17. Please explain why the U.S. delegation, which relies heavily on the mechanisms in its economic analysis of the Protocol (as well as sinks), apparently supports a non-compliance process involving the mechanisms and eligibility during the 5-year commitment (budget) period, rather than at the end of the period.
- Q13.8 After reviewing the U.S. and EU submissions on compliance, I have some difficulty understanding the U.S. position on who can refer or initiate matters of non-compliance. The EU provides that one Party or a group of Parties, as well as the Secretariat, could “bring matters” to “address and determine” non-compliance to a “facilitative branch,” which can refer “individual cases” to an enforcement branch. The EU adds that could be an “automatic initiation” process in certain situations, “particularly in relation to the mechanisms.” The U.S.

proposes a "Compliance Entity" with two components. But, like the EU, any Party or group thereof may refer an "issue with respect to implementation of another Party under certain circumstances," which are not explained by the U.S. The U.S. also refers to some unspecified "agreed criteria to be decided at COP-6" and includes the concept of a "screening process." The bottom line, however, is that the U.S. submission, as well as the EU, appear to allow for a member of the G-77 and China or that group to reference issues of compliance/non-compliance to some entity against an Annex I Party, even though none of the G-77 and China members have legally binding Article 3 commitments of any kind. I find that possibility to be extremely objectionable, particularly since I doubt that the G-77 and China will agree to criteria or a screening process that effectively limits their opportunities to make such referrals. I request an explanation as to why the U.S. apparently supports referrals by such Parties or that group for either compliance and/or non-compliance matters, rather than insisting that such be referrals only be by Annex I Parties in the case of Annex B commitments.

Second Draft of the Guidelines for National Systems Under Article 5.1 of the Kyoto Protocol

- Q14. A "Note by the secretariat" (FCCC/SBSTA/2000/INF.5/Add.1, dated April 18, 2000) provides a "Second Draft of the Guidelines for National Systems Under Article 5.1 of the Kyoto Protocol." Under the headings, "V. General Functions" and "VI. Specific Functions," the so-called "guidelines" are transformed, through the use of the word "shall," to include mandatory requirements by an international body on how any future Party to the Protocol must organize for purposes of preparing and submitting national inventories. For example, paragraph 10(a) requires the "designation of a single national entity responsible" for the inventory and paragraph 10(c) requires for the "establishment of institutional, legal and procedural arrangements for collecting, processing, communicating and archiving inventory data" to meet the mandatory features of "paragraphs 8, 10, 11, 12, 13 and 14 of these guidelines." In short, I reiterate that the so-called "guidelines" of Article 5.2 are proposed by this "Note" to be mandates on Protocol Parties if and when the Protocol enters into force.
- Q14.1 As I understand the present inventory system under the FCCC, there is no established "institutional, legal and procedural arrangements" in the United States for "collecting" and "archiving" inventory data from all sources and sinks and no "single national entity" has been designated by Congress or the President under a statute to be responsible for the FCCC inventory, although I believe there are understandings between the Energy Information Administration, the Environmental Protection Agency, and other agencies regarding the development of information for the FCCC inventory. Also, I understand that there is no authority or mandate for any agency to collect, or enforce collection of data from all sources and sinks for the FCCC inventory. Is that correct?
- Q14.2 Article 5.1 of the Protocol requires that Protocol Parties "have in place" a "national system for the estimation" of emissions by sources and sinks, subject to "guidelines" for "such national systems. The guidelines are to "incorporate the methodologies specified" in Article 5.2. The Random House *Webster's College Dictionary* (1998 ed.) defines "guideline" to

mean “any guide or indication of a future course of action.” The term does not encompass mandates. Yet the “Note,” which, of course, is not the result of a negotiation, does. I believe that is improper. Article 5 merely provides for a “national system.” How that system is to be implemented in the United States will clearly require Congressional action if and when the Protocol is ever ratified by the U.S. The Note would appear to try to dictate to the United States and the Congress the elements of that system, which appears to include transforming the inventory from a system of “estimates” to a system based on a data collected by enforceable mandate from all U.S. emission sources and sinks, whether or not the Congress believes that is necessary or wise. In short, the flexibility provided in Article 5 for a Party to use in establishing a system appears to evaporate by this proposal.

Q14.2.1 Does the U.S. delegation support this transformation of the so-called “guidelines” to partial “mandates” as proposed by the Note?

Q14.2.2 Is the U.S. delegation seeking to change the inventory from estimates (as specified in Article 3 of the Protocol) to an inventory based on mandated data collected from all emission sources and sinks, as proposed by this Note?

Q14.2.3 Does the U.S. delegation support the use of the word “shall” in these guidelines under Article 5 of the Protocol, and, if yes, why?

Q14.2.4 What assurance is there that with the word “shall” all Annex I Parties that are U.S. trading partners would adopt a system similar to one adopted by the U.S., taking into consideration historical experience in regards to issues of water and air pollution as a guide, and if they do not, could that create advantages in such trading?

Q14.2.5 To what extent has the U.S. delegation discussed these issues with the appropriate Members of Congress?

Q14.2.6 The U.S. submission, *supra*, on “Kyoto Mechanisms: Linkages with Articles 5 and 7” states (See FCCC/SB/2000/MISC.1, p. 89):

- “• There is an important linkage between the Kyoto mechanisms and Articles 5 and 7 in the form of mechanism eligibility requirements:
 - Article 6 (joint implementation) denies the ability to acquire JI units to a Party not in compliance with its obligations under Articles 5 and 7.
 - Proposals on Article 17 (emissions trading) and Article 12 (CDM) make similar linkages between mechanism eligibility and non-compliance with Articles 5 and 7.

- The substantive issue that arises is what kind/level of inconsistency with obligations under Articles 5 and 7 should trigger the full or partial loss of access to Kyoto mechanisms.
- Non-compliance with obligations under Articles 5 and 7, for the purpose of mechanism eligibility (as opposed to non-compliance with such articles generally), should be linked directly to the environmental integrity of the mechanisms.
- As such, a Party should lose full or partial access (depending on the mechanism in question) to a mechanism when it is in non-compliance with the inventory- and registry-related obligations in Articles 5 and 7.”

If the Congress refused to follow such Article 5.2 “guidelines” regarding a single entity and/or mandated collection of data, is it the U.S. delegation position, based on its submission, that the U.S. “should lose full or partial access” to a mechanism, such as Article 17 and what do you mean by “partial access?” Please explain.

Q14.2.7 If such guidelines in the above note are adopted by the COP/moP when and if the U.S. ratifies the Protocol, would they be legally binding on the U.S. and the Congress? Please explain the basis in law for your answer.

MNB
RZL

Subcommittee on Energy and Environment
Committee on Science
389 Ford House Office Building
Washington, DC 20515
Phone: (202)225-9662
Fax: (202)226-6983

KLS
JA
AC
LLDate: 4/14/02To: Dr. Martin BaileyFax number: 395-6958

From:

☒ Harlan Watson	☐ Tom Vanek
☐ Rob Hood	☐ Diane Lochner
☐ Karen Kimball	

Comments: Chairman Sensenbrenner letter to Dr. BaileyTotal Pages: 12
(Including Cover)

R. JAMES SENSENBRENNER, Jr., Wisconsin, CHAIRMAN

SHERWOOD L. BOENLERT, New York
 LAMAR SMITH, Texas
 CONSTANCE A. MORELLA, Maryland
 CURT WELDON, Pennsylvania
 DANA ROHRBACH, California
 JOE BARTON, Texas
 KEN CALVERT, California
 NICK SMITH, Michigan
 ROSCOE G. BARTLETT, Maryland
 VERNON J. EHRLER, Michigan
 DAVE WELDON, Florida
 GIL GUTKNECHT, Minnesota
 THOMAS W. EWING, Illinois
 CHRIS CANNON, Utah
 KEVIN BRADY, Texas
 MERRILL COOK, Utah
 GEORGE R. NETHERCUTT, Jr., Washington
 FRANK D. LUCAS, Oklahoma
 MARK GREEN, Wisconsin
 STEVEN T. KUYKENDALL, California
 GARY G. MILLER, California
 JUDY BIGGERT, Illinois
 MARSHALL "MARK" SANFORD, South Carolina
 JACK METCALF, Washington

U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON SCIENCE

SUITE 2320 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6301

(202) 225-8371

TTY: (202) 225-4410

<http://www.house.gov/science/welcome.htm>RALPH M. HALL, Texas
 Ranking Minority Member

BART GORDON, Tennessee
 JERRY F. COSTELLO, Illinois
 JAMES A. BARCIA, Michigan
 EDDIE BERNICE JOHNSON, Texas
 LYNN C. WOOLSEY, California
 LYNN N. RIVERS, Michigan
 ZOE LOFGREN, California
 MICHAEL F. DOYLE, Pennsylvania
 SHEILA JACKSON LEE, Texas
 DEBBIE STABENOW, Michigan
 BOB EYERIDGE, North Carolina
 MICK LAMPSON, Texas
 JOHN B. LARSON, Connecticut
 MARK UDALL, Colorado
 DAVID WU, Oregon
 ANTHONY D. WEINER, New York
 MICHAEL E. CAPUANO, Massachusetts
 BRIAN BAIRD, Washington
 JOSEPH M. HOFFEL, Pennsylvania
 DENNIS MOORE, Kansas

April 13, 2000

The Honorable Martin N. Baily
 Chair, Council of Economic Advisers
 Executive Office of the President
 Old Executive Office Building
 Washington, DC 20502

Dear Dr. Baily:

In July 1998, after the adoption of the Kyoto Protocol to the UN Framework Convention on Climate Change (FCCC) at the Third Session of the FCCC's Conference of the Parties (COP-3), your predecessor at the Council of Economic Advisers (CEA), Dr. Janet Yellen, released an economic analysis of the Protocol.

Since issuing that analysis, the FCCC's COP has met twice. At COP-4 in 1998 then Acting Assistant Secretary of State, Ms. Melinda Kimball, called the Protocol "unfinished," and the COP adopted the "Buenos Aires Plan of Action" as an effort toward trying to finalize the Protocol. At COP-5 last fall, the Parties began work to implement that Plan. I understand that at COP-6, which is now planned to begin on November 13, 2000 at The Hague—just after the U.S. Presidential and Congressional elections—the Administration is anticipating decisions that will enable it to submit the Protocol to the Senate for advice and consent to ratification.

My principal reason for writing you today arises from the March 13, 2000 article in the *Ottawa Citizen* entitled "Canada may miss Kyoto target" (Enclosure 1). According to the article, "[i]n the past, Liberal cabinet ministers have resolutely affirmed Canada's ability to reach the [Kyoto] target." However, David Anderson, Canada's Environment Minister, "has for the first time raised the possibility that Canada will not be able to meet its target for greenhouse gas reduction," primarily due to uncertainties about credits for domestic sinks and for "overseas activities" under the Kyoto Mechanisms. Minister Anderson's comments are relevant to the 1998 CEA analysis that may now be out-of-date, particularly since the Protocol remains unfinished, greenhouse gas emissions have increased globally, and the sinks and Kyoto Mechanisms issues important to that analysis remain unresolved.

The Honorable Martin N. Baily
April 13, 2000
Page two

I recall that when the Kyoto Protocol was adopted, the Administration also "resolutely affirmed" the United States' ability to reach the target of 7 per cent below 1990 emission levels. In fact, your predecessor painted a rather rosy picture in 1998 in presenting CEA's economic analysis of the Kyoto Protocol. As I observed, that analysis also relied heavily on the matters mentioned above by the Canadian Minister, who apparently acknowledges "that an improbable series of events must fall in place for Canada to meet its targets."

Insofar as the United States is concerned there is also uncertainty about sinks in regards to Articles 3.3 and 3.4 of the Protocol for the 2008-12 commitment period and, of course, Kyoto Mechanism issues are still unresolved. I understand there is opposition to the use of sinks in the Clean Development Mechanism, as well to the use of nuclear energy, large-scale hydropower, and, of course, coal in meeting the targets for the U.S. and Canada—all likely to be important energy sources for the foreseeable future.

It is often said that Canada's situation under the Protocol is similar to that of the United States and vice-versa. The Canadian Minister's comments in the enclosed article, coupled by continuing unhelpful comments from the European Union on the issues of limits on the Kyoto Mechanisms and on developing country participation, suggest that his assessment may be reasonably realistic for the U.S. as well as Canada. I request your comments on his statements, taking into consideration the status of the negotiations regarding the numerous issues of the Buenos Aires Plan of Action, sinks, and Kyoto Mechanisms.

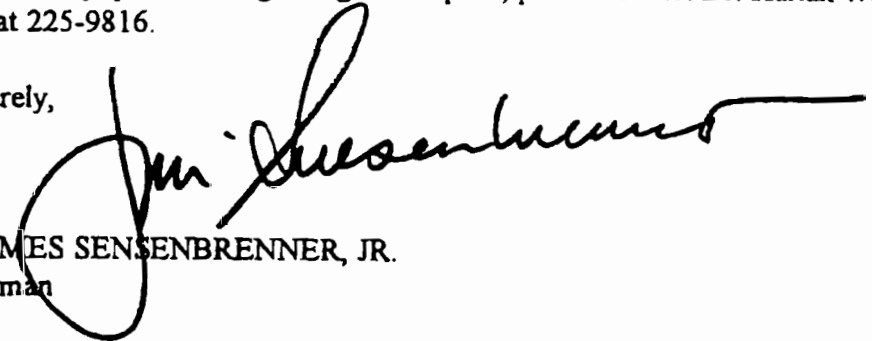
In addition, I would like your response to the following:

1. Do you and the U.S. delegation agree with the *Ottawa Citizen* article's statement "that an improbable series of events must fall in place for Canada to meet its targets," or is the Administration more optimistic? How about for the U.S.? If the Administration is more optimistic, please explain the basis for the optimism.
2. Please explain whether the 1998 analysis has been updated or, if not, what plans you have to do so before the U.S. attends COP-6 in The Hague next November. In particular, is the 1998 analysis, (taking into consideration the status of the many outstanding issues under the Buenos Aires Action Plan, recent fuel prices, interest rates, increased greenhouse gas emission projections for the U.S. and globally, and other changing factors) still the guide for purposes of the U.S. delegation negotiations leading up to, and at COP-6, or does it need up-dating? In short, how relevant is the 1998 analysis today and has it been thoroughly re-examined as to its viability three years later?

The Honorable Martin N. Baily
April 13, 2000
Page three

I request your response by May 11, 2000, to each of the above questions and also the questions in Enclosure 2 regarding the Kyoto Protocol and related matters discussed in the February 10, 2000 "Economic Report of the President" prepared by the CEA, as well as the March 22, 2000 "U.S.-India Joint Statement on Energy and Environment Cooperation." In responding to these questions, please consult with the State Department and, as necessary, others in the Administration, including those who participated with the President in recent discussions with India, to ensure a complete reply. If you have any questions regarding this request, please contact Dr. Harlan Watson of the Committee staff at 225-9816.

Sincerely,



F. JAMES SENSENBRENNER, JR.
Chairman

FJS/hlw

cc: Hon. Ralph M. Hall, Ranking Minority Member, Committee on Science, U.S. House of Representatives
Hon. Robert Z. Lawrence, Member, CEA
Kathryn L. Shaw, Member-Nominee, CEA
Hon. Lawrence H. Summers, Secretary of the Treasury
Hon. William M. Daley, Secretary of Commerce
Hon. Jacob J. Lew, Director, Office of Management and Budget
Hon. Carol M. Browner, Administrator, U.S. Environmental Protection Agency
Hon. Frank E. Loy, Under Secretary of State for Global Affairs
Hon. David B. Sandalow, Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs

Enclosure 1

The Ottawa Citizen, Monday, March 13, 2000, p. A3
Canada may miss Kyoto target
For first time, government admits possibility of failure
By Andrew Duffy

Environment Minister David Anderson has for the first time raised the possibility that Canada will not be able to meet its target for greenhouse gas reductions.

"We don't even know how much has to be done nationally and what flexibility we'll have in achieving the target, so it's going to be tough," Mr. Anderson admitted in a recent interview.

"I think we can reach it," he said, "but again, we don't have full figures on domestic activity or (forest and agricultural) sinks."

It's the first time anyone in the Liberal government has allowed for the possibility that Canada will not achieve the ambitious target it agreed to in December 1997.

That year, at an international conference in Kyoto, Japan, aimed at slowing climate change, Canada said it would cut carbon emissions by six per cent from 1990 levels by 2008-2012.

In the past, Liberal cabinet ministers have resolutely affirmed Canada's ability to reach the target. But Mr. Anderson heavily qualified his answer when asked if the country has enough time to realize the huge emission reductions needed to meet the goal.

Canada's greenhouse gas production is now about 13 per cent above what it was in 1990. It means that to reach the Kyoto target—and reduce emissions below what they were a decade ago while the economy continues to grow—Canada must effectively reduce its emissions by 26 per cent.

The problem, Mr. Anderson said, is that Canada does not yet know if it will be able to deduct from its target those carbon dioxide emissions absorbed by its forests and soils, or offset by its investment in clean energy production overseas.

"It's going to be a tight-run thing," he said. "What credit do we get for sinks? What credit do we have for overseas activities? Will they recognize Canadian nuclear plants in countries that would otherwise be using coal?"

"Are they (the international community) going to concern themselves with climate change, or are we dealing with a whole pile of other issues?"

Mr. Anderson's comments acknowledge that an improbable series of events must fall in place for Canada to meet its target.

To reach its goal, Canada will have to improve its energy efficiency by more than four per cent in each of the next 10 years, even though it has never posted that kind of annual gain before.

The federal government has also been banking on its ability to eat into Canada's emissions target by deducting the amount of carbon dioxide absorbed by the country's forests and agricultural land.

But a recently leaked report from the United Nations suggests Canada will not be able to deduct much of its forested land.

It's also unlikely that Canada will ever be able to sell its Candu nuclear reactors to developing countries in return for emission credits since the European Union is dead set against the proposal.

Mr. Anderson and Natural Resources Minister Ralph Goodale presented cabinet late last year with a \$1.6-billion plan to launch Canada on the road to Kyoto.

In his recent budget, however, Finance Minister Paul Martin funded only a small portion of the scheme, saying that a national action plan has to be in place before more federal money is committed.

All of this leaves Mr. Anderson in a difficult situation as he meets with provincial energy and environment ministers in Vancouver later this month.

The ministers are to consider what steps Canada should take now to reduce its emissions and what actions should be part of a long-term plan.

Environmentalists believe the meeting's outcome will tell Canadians a great deal about whether the country will reach the Kyoto target.

Enclosure 2: Questions Submitted by Science Committee Chairman F. James Sensenbrenner, Jr. to The Honorable Martin N. Baily on April 13, 2000
Page 1 of 7

As indicated in my covering letter to this enclosure, the President released his "Economic Report" to the Congress on February 10, 2000. Chapter 7 of the "Economic Report," entitled "Making Markets Work for the Environment," includes a number of comments relating to the Kyoto Protocol that raise issues of concern (see particularly pages 250-275). Appendix A explains that you and the Council have been working with developing countries on climate change matters (see pages 293-294). Thus, I request your reply to the following questions.

Developing Countries' Participation in the Kyoto Protocol

- Q1. As I am sure you know, before the U.S. delegation agreed to the Kyoto Protocol in December 1997 along with other Parties to the FCCC, the Senate adopted the Byrd-Hagel Resolution (S.Res. 98) in July 1997 by a vote of 95-0. One tenant of that resolution is that any such Protocol should include developing country commitments "to limit or reduce greenhouse gas emissions ... within the same compliance period." Also, the Kyoto Protocol has been described as "unfinished" by a State Department spokesperson, Ms. Melinda Kimble, at COP-4, in Buenos Aires in 1998, which I attended. Presumably, that statement was made, in part, because the Protocol does not include any such commitments.

At COP-4, the initial agenda included an item for the purpose of discussing not "binding commitments," but "voluntary commitments" for developing countries. However, even that mild proposal was shelved by the COP President at the insistence of the developing countries, who opposed any discussion of the issue, just as they have since COP-1 adopted in 1995 the Berlin Mandate with its "no new commitments" for developing countries provision. Indeed, Ms. Kimble expressed in her November 2, 1998 statement in support of the item disappointment "that countries will not have an opportunity to explore this matter in any detail." The COP-5 of last October also did not address the matter.

The Energy Information Administration (EIA), on pages 2 and 3 of its March 31, 2000 publication entitled "International Energy Outlook 2000" states:

"Emissions in the industrialized world will grow by 1.1 billion metric tons between 1990 and 2020, with nearly one-half of the increment attributed to an increase in natural gas use. Natural gas is increasingly seen as a fuel of choice among the industrialized countries for new electric power generation. Gas-fired power plants run more efficiently than other fossil fuel generators, and natural gas, as the least carbon intensive of the fossil fuels, is an attractive alternative to coal or oil for electricity generation and industrial uses.

Enclosure 2: Questions Submitted by Science Committee Chairman F. James Sensenbrenner, Jr. to The Honorable Martin N. Baily on April 13, 2000
Page 2 of 7

"Much of the increase in carbon emissions is expected to occur in the developing world, where emerging economies produce the highest growth rates for energy use in the forecast. Emissions in the developing countries accounted for about 28 percent of the world total in 1990, but they are projected to make up 44 percent of the total by 2010 and nearly 50 percent by 2020. As a result, even if the Annex I countries were able to meet the emissions limits or reductions prescribed in the Kyoto Protocol, worldwide carbon emissions still would grow substantially. The increase is expected to be caused both by rapid economic expansion, accompanied by growing demand for energy, and by continued heavy reliance on coal (the most carbon intensive of the fossil fuels), particularly in developing Asia. Coal accounts for 41 percent of the projected increment in carbon emissions in the developing world between 1990 and 2020, followed closely by oil's contribution of 36 percent. Gas accounts for 22 percent of the developing world's increase in emissions."

That increase in emissions apparently is to occur much sooner than the 2030 projection provided to Congress in Administration answers to questions about the Protocol in 1998. Nevertheless, this issue of commitments is not, to my knowledge, on the agenda for the next COP in November and apparently the Administration is not working to change that situation.

I raise this issue with you because Appendix A of the "Economic Report" states that you and the CEA Members and staff have "worked with a number of developing countries to identify opportunities for them to further contribute to the global effort to address climate change" (pages 293-4). In addition, pages 269 of the "Economic Report" states:

"The Kyoto Protocol stipulates that countries must have a binding emissions target before they may engage in international emissions trading. Since the Kyoto Conference, developing countries have expressed interest in emissions targets. Consistent with the Framework Convention on Climate Change, targets for developing countries should help promote their sustainable development. For them to do so, such targets should accommodate emissions growth, because some growth in emissions is an unavoidable consequence of development. Unlike the current targets in the Kyoto Protocol, which were set below most countries' current emissions levels, such a target for developing countries could be set above current levels. At the same time, to contribute to the international effort to address climate change risks, such targets should result in real abatement of emissions below levels that would otherwise be reached during the commitment period—that is, below the projected

Enclosure 2: Questions Submitted by Science Committee Chairman F. James Sensenbrenner, Jr. to The Honorable Martin N. Baily on April 13, 2000
Page 3 of 7

business-as-usual emissions level. This kind of target, often referred to as an emissions growth target, could provide for continued economic development but with a lower emissions growth rate."

I am curious about the "Economic Report" statement of "expressed interest in emissions targets" by developing countries. Surely, that was not the impression at COP-4 or, in the case of COP-5, by the remarks of China. Also, the text of the March 22, 2000 "U.S.-India Joint Statement on Energy and Environment Cooperation" does not indicate such interest, particularly its paragraph 7.

Q1.1 Please explain the basis for the "Economic Report" statement, indicate what countries have expressed such interest and explain the nature and extent of that interest.

Q1.2 Are those countries interested in legally binding targets that would become part of the Protocol or are they only interested in the rather vague and non-binding targets, such as those announced by Argentina at COP-5 or something even less certain?

CEA's Evaluation of Trends in U.S. Carbon Dioxide Emissions and Participation in Administration Efforts to Promote Energy Efficiency in the Federal Government

Q2. Page 294 of Appendix A of the "Economic Report" says that the "Council has evaluated trends in the U.S. carbon dioxide emissions and participated in Administration efforts to promote energy efficiency in the Federal Government." Please provide the details and results of the "evaluated trends" and explain how the CEA "participated" in such "efforts."

Domestic Greenhouse Gas Trading System

Q3. Page 272 of the "Economic Report" states:

"To promote an efficient international trading system, the Administration has proposed a set of rules for trading based on its experiences with various trading programs. The Administration opposes quantitative restrictions on trading. The Administration supports a system of seller liability for trading, coordinated with a strong compliance system. To promote cost-effectiveness in the trading system, the Administration supports involving interested private entities in international emissions, JI, and the CDM. In addition, the Administration has proposed a domestic trading system for greenhouse gases for the 2008-2012 commitment

Enclosure 2: Questions Submitted by Science Committee Chairman F. James Sensenbrenner, Jr. to The Honorable Martin N. Baily on April 13, 2000
Page 4 of 7

period and aims to have this domestic system integrated with international emissions trading”.

And pages 251-252 of the “Economic Report” state:

“Implementing a tradable permit program would require industries covered by the program to restrict their greenhouse gas emissions to comply with the Kyoto Protocol emissions target. Abating greenhouse gas emissions involves costs associated with investing in new technologies, fuel switching, and other means of reducing emissions. As the energy sector becomes more competitive over the next decade, the costs of controlling emissions will be reflected in consumer prices. For example, the Administration’s economic analysis of the Kyoto Protocol found that a tradable permit price of \$23 per ton of carbon equivalent would increase energy prices to consumers by about 5 percent in 2010.

“A key question in implementing a tradable permit system is the distribution of permits. For example, the government can allocate (give away) permits to firms, or it can sell permits to firms through auctions. So long as the tradable permit market is efficient, the price of energy to consumers is likely to be the same in either case. .

“Allocating permits to firms would result in handing over assets valued in the tens to hundreds of billions of dollars annually. Because these firms can pass on most of the cost of reducing emissions to consumers, allocating permits would provide these firms with significant windfall profits and allow them to enjoy higher profits under climate policy. On the other hand, if the government sells permits, it will receive revenue in the tens to hundreds of billions of dollars annually. Although energy firms would make lower profits under the auction system, the permit revenues could, for example, be recycled back into the economy through tax cuts. Recent research has found that such revenue recycling could reduce the costs to society resulting from the use of greenhouse gas permits by up to about 80 percent.

“Allocating permits to energy industries would significantly increase the value of their equity, whereas selling permits would lower it. An alternative is to follow a hybrid approach that combines elements of both allocating and auctioning. Recent research has estimated that allocating roughly 5 to 15 percent of the permits to energy firms while auctioning the rest would be sufficient to ensure that these firms’ average equity values

Enclosure 2: Questions Submitted by Science Committee Chairman F. James Sensenbrenner, Jr. to The Honorable Martin N. Baily on April 13, 2000
Page 5 of 7

would be unchanged, all else equal. Furthermore, since most of the permits would be auctioned, such an approach would still provide significant revenue to the government.

I recall that in October 1997, the President said he "is committed to a market based emissions trading system, both domestically and internationally" to begin "after a decade's worth of experience with tax incentives, R & D, early credit, electricity restructuring, Federal efforts, and other measures." This was to "proceed in three stages," with an "economic review" to occur "near the end of Stage 1" and with the second stage beginning "around 2004." During the second stage, "the details of the permit system would be refined and perhaps tested" and a second economic review "would occur near the end of Stage 2." The third stage is apparently the Kyoto Protocol commitment period. No mention was made in 1997 of the need for legislative authority for such a domestic system or of the rules required for the system, such as provided in title IV of the Clean Air Act. Of course, since then the issue of whether CO₂ has been determined to be an "air pollutant" under the Clean Air Act has been raised and, of course, the General Counsel of the Environmental Protection Agency advised the Administrator in April 1998 that none of the Act's "provisions easily lend" themselves "to establishing market-based national or regional cap-and-trade programs" for any substance other than SO₂.

Nevertheless, the "Economic Report" states that the Administration "has proposed a domestic system integrated with international emissions trading" and then goes on to explain how such a system might work, suggesting that the CEA has done a great deal more work on the system since the President's remarks in 1997. That is difficult to understand because the Administration has repeatedly told this Committee and Congress that it has no plans to regulate emissions before the Protocol receives advice and consent to ratification from the Senate. For example, in the Budget Appendix for fiscal years 1999 and 2000, the Administration said it "has no intention of taking any actions that would contravene the purpose and clear meaning" of the Knollenberg limitation. It is my understanding cap and trade programs are effectively regulatory in nature (e.g., the SO₂ program that relies on regulations). The discussion in the "Economic Report" and the work that relates to its development appears totally in contravention to the "purpose and clear meaning" of the Knollenberg limitation, which is not limited to EPA in the case of fiscal year 2000.

- Q3.1 Please explain when the Administration "proposed" a domestic trading system and please provide the details of that proposal in light of the "Economic Report."
- Q3.2 Please provide any studies or other materials and papers by the CEA, contractors, and others that CEA relied on in preparing the above comments about how such a

Enclosure 2: Questions Submitted by Science Committee Chairman F. James Sensenbrenner, Jr. to The Honorable Martin N. Baily on April 13, 2000
Page 6 of 7

system would work, including an explanation about what segments of the economy would have to obtain permits. Please include all memoranda and other materials in CEA files that relate to those matters.

- Q3.3 There seems to be heavy expectation in these comments on the part of the Administration for using a tradable permit scheme for adding revenue to the Government with no discussion about why the Council thinks revenue raising is a good idea in such a program and no discussion about the use of the revenue by the Government. It seems to suggest a "back-door taxing" scheme. Further, it is my understanding that in the case of SO₂ trading under the Clean Air Act, no funds are treated as "revenue to the United States" (see Sec. 416 (d)(3) of the Clean Air Act). Please explain why the Administration would want to deviate from that statutory precedent for any tradable scheme if and when the Protocol is ratified.
- Q3.4 In the case of the SO₂ program, annual allowances were initially allocated, without cost, to existing units of utilities so they could continue to operate. Please explain why the Administration would want to deviate from that precedent, if and when, the Kyoto Protocol is ever ratified and enters into force?
- Q3.5 I would appreciate understanding what you mean by the term "permit" in the "Economic Report"? Would such a permit be akin to the permit required by title V of the Clean Air Act, which includes numerous regulatory and enforcement trappings, or merely the equivalent of an SO₂ allowance without such trappings?

"Qualitative" Restrictions on Trading

- Q4. The CEA states that the Administration "opposes quantitative restrictions on trading." However, the European Union has called for "quantitative" and/or "qualitative" limitations. The CEA is silent on qualitative limits. Why? I thought that the 1998 analysis is based on no limits, whether quantitative or qualitative. Is the CEA open to considering and agreeing to qualitative limits at COP-6 or later? Please explain.

March 22, 2000 "U.S.-India Joint Statement on Energy and Environment Cooperation"

- Q5. The March 22, 2000 "U.S.-India Joint Statement on Energy and Environment Cooperation" reaffirms the "urgent need for international dialogue on ways in which developed and developing countries could participate in actions to combat climate change, in accordance with the principle" (which stems from Article 4.1 of the FCCC) "of common but differentiated responsibilities, and in a manner consistent with sustained economic growth and social development." Does this mean that India and the U.S. will join together to, at a minimum, reinstate at COP-6 the so-called "voluntary commitment"

Enclosure 2: Questions Submitted by Science Committee Chairman F. James Sensenbrenner, Jr. to The Honorable Martin N. Baily on April 13, 2000
Page 7 of 7

agenda item offered at COP-4 by Argentina? If not, what is the forum for this "international dialogue" and when will it begin and will it be public?

- Q6. Paragraph 7 of the March 22, 2000 "U.S.-India Joint Statement on Energy and Environment Cooperation" also includes a recognition by the United States of the mandate of Article 4.5 of the FCCC about financing and transferring "environmentally sound technologies and know-how to the developing country." That recognition seems to suggest that such financing and transfer by the developed countries is a condition precedent to the developing countries accepting any commitments called for in S. Res. 98. Is that the reason for restating Article 4.5 in the text? If not, what is its purpose and significance and why did the U.S. agree to such restatement, particularly since the U.S. position seems to be that any such financing, at least, should be through established institutions like the GEF?
- Q7. Paragraph 4 of the of the March 22, 2000 "U.S.-India Joint Statement on Energy and Environment Cooperation" also states that "India intends to improve energy efficiency in the electric power sector" and that, "India intends to achieve approximately a 15% improvement in energy efficiency by 2007-08." While I understand that a statement of intent is not a commitment on the part of India, I think it is welcome. However, I would like to know the percentage of India's greenhouse gas emissions reductions from current and projected 2010 and 2020 levels as a result of such an "improvement"—if it occurs as intended. I presume that the U.S. had this information as it developed this text with India.
- Q8. What are India's current emissions of such gases and what is the EIA's and other projections for 2010 and 2020 for India?

ce JA
AC

THE WHITE HOUSE
WASHINGTON

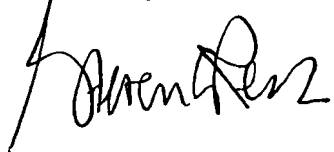
July 29, 1999

Roger Keller, Esq.
Counsel
Committee on Small Business
United States House of Representatives
2361 Rayburn House Office Building
Washington, D.C. 20515

Dear Roger:

As promised, enclosed are privilege logs for the CEA documents. The logs entitled "CEA Presidential or Vice Presidential Documents," "Additional CEA Documents Not Produced," and "Index of Privileged Documents" were all created in connection with CEA's production of documents to Chairman McIntosh. The log entitled "White House Documents Subject to Claims of Privilege" was prepared in connection with the production to your Committee.

Sincerely,



Steven F. Reich
Senior Associate Counsel to the President

cc: Mr. Michael Day
Minority Staff Director (w/o encs.)

CEA Presidential or Vice Presidential Documents

	<u>Date(s)</u>	<u>From</u>	<u>To</u>	<u>Subject</u>
1	12/13/94	Gibbons	Vice President	Memo re: communicating state of knowledge on climate change (CC)
2	12/19/94	CEQ Staff for McGinty	Vice President	Memo to prepare for mtg on CC
3	5/15/95	McGinty	Vice President	Memo on CC negotiations and policy process
4	5/23/97	Albright	Vice President	Sec of State memo on CC negotiations; ~~same memo with cover~~ memo to interagency group
5	2/97-4/98	Yellen	President	Various <i>Weekly Economic Briefing of the President</i> (WEB) articles and drafts; WEB article w/ attached memo from CEA to Senior WH Advisor
6	6/97	McGinty, Tarullo and others	President	drafts of memo to President re:US position at Denver Summit of the Eight and UN General Assembly Special Session on Environment and Development; drafts w/ cover memos; memos w/ comments on draft memo;CC Principals memo that was used to draft memo to President

7	6/97	McGinty, Tarullo	President	memo to President re: decisions on CC policy for Denver Summit and UNGA Special Session; revision of same memo; same memo w/ cover memo from WH Staff Secretary; WH staffing memo circulating same memo
8	6/23/97		President	draft remarks by President to UN session on environment and development in NY
9	8/97 - 10/97	Yellen, Summers and others	President	drafts of, comments on, and substantive input for memo re: economics of CC policy
10	8/10/97	NEC staff	President	draft memo re: process for decision-making on CC policy
11	9/15/97	Frankel		handwritten notes on CC from mtg w/ President
12	9/30/97		President	draft of remarks by President on CC to weather forecasters
13	9/97	Sperling, McGinty and Tarullo	President	Drafts of and comments on memo to the President re: CC policy options and decision points
14	9/97- 10/97	Sperling, McGinty and Tarullo	President	Drafts of and comments on memo to the President re: CC policy options
15	10/97	Sperling, McGinty Tarullo, Steinberg and Stern	President	Drafts of and comments on memo to the President re: CC policy options

16	10/97	Summers	President	Drafts of and comments on memo to President re: economics of CC policy options
17	10/1/97	Summers		talking points for mtg w/ President re: economics of reducing emissions
18	10/1/97	Yellen		talking points for mtg w/ President re: economics of reducing emissions
19	10/1/97	Frankel		handwritten notes from mtg w/ President on CC
20	10/18/97	Sperling, McGinty Tarullo, Steinberg and Stern	President	draft of memo to President re: CC policy decisions
21	10/21/97	Frankel		handwritten notes from mtg w/ President
22	10/22/97		President	draft remarks by President re: CC policy at National Geographic Society
23	11/3/97	Frankel		handwritten notes from mtg w/ President
24	11/30/97	Sperling, McGinty Tarullo, Steinberg and Stern	President	memo to President re: Kyoto Negotiating Guidance
25	1/30/98		President	WH staffing memo transmitting draft of President's radio address on climate change technology initiative; draft of radio address; e-mail re: same

26 2/6/98

Stern, McGinty
Steinberg, Sperling

President

Decision memo re: Kyoto
Protocol;
WH staffing memo
transmitting same memo for
comments

27 2/98

Sperling, McGinty

President

drafts of decision memo re:
Administration's
electricity restructuring
proposal

28 3/4/98

Raines

President

memo to the President re:
message to Congress on
Federal Resources for climate
change programs

ADDITIONAL CEA DOCUMENTS NOT PRODUCED

<u>Date</u>	<u>From</u>	<u>To</u>	<u>Subject</u>
1. 6/5/94	Seidman	Car Talk Steering Comm.	Memo to the President on Car Talk Advisory Comm. Nominees, with Draft Memo to the President attached
2. 10/16/97			Draft Talking Points for Meeting with President on Safety Valve
3. 10/22/97			Draft Speech for President at National Geographic Society
4. 2/24/98	Lutter	Yellen, et al.	Memo Excerpting Earlier Memo to the President
5. 3/16/98			Notes of Meeting with White House Counsel re Document Requests and Potential Privilege Issues
6. 5/28/98	Jolin	Yellen	Draft Presidential Letter to Congressman
7. 4/17/98 6/6/98 6/15/98 6/19/98 7/26/98	Stern	President	Climate Change Weekly Reports

Additional drafts and comments on drafts, at least partly duplicative, were added to items 9, 13, 14, and 16 on the previous CEA log of Presidential documents.

INDEX OF PRIVILEGED DOCUMENTS

<u>Date</u>	<u>From</u>	<u>To</u>	<u>Subject</u>
1. 10/3/97	Janet Yellen Larry Summers	President	Targets and Timetables for Reducing Greenhouse Gas Emissions
2. 10/18/97	Gene Sperling Kathleen McGinty Daniel Tarullo Jim Steinberg Todd Stern	President	Climate Change Decision Memorandum -- Elements of Overall Climate Change Policy
3. 11/30/97	Gene Sperling Kathleen McGinty Daniel Tarullo James Steinberg Todd Stern	President	Kyoto -- Negotiating Guidance, with Cover Note from Todd Stern, and Presidential Notes on the Document
4. 2/6/98	Todd Stern Kathleen McGinty Jim Steinberg Gene Sperling	President	Signing Kyoto Protocol -- Timing

WHITE HOUSE DOCUMENTS SUBJECT TO CLAIMS OF PRIVILEGE¹

TO	FROM	CC	DATE	SUBJECT	DOCUMENT DESCRIPTION
David B. Sandalow, CEQ Associate Director for Global Environment	Alicia Munnel, Member, CEA, Jeffrey A. Frankel, Member, CEA	N/A	6/9/97	Memo on climate change for the president	Comments on presidential decision memo with attached draft of presidential decision memo
N/A	N/A	N/A	Undated	NEC principals' meeting on climate change	Talking points regarding climate change issues
N/A	N/A	N/A	Undated	Carbon price increases	Memorandum addressing carbon price increases
N/A	N/A	N/A	Undated	Effect of stabilizing U.S. carbon emissions	Memorandum addressing the price effects of stabilizing carbon emissions
Jeff Frankel	Joe Aldy, Staff Economist, CEA	N/A	8/27/97	International trade in carbon emissions	Memorandum addressing trade in carbon emissions
Gene Sperling, Assistant to the President for Economic Policy and Director of the NEC, Kathleen McGinty, Chair, CEQ	William Daley, Secretary of Commerce	N/A	9/9/97	Climate change	Comments on draft talking points regarding U.S. proposal on greenhouse gas emissions
N/A	N/A	N/A	9/9/97	Climate change scenarios	Draft memorandum for the president regarding climate change issues
N/A	N/A	N/A	9/11/97	Climate change scenarios	Handouts for presentation to NEC principals

¹ The documents on this log are subject to claims of attorney-client, work product, deliberative process, and presidential communications privilege, which are subsumed, for these purposes, under the rubric of "executive privilege."

TO	FROM	CC	DATE	SUBJECT	DOCUMENT DESCRIPTION
President of the United States	Gene Sperling, Kathleen McGinty, Daniel Tarullo, Assistant to the President for International Economic Policy	N/A	9/15/97	Climate change scenarios	Memorandum for the president regarding climate change issues with handwritten notations
President of the United States	Gene Sperling, Kathleen McGinty, Daniel Tarullo	N/A	9/15/97	Climate change scenarios	Memorandum for the president regarding climate change issues
Janet Yellen	Jeff Frankel	N/A	9/26/97	Global climate change submission by Secretary Pena	Sets forth elements of submission by Secretary Pena regarding global climate change issues
N/A	N/A	N/A	Undated	Components of climate change plans	Analyzes elements of climate change plans
President of the United States	Janet Yellen, Chair, CEA, Lawrence Summers, Deputy Secretary of the Treasury	N/A	10/3/97	Greenhouse gas emissions	Memorandum examines targets and timetables for reducing greenhouse gas emissions
Janet Yellen	Joe Aldy, Randy Lutter, Economist, Natural Resources Branch, Office of Information & Regulatory Affairs, OMB	N/A	10/8/97	Sensitivity of carbon prices	Memorandum examines estimated carbon prices
N/A	N/A	N/A	N/A	Safety valve for permit prices	Draft language for a memorandum to the president regarding safety valve for permit prices

TO	FROM	CC	DATE	SUBJECT	DOCUMENT DESCRIPTION
N/A	N/A	N/A	10/15/97	Economic triggers	Memorandum analyzes the advantages and disadvantages of various possible economic triggers
President of the United States	Gene Sperling, Kathleen McGinty, Daniel Tarullo, Jim Steinberg, Todd Stern	Robert Rubin, Lawrence Summers, Janet Yellen	Undated	Climate change	Draft climate change decision memorandum for the president
Gene Sperling, Daniel Tarullo, Katie McGinty	Stuart E. Eizenstat, Under Secretary of State for Economic and Business Affairs, Timothy E. Wirth, Undersecretary of State for Global Affairs	Todd Stern	10/16/97	Climate change	Memorandum regarding negotiating climate change issues
N/A	N/A	N/A	10/30/00	Climate change negotiations	Discussion paper regarding climate change negotiations
President of the United States	Gene Sperling, Kathleen McGinty, Daniel Tarullo, Jim Steinberg, Todd Stern	N/A	10/18/97	Climate change	Decision memorandum for the president
N/A	N/A	N/A	11/2/97	Climate change negotiations	Draft discussion paper regarding climate change negotiations
N/A	N/A	N/A	Undated	Climate change negotiations	Draft discussion paper regarding climate change negotiations

cc J.A.
AE

THE WHITE HOUSE
WASHINGTON

July 29, 1999

Roger Keller, Esq.
Majority Counsel
Committee on Small Business
United States House of Representatives
2361 Rayburn House Office Building
Washington, D.C. 20515

Dear Roger:

This responds to your letter to Audrey Choi dated July 20, 1999. In your letter, you raise additional questions about the materials that CEA produced to the Committee in response to Chairman Talent's May 24 request to Chairman Yellen. Our response to each of your questions is set forth below.

BATES NUMBER	"PROBLEM" NOTED	RESPONSE
CEA 05843	pp. 43-46 missing	Missing from original
CEA 05877	pp 82-86 incomplete charts	Document produced as found
CEA 02987	p. 30 missing	Missing from original
CEA 00858-00859	Redacted information	No redactions were made; document was produced as found
CEA 00861	Redacted information	No redactions were made; document was produced as found
CEA 00267	p. 53 missing	Missing from original
CEA 00410	pp. 197-201 missing	Missing from original
CEA 02548	Left side illegible	Better copy attached
CEA 02712	Right side illegible	Better copy attached
CEA 02405	Upper-left hand corner missing	Best copy available
CEA 02061	pp. 1-2 missing	Missing from original
CEA 00836	p. 4 missing	Page 4 appears at CEA 00834
CEA 02062	p. 4 missing	Missing from original
CEA 02063	Facsimile p. 7 missing	Missing from original
CEA 02064	Facsimile p. 9 missing	Missing from original

BATES NUMBER	"PROBLEM" NOTED	RESPONSE
CEA 02066	p. 12 missing	Missing from original
CEA 02067	p. 14 missing	Missing from original
CEA 02068	p. 16 missing	Missing from original
CEA 02069	p. 18 missing	Missing from original
CEA 02070	p. 20 missing	Missing from original
CEA 02071	p. 22 missing	Missing from original
CEA 02072	p. 24 missing	Missing from original
CEA 02073	p. 26 missing	Missing from original
CEA 02074	p. 28 missing	Missing from original
CEA 02075	p. 30 missing	Missing from original
CEA 02076	p. 32 missing	Missing from original
CEA 02077	p. 34 missing	Missing from original
CEA 02078	p. 36 missing	Missing from original
CEA 02079	p. 38 missing	Missing from original
CEA 02080	p. 40 missing	Missing from original
CEA 02081	p. 42 missing	Missing from original
CEA 02025	p. 1 missing	Missing from original
CEA 02027	p. 3 missing	Missing from original
CEA 02028	p. 5 missing	Missing from original
CEA 02029	p. 7 missing	Missing from original
CEA 02030	p. 9 missing	Missing from original
CEA 02031	p. 11 missing	Missing from original
CEA 02032	p. 13 missing	Missing from original
CEA 02033	p. 15 missing	Missing from original
CEA 02034	p. 17 missing	Missing from original
CEA 02035	p. 19 missing	Missing from original
CEA 02036	p. 21 missing	Missing from original
CEA 02037	p. 23 missing	Missing from original
CEA 02038	p. 25 missing	Missing from original
CEA 02039	p. 27 missing	Missing from original
CEA 02040	p. 29 missing	Missing from original
CEA 03529	The page is incomplete and p. 6 is missing	CEA 03529 complete as produced. Page 6 is missing from original
CEA 03030	The copies reference drafts 5 and 6. Please provide complete copies of both	Additional inquiry required

Roger Keller, Esq.
July 29, 1999
Page 3

If you have any further questions about these matters, please feel free to contact me directly.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven F. Reich". The signature is fluid and cursive, with a large initial "S" and "R".

Steven F. Reich
Senior Associate Counsel to the President

Enclosures

cc: Mr. Michael Day
Minority Staff Director (w/o encs.)

A BETTER WAY TO SLOW GLOBAL CLIMATE CHANGE

Executive Summary

International concern about climate change has led to a series of negotiations aimed at producing a binding treaty to control worldwide emissions of carbon dioxide. The next two rounds of talks, intended to produce a final agreement, will be held later this year in Kyoto. Negotiations have focused on measures to roll back emissions to 1990 levels and hold them there.

A preliminary proposal advanced by the United States would achieve this by creating a system of internationally tradable emissions permits. The total number of permits would be limited to the amount of emissions in 1990 and they would be distributed among countries by treaty, possibly according to each country's population or to its actual 1990 emissions. It would be up to individual governments to decide how to distribute their country's allocation. Once distributed, the permits could be bought and sold without restriction on an international market. The system would initially apply to developed countries and would later be extended to developing countries as well.

Although this proposal has attractive features and has been endorsed by a number of prominent economists, it has several serious flaws that ensure the treaty would never be ratified and implemented. First, it focuses exclusively on stabilizing emissions even though a much stronger case can be made for reducing the growth of emissions instead of outright stabilization. A better policy would focus on a more modest, and also more politically viable, goal. A second problem is that it would also be very difficult and expensive to monitor and enforce. Third, it would generate huge transfers of wealth between countries. These transfers are large enough that it is unlikely the treaty would be ratified by the countries generating most of the world's emissions. More importantly these wealth transfers could cause dramatic changes in exchange rates, trade balances and international capital flows and would put enormous stress on the world trade system.

A better alternative would be to set up a system of national permits and emissions fees. Each country would be allowed to distribute tradable emissions permits equal to its 1990 emissions. Each government would also agree to sell additional permits at fee specified in the treaty, say \$10 US dollars per ton of carbon emitted. The effect of the policy would be to encourage firms to reduce emissions whenever they could do so at a cost of \$10 per ton or less. Since the policy does not focus on stabilization and instead aims at the more modest goal of reducing emissions where it can be done at low cost, and since it includes an allowance for 1990 emissions, it is far more likely to be ratified and implemented. It would give firms an incentive to reduce emissions without causing huge international transfers of wealth and would avoid causing havoc in the system of world trade. Because the fee would be uniform throughout the world, the emissions reductions would be accomplished at minimum cost. Finally, the revenue raised by emissions fee provides an incentive for the policy to be enforced by individual governments.

What if
that's just
a solution
this tax
for us her
energy
taxes?
Then
no effect.

Equalizes marginal cost of emissions (if you emit it's subtracted & for other taxes)
But marginal price of emissions would not be equalized

greenhouse gases should be covered. In practice, given ~~the many~~ actors involved and the many sources of emissions, such broad coverage would be impossible to monitor and police. For practical reasons, therefore, attention is usually focused on fossil fuel consumption (plus a few other concentrated emitting activities, such as cement production). Monitoring the consumption of fossil fuels is more or less manageable, since most of it must pass through some relatively narrow choke points, e.g. gas pipelines, oil refineries, electricity generating stations. Most coal production can be monitored at mine-head or on the barges and railroads that transport it.

But this still leaves out a lot of greenhouse gas emissions.

Only about half of the greenhouse gas emissions (measured by radiative forcing, which is what is relevant for climate change) since 1850 came from the burning of fossil fuels.³ Important contributions have also been made by changes in tropical land use (e.g. burning tropical forests), fuel wood, livestock and rice cultivation, town dumps, and gas pipeline losses. Omitting these sources from a regime based on national targets thus would represent a significant shortfall in coverage, but it is probably necessary on practical grounds because most changes in emissions from these sources could not be easily monitored. Their omission

JAMES M. TALENT, MISSOURI
CHAIRMAN

NYDIA M. VELÁZQUEZ, NEW YORK

Congress of the United States

House of Representatives

106th Congress

Committee on Small Business

2501 Rayburn House Office Building

Washington, DC 20515-6515

July 20, 1999

Joe
fyi

Ms. Audrey Choi
Chief of Staff
Council of Economic Advisers
Old Executive Ofc. Bldg.
17th & Pennsylvania Ave., N.W.
Washington, D.C. 20502

Re: Document Production

Dear Ms. Choi:

Thank you for the documents previously produced. As we review the production, we note some missing or illegible documents.

Below, please find a column designating your bates label and the corresponding problem. I will provide you additional lists as our review proceeds.

Bates Label

Problem

CEA 05843

pp. 43-46 missing

CEA 05877

pp. 82-86 incomplete charts

CEA 02987

p. 30 missing

CEA 00858-00859

redacted information

CEA 00861

redacted information

CEA 00267

p. 53 missing

CEA 00410

pp. 197-201 missing

CEA 02548

left side illegible

Ms. Audrey Choi

Page No. 2

<u>Bates Label</u>	<u>Problem</u>
CEA 02712	right side illegible
CEA 02405	upper left-hand corner missing
CEA 02061	p. 1-2 missing
CEA 00836	p. 4 missing
CEA 02062	p. 4 missing
CEA 02063	facsimile p. 7 missing
CEA 02064	facsimile p. 9 missing
CEA 02066	p. 12 missing
CEA 02067	p. 14 missing
CEA 02068	p. 16 missing
CEA 02069	p. 18 missing
CEA 02070	p. 20 missing
CEA 02071	p. 22 missing
CEA 02072	p. 24 missing
CEA 02073	p. 26 missing
CEA 02074	p. 28 missing
CEA 02075	p. 30 missing
CEA 02076	p. 32 missing
CEA 02077	p. 34 missing
CEA 02078	p. 36 missing
CEA 02079	p. 38 missing

Ms. Audrey Choi
Page No. 3

<u>Bates Label</u>	<u>Problem</u>
CEA 02080	p. 40 missing
CEA 02081	p. 42 missing
CEA 02025	p. 1 missing
CEA 02027	p. 3 missing
CEA 02028	p. 5 missing
CEA 02029	p. 7 missing
CEA 02030	p. 9 missing
CEA 02031	p. 11 missing
CEA 02032	p. 13 missing
CEA 02033	p. 15 missing
CEA 02034	p. 17 missing
CEA 02035	p. 19 missing
CEA 02036	p. 21 missing
CEA 02037	p. 23 missing
CEA 02038	p. 25 missing
CEA 02039	p. 27 missing
CEA 02040	p. 29 missing
CEA 03529	the page is incomplete and p. 6 is missing
CEA 03030	the copies reference drafts 5 and 6. Please provide complete copies of both.

Ms. Audrey Choi

Page No. 4

Thank you for your attention to this matter. I look forward to receiving the requested material by July 30, 1999.

Sincerely,

A handwritten signature in cursive script, appearing to read "Roger A. Keller, Jr.", written in dark ink.

Roger A. Keller, Jr.
Counsel

UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON SMALL BUSINESS
2361 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515
(TELEPHONE) (202) 225-5821
(FACSIMILE) (202) 225-2934

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
AUDREY CHOI	ROGER A. KELLER
COMPANY:	DATE:
	July 20, 1999
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
395-6958	5
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
RE:	YOUR REFERENCE NUMBER:

☐ URGENT ☒ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

Congress of the United States
House of Representatives

106th Congress

Committee on Small Business

2561 Rayburn House Office Building

Washington, DC 20515-6515

July 16, 1999

Dr. Janet Yellen
c/o Audrey Choi
Council of Economic Advisers
Old Executive Ofc. Bldg.
17th St. & Pennsylvania Ave., N.W.
Washington, D.C. 20502

Re: July 12, 1999 Responses to Questions

Dear Dr. Yellen:

Thank you for your July 12, 1999 response to the questions I asked regarding the Kyoto Protocol. Your office, however, asserts the deliberative process privilege in response to various questions. This privilege appears inapplicable.

Generally, courts hold that the deliberative process privilege protects the decision making processes of the executive branch of the government from discovery. The privilege applies to documents and discussions that are pre-decisional and deliberative. Information is "pre-decisional" if it precedes, in temporal sequence, the decision to which it relates, rather than a post-decisional memoranda setting forth the reason for an agency decision already made.

My questions requested information pertaining to various Administration analyses prior to December 1997 and after December 1997. As you know, December 1997 is significant because in December 1997 the Administration committed the United States to reducing greenhouse gases to 7% below 1990 levels.

Questions, such as 6, 10 and 12, that request information after December 1997 clearly seek information after the decision and do not fall within the deliberative process privilege "pre-decisional" requirement. Therefore, the privilege is patently inapplicable.

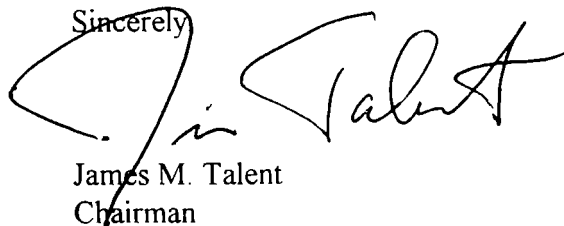
Furthermore, courts strike deliberative process assertions and order disclosure where factors shaping decisions are at issue. Questions 7, 9, and 11 ask for information pertaining to the effect on the U.S. economy of reducing greenhouse gas levels. Questions 13, 15, and 17 seek information pertaining the effect on U.S. jobs of reducing

greenhouse gas emissions. I question the extent to which the Administration considered these factors when binding us to the emissions reduction. Therefore, these factors are at issue and the privilege does not protect the information.

Your office appears to have erroneously asserted the deliberative process privilege. I would appreciate receiving from your office in the next ten (10) days a letter withdrawing the assertion and the responsive materials. In the event your office refuses to withdraw the assertion, I would appreciate receiving in the next ten (10) days a privileged document log which highlights those documents your office claims are protected from production.

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

Sincerely

A handwritten signature in black ink, appearing to read "Jim Talent". The signature is fluid and cursive, with a large initial "J" and a stylized "Talent".

James M. Talent
Chairman

THE WHITE HOUSE
WASHINGTON

cc AC
JA

July 16, 1999

MEMORANDUM FOR THE PRESIDENT

FROM: ROGER BALLENTINE 
RE: OFFICE OF ENVIRONMENTAL INITIATIVES WEEKLY

Climate Change

Press and Industry. The *Wall Street Journal* this week ran a story (with our prompting) on the effort by certain utilities to block your Executive Order on energy efficiency. The article reprints comments from your Georgetown address, and is very favorable to our position. We are working with industry and environmental groups to remove this rider from the Senate Interior Appropriations bill. Also this week, the *Concord (NH) Sunday Monitor* ran an article entitled "Gift from the Sky for Gore?" arguing that having endured a series of warm winters and hot summers, New Hampshire residents are becoming convinced that global warming is a serious problem and are looking for candidates to take a strong position on seeking solutions.

We are beginning to speak with various major players in the utility industry to explore the possibility of these companies taking on voluntary carbon reduction targets. In return, we would work with EPA to give industry some added certainty as to how we will regulate other "criteria" pollutants (NOX, SO2 and mercury).

Legislative. On the House appropriations front, the Foreign Operations Subcommittee funded the Global Environment Facility at \$50M, well below your \$143M request. The Energy and Water Subcommittee adopted a Knollenberg (R-MI) amendment aimed at prohibiting backdoor implementation of the Kyoto Protocol. That Subcommittee also severely cut the Renewable Energy portfolio -- \$119.5M below your request and \$40M below FY99 enacted. There will be a bipartisan effort to restore this funding, and if the offsets are not objectionable, we will support that effort.

The House Republicans' tax bill does not contain any pieces of your climate change tax package. It does not even extend the existing wind and biomass tax credits. We are working with Congressman Matsui (D-CA) and others to include some or all of the climate change package in any Democratic alternative. On the Senate side, Chairman Roth's mark does at least include an extension of the existing wind and biomass credits and expands the biomass credit to

cover additional activities (poultry waste). We are working with Democrats and Republicans to support adding our auto, energy efficient housing, and expanded biomass tax credits.

Congressman Lazio (R-NY) and Congressman Dooley (D-CA) introduced a modified version of the credit for early action legislation introduced by Senators Chafee, Lieberman and Mack.

Lands Legacy

FY2000 Budget. The House passed an Interior Appropriations bill that funds your Lands Legacy Initiative at a level 71% below your request. On a positive note, the full House added a net \$28M to the bill as reported from committee, including the full amount you requested for the Urban Parks and Recreation Program, as well as \$30M for the stateside portion of the Land and Water Conservation Fund.

Authorizing Legislation. We continue to negotiate with both Democrats and Republicans on authorizing legislation that would fulfill your call for permanent funding of conservation, acquisition and restoration priorities. As you know, a disparate array of Members has introduced bills that dedicate offshore oil revenues to environmental and coastal restoration on a permanent basis. These include bills sponsored by Senators Murkowski and Landrieu (co-sponsored by Senator Lott); Senator Feinstein; Senator Boxer; Senator Lieberman; Congressman Don Young; and Congressman George Miller. We hope to reach agreement on as much as possible in the short term (for example, we are close to agreement with enviros, state fish and game agencies, and Republicans on language protecting wildlife habitat). This approach will leave us less to work out in an end-game scenario – the most likely context in which we could enact such legislation.

cc: The Vice President
John Podesta
Maria Echaveste
Steve Ricchetti
George Frampton
Ron Klain
Neal Lane
Joe Lockhart
Gene Sperling
Larry Stein
Jim Steinberg
Janet Yellen



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON, D.C. 20502

Joe Aldy

THE CHAIRMAN

June 11, 1999

Dear Chairman Talent:

This acknowledges receipt of your May 24, 1999 letter enclosing a transcript of my testimony before the Committee regarding the Kyoto Protocol, as well as the Committee's follow-up questions on that subject. Enclosed, as requested, please find an edited transcript of my testimony on April 29. I look forward to responding to the Committee's inquiries and to working cooperatively with the Committee's Members.

The Committee's questions are similar to those sent to us last year by Chairman McIntosh of the Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs of the House Committee on Government Reform and Oversight. We will make available for the Committee's review the CEA documents previously provided to Chairman McIntosh. We will also review our files to determine whether there are any other documents that are responsive to your inquiries.

I have instructed my staff to make every effort to comply with your requested deadline of June 18, 1999. However, the CEA staff is extremely small and charged with responsibility for providing the President with information, analysis and advice on a range of domestic and international economic issues. As a result, we may be unable to complete our work within the time frame you have requested.

Once again, I look forward to working cooperatively with the Committee. If you have any questions, please feel free to contact my Chief of Staff, Audrey Choi, at 202-395-5084.

Sincerely,

Janet L. Yellen

Janet L. Yellen

The Honorable James M. Talent
Chairman
Committee on Small Business
United States House of Representatives
2361 Rayburn House Office Building
Washington, D.C. 20515

Enclosure

THE WHITE HOUSE
WASHINGTON

July 21, 1999

HAND-DELIVERED

Roger Keller, Esq.
Counsel
Committee on Small Business
United States House of Representatives
2361 Rayburn House Office Building
Washington, D.C. 20515

Dear Roger:

Enclosed with this letter are four boxes of documents responsive to Chairman Talent's May 24 request to Chairman Yellen. The documents bear Bates nos. CEA 06001-CEA 19318. Subject to any follow up questions you may have about the six boxes of documents produced to date, this completes the production of "unrestricted" materials referenced in my letter dated July 9. As you and I discussed, I will now turn my attention to determining the extent to which privilege logs were prepared for the production to Chairman McIntosh.

Sincerely,



Steven F. Reich
Senior Associate Counsel to the President

cc: Mr. Michael Day
Minority Staff Director (w/o encs.)

Case File

THE WHITE HOUSE
WASHINGTON

July 21, 1999

Roger A. Keller, Jr.
Majority Counsel
Committee on Small Business
United States House of Representatives
2361 Rayburn House Office Building
Washington, D.C. 20515

Dear Roger:

This responds to your June 25, 1999, letter to Audrey Choi regarding the first two boxes of documents produced to you by CEA. Your letter raises questions about three separate categories of documents which you denominate as "Missing," "Blank," and "Illegible." We respond to each of those categories below.

I. "Missing" Documents

Bates Number(s)

Response

000303	Bates-stamp error; document is complete as produced
000470	Page enclosed
000360	Appears to be a bates-stamp error; document appears complete as produced
000529	Bates-stamp error; document is complete as produced
000636-000643	Pages enclosed
001132	Bates-stamp error; document is complete as produced
001202	Bates-stamp error; document is complete as produced
001535-001536	Pages enclosed
001561	Bates-stamp error; document is complete as produced
001568-001572	Pages enclosed
001583	Page enclosed
001660-001662	Pages enclosed

Roger A. Keller, Esq.

July 21, 1999

Page 2

002537	Page enclosed
003246	Page enclosed
003275	Page enclosed
003295-003296	Pages enclosed
003336	Page enclosed
003338	Page enclosed
003206	Page enclosed
003208	Page enclosed
000316	Page enclosed

II. Blank Pages

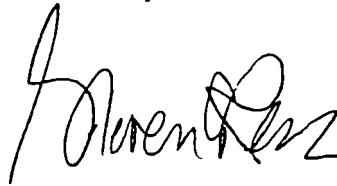
All of the blank pages provided to the Committee are blank in the original production set.

III. Illegible Pages

002789-003167	Pages enclosed
001184-001185	The document is complete as produced. Two bates numbers erroneously were stamped on a single page
001281-001282	The document is complete as produced. Two bates numbers erroneously were stamped on a single page

If you have any additional questions about the matters raised in your June 25 letter, please feel free to contact me directly.

Sincerely,



Steven F. Reich
Senior Associate Counsel to the President

cc: Mr. Michael Day
Minority Staff Director (w/o encs.)



THE CHAIRMAN

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON, D.C. 20502

Joe - Fuji

July 21, 1999

Dear Chairman Talent:

Thank you for your letter dated July 16, 1999. Decisions to withhold documents from production on grounds that they may be subject to privilege are made by the White House's Office of Counsel to the President. It is my understanding that Steven Reich, Senior Associate Counsel to the President, has already been in touch with Roger Keller of your staff regarding these matters, and that Mr. Reich has already agreed to provide a privilege log to Mr. Keller.

If you have any further questions on this subject, you should feel free to have Mr. Keller contact Mr. Reich directly at (202) 456-5073.

Sincerely,

Janet Yellen

The Honorable James M. Talent
Chairman
Committee on Small Business
United States House of Representatives
2361 Rayburn House Office Building
Washington, D.C. 20515



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

Joe A. Pyji

CHIEF OF STAFF

July 20, 1999

- Dear Ms. Deegan:

Enclosed please find the answers to the questions submitted by Chairman Murkowski, Senator Graham and Senator Craig following Dr. Janet Yellen's testimony before the Committee on Energy and Natural Resources on March 25, 1999.

If you have any questions, please feel free to call me on (202) 395-5084.

Sincerely,

Audrey Choi

Ms. Colleen Deegan
Committee on Energy
And Natural Resources
United States Senate
Room 308, Dirksen Senate Office Building
Washington, D.C. 20510

Enclosures

**Responses to Senate Energy and Natural Resources Committee Questions
From Dr. Janet L. Yellen, Chair, Council of Economic Advisers**

Senator Murkowski

- Q1) It is my understanding that when asked if any studies had been done on the impact on labor of the proposed Kyoto Protocol, the Department of Labor responded to the inquiry by sending out a copy of the DRI study commissioned by the United Mine Workers of America. Is that correct? If so, is the DRI study the Administration's official position?
- A1) The July 1998 report "The Kyoto Protocol and the President's Policies to Address Climate Change: Administration Economic Analysis" is the only document that reflects the Administration's official position on the potential economic effects of the Kyoto Protocol.
- Q2) Is it correct that only developed nations, or "Annex I" parties to the Framework Convention can participate in emissions trading?
- A2) Article 17 of the Kyoto Protocol notes that "[t]he Parties included in Annex B may participate in emissions trading for the purposes of fulfilling their commitments under Article 3 of this Protocol." While most countries listed in Annex B of the Protocol are listed as Annex I parties to the Convention, there are a few exceptions.
- Q2a) How many nations are included?
- A2a) 38.
- Q2b) How many of them are trade competitors of the United States?
- A2b) The United States engages in trade in goods and services with all 37 other Annex B countries.
- Q2c) Why would these countries want to sell emissions credits to the U.S. if they need them for their own economic growth?
- A2c) Countries undertaking rational economic behavior to comply with Annex B targets will engage in emissions trading to the extent that such benefits them. A country that is a net buyer (as well as firms that are net buyers) would engage in trading to reduce the costs of their compliance with the Protocol. A country that is a net seller (as well as firms that are net sellers) would engage in trading to reap

the benefits from trading while complying with the Protocol. A country could reduce emissions below its target, and sell these excess emissions allowances to the United States or other Annex B countries, and be made better off. Thus the trading system could promote economic growth, not hinder it, for these selling countries, while at the same time minimizing the impact of achieving reductions in buying countries.

- Q3) Did CEA use any of the Energy Information Administration analysis as input to its analysis? If not, why not?
- A3) In evaluating the economic effects of the Kyoto Protocol, the Administration reviewed the existing economic literature on climate change. This review included an assessment of modeling efforts coordinated by the Stanford Energy Modeling Forum, the OECD, and the Interagency Analytical Team (IAT). EIA did participate in the IAT, and the IAT draft report released in July 1997 included some of the EIA NEMS analysis completed to date. In addition, EIA completed an economic analysis of stabilizing carbon dioxide emissions to 1990 levels by 2010 in October 1997 for the Office of Policy and International Affairs in the Department of Energy. This EIA work served as some of many inputs in our understanding of the Kyoto Protocol.
- Q4) Who conducts the "peer review" of the CEA analysis? Does this include the EIA? If not, why not?
- A4) The Administration's economic analysis has not been peer-reviewed. CEA had the lead in preparing the document and CEA, as a matter of policy, does not submit its reports for peer review. As a document reflecting the Administration's position on the economic effects of the Kyoto Protocol and the President's climate change policies, it did undergo Executive Branch review. EIA, as an independent statistical agency, does not comment on policy matters and thus did not participate in this internal review.
- Q5) You mentioned in your testimony that the meetings in Buenos Aires regarding Annex 1 trading "went well." WEFA says about the same meetings that "no substantial progress was made." What do you think accounts for the difference of opinion? Please elaborate on why you believe the meetings "went well."
- A5) We have been unable to locate in the transcript any such reference regarding Annex 1 trading negotiations. If you could provide us with the excerpt from the transcript that includes this claim, we would be happy to respond to this question.

- Q6) To address global warming, most agree that some precautionary, non-regulatory measures to slow emissions of carbon into the atmosphere are appropriate and prudent at this time. Shouldn't the continued domestic use of nuclear power be one of those precautionary measures?
- A6) Nuclear power is an important component of the nation's energy portfolio, accounting for about 1/5 of electricity generation, and will continue to play an important role. The Administration recognizes this fact. For example, the Administration has proposed in the FY2000 Budget funding for the Department of Energy's new Nuclear Energy Plant Optimization program. This R&D program will assist utilities improve the reliability and safety of older reactors to facilitate relicensing and extend the useful life of these reactors. In addition, the Administration supports the Department of Energy's Nuclear Energy Research Initiative to fund collaborative partnerships among national laboratories, universities, and industry R&D organizations to conduct research on proliferation-resistant reactors and fuel technologies, new techniques for on-site and surface storage of nuclear waste, and other advanced design applications.
- Q7) The President is personally committed to efforts to control greenhouse gas emissions. Yet, this same President continues to oppose legislation passed by both the House and the Senate to allow the U.S. Government to fulfill its obligation to provide safe, centralized, managed storage of spent nuclear fuel. Given that safe and efficient management of spent fuel is critical to the continued viability of nuclear power, and nuclear power is currently our only large-scale source of carbon-free electricity, how is the Administration reconciling these two seemingly opposite positions?
- A7) The Administration is committed to resolving the nuclear waste management issue in a timely and sensible manner, consistent with sound science and the protection of public health, safety and the environment. We believe that the Federal government's long-standing commitment to permanent, geologic disposal should remain the basic goal of high-level radioactive waste management policy. The Administration understands the concerns of the utility industry, public utility commissions, and others about the inability of the Department of Energy to accept spent nuclear fuel, and the Department has made every effort to work cooperatively with the affected parties to find satisfactory ways of mitigating the impacts of this delay and will continue to do so. The Administration is confident that acceptable solutions are available to enable the continued operation of existing nuclear power plants through the remainder of their useful lives.
- Q8) EPA currently restricts many types of emissions under the Clean Air Act, and has recently added new, more stringent restrictions for ozone, particulate matter, and nitrous oxides. Carbon dioxide controls would also be added under the President's Global Climate position. Won't this country's energy policy have to maintain a robust nuclear

generation industry as part of the energy portfolio if these ever-intensifying standards are to be achieved?

A8) Nuclear power is an important component of the nation's energy portfolio, accounting for about 1/5 of electricity generation. The Administration believes that nuclear power will continue to play an important role in providing electricity to consumers without emissions of air pollutants common to some other forms of electricity generation.

Q9) In page one of your testimony, you indicated that your analysis shows that costs of Kyoto can be "modest" if there is "meaningful developing country participation."

Q9a) Please describe what you mean by "meaningful developing country participation."

A9a) The phrase is intended to convey that developing countries commit to serious steps to limit their greenhouse gas emissions and help the world start on the road to addressing global warming. This could be effectively accomplished through developing countries' taking on their own emissions targets, consistent with strong economic growth, which would enable them to participate in international emissions trading. There may also be other potential ideas for accomplishing the desired result, namely that key developing countries take serious steps to limit their emissions. Active participation in the Clean Development Mechanism could be a factor in determining meaningful participation.

Q9b) Does it include China?

A9b) Given its share of global emissions, we consider China a key developing country.

Q9c) What assumption did you make in your analysis? Does China have to participate for there to be "modest" costs?

A9c) The conclusion that the costs of an effective and global implementation of the Kyoto Protocol would be modest is based on a substantial review of the economics literature on climate change. In the illustrative analysis undertaken by the Administration with the Second Generation Model, we took advantage of the structure of the model to evaluate the effects of four large developing countries adopting emissions targets. In the SGM, there are separate modules for China, India, Mexico, and Korea, while all other developing countries are grouped into a "Rest of the World" module. In estimating a permit price of \$23 per ton, we assumed that these four developing countries adopted emissions targets set at their 2010 business as usual emissions level and participated in emissions trading with Annex I countries.

We believe that the participation of China in an emissions trading regime would be mutually beneficial, and that it should make a contribution to the global effort to address climate change. However, it is not necessary for China to adopt an emissions target for the costs to be "modest."

Q9d) Have you received any indication that China will agree to emissions limitations?

A9d) The Administration has discussed this issue previously with the Government of China, and we will continue to do so in the future.

Q10) What kind of future do you see for nuclear power and hydroelectric power if the U.S. has to abide by Kyoto or Kyoto-like targets?

A10) The Administration continues to support nuclear and hydroelectric power as important components of our nation's energy portfolio. We believe that they will continue to play an important role in the future.

Q11) Some people have expressed concerns that when the U.S. has to absorb the costs of saving Social Security and complying with Kyoto at the same time, there could be a very negative effect on our current budget surplus. How should this be handled?

A11) The President's proposal for Social Security reform would dedicate most of the projected budget surpluses for the next 15 years to Social Security reform, with smaller shares for reforming Medicare, establishing USA accounts to encourage personal saving, and addressing critical national needs. This last piece would include military readiness, education, and research. While the Administration will continue to fund climate change research, such as through the Global Climate Research Program, and energy efficiency and renewables R&D, such as through the Climate Change Technology Initiative, all such expenditures would be consistent with applicable budget caps, and therefore would not have a negative effect on our current budget surplus.

Senator Graham

Q1) Does the Administration's analysis estimate the economic and environmental benefits of addressing climate change?

A1) The Administration did not undertake an independent assessment of the climate change-related economic and environmental effects of mitigating climate change risks. However, we did review several existing analyses from the economics literature on this issue. These studies found that a doubling of atmospheric concentration of carbon dioxide could result in annual U.S. economic costs on the order of 1% of GDP. Please refer to pages

69-70 of "The Kyoto Protocol and the President's Policies to Address Climate Change: Administration Economic Analysis" for more discussion of these studies.

The Administration did make an illustrative calculation of the possible air quality ancillary benefits associated with abating greenhouse gases. By reducing emissions of carbon dioxide, emissions of particulate matter and ozone precursors are also reduced. We found that the economic benefits of reducing emissions of these local air pollutants could offset at least one-quarter of the direct resource costs from abating greenhouse gases. Please refer to pages 66-69 of "The Kyoto Protocol and the President's Policies to Address Climate Change: Administration Economic Analysis" for more discussion of this analysis.

Q2) Have the costs associated with not taking action been analyzed?

A2) Please refer to the response to question 1.

Q3) What assumptions has the Administration made in the analysis regarding the U.S. nuclear energy industry? Are the assumptions consistent with the Energy Information Administration's forecast for the future U.S. nuclear power production? If not, what is the basis for the difference?

A3) The model used for the Administration's illustrative analysis -- the Second Generation Model (SGM) -- is benchmarked to the EIA Annual Energy Outlook for the United States. The version of SGM used for this analysis was based on the 1997 Annual Energy Outlook, so assumptions regarding nuclear power in the future under business as usual are consistent with 1997 EIA assumptions. For a detailed explanation of how various energy sectors respond to a tradable permit system in SGM, please refer to pages 96-392 of "The Kyoto Protocol and Its Economic Implications", hearing before the Subcommittee on Energy and Power of the Committee on Commerce, House of Representatives, March 4, 1998.

Q4) Has the Administration considered the impact that the lack of a clear nuclear waste policy may have on the future of the nuclear power industry?

A4) The Administration is committed to resolving the nuclear waste management issue in a timely and sensible manner, consistent with sound science and the protection of public health, safety and the environment. We believe that the Federal government's long-standing commitment to permanent, geologic disposal should remain the basic goal of high-level radioactive waste management policy.

Q5) Does your economic model include an uncertainty analysis (i.e., standard deviation, variance)? Have you performed sensitivity analyses for your baseline assumptions?

A5) The analysis did not include a sensitivity analysis.

Senator Craig

I) July 1998 Report on the Kyoto Protocol

The Administration's July 1998 report concluded that the economic costs of complying with the Kyoto Protocol would be "modest." Specifically, predicted that the cost would be 0.1 percent of Gross Domestic Product. The report explained that this result assumed that reductions would be achieved in an "efficient manner." This is defined as employing all three "flexibility mechanisms" provided for by the Protocol: emissions trading, the Clean Development Mechanism, and joint implementation.

QI1) Your report states that the economic costs of complying with the Kyoto Protocol would be "modest." The report explains that this result assumes domestic and international emissions trading and other flexibility mechanisms. However, the report does not explicitly state how much of the United States' emissions reduction target will be achieved by trading and other flexibility mechanisms. In your model, what share of the United States' reduction target would be achieved by trading and other flexibility mechanisms and what share would be achieved by reducing domestic emissions?

AI1) The illustrative model we used -- on the assumption of international trading with industrialized and key developing countries -- implies that domestic action accounts for about 25% of total emissions reductions at a permit price of \$23 per ton. However, this is not an accurate representation of what the Administration thinks will occur domestically because this model output explicitly excludes domestic policies that the Administration believes could have a large impact on the amount of reductions accomplished at home.

First, the Administration's electricity restructuring proposal is estimated to result in 40-60 million tons (carbon equivalent) of reductions, or up to 10% of the greenhouse gas reductions necessary to comply with the Kyoto target. Second, the Protocol allows for sink mitigation activities to be used to offset emissions, and the Administration believes there is large potential here for sequestering carbon dioxide. The Administration Economic Analysis cites two studies that claim very large possibilities for carbon sequestration from forestry activities. With good interpretive provisions negotiated and reasonable policies, we could have sizable reductions from sequestration -- perhaps in the range of 25-50 million tons of carbon equivalent or higher. Third, the President has proposed a \$6.3 billion R&D and tax initiative to spur technology innovations in buildings, industrial processes, and transportation to reduce greenhouse gas emissions

through energy efficiency programs, and that there will presumably be other policies offered in the 10-year period between now and 2008. This technology-focused effort could further reduce emissions. Finally, other efforts, like voluntary agreements with industry sectors and improvements in how the Federal Government uses energy, could further increase the amount of domestic emissions reductions.

QI2) In estimating the costs of a proposed policy change, responsible policy analysis normally involves making a range of reasonable assumptions and, thus, producing a range of results. That is certainly true of many other studies of the costs of complying with the Kyoto Protocol. I am puzzled that your study apparently used only one set of assumptions and, thus, produced only one result. Did you use only one set of assumptions? If so, would you consider that to be responsible policy analysis? Alternatively, did you use other sets of assumptions and produce other results? If so, what were the assumptions and results?

AI2) In conducting the economic analysis of the Kyoto Protocol, the Administration evaluated a wide array of possible scenarios, including various international emissions trading blocs, ranges of estimates of carbon sink activities, and different assumed rates of autonomous energy efficiency improvement (AEEI). In presenting our results, we made the decision that the scenario should reflect the Administration's position and policies on climate change, including efficient international trading, while being conservative, including assumptions of zero carbon sink activities throughout the world and an AEEI consistent with the Energy Information Administration's forecast. The Administration believes that carbon sinks have the potential to provide significant cost-savings and efforts to promote technologies, such as the Climate Change Technology Initiative, could accelerate the deployment of energy efficient products and processes.

For a comprehensive presentation of the results from these various scenarios, please refer to pages 96-392 of "The Kyoto Protocol and Its Economic Implications", hearing before the Subcommittee on Energy and Power of the Committee on Commerce, House of Representatives, March 4, 1998.

II) International Emissions Trading

The Administration's economic estimate of the cost of complying with the Kyoto Protocol apparently assumes extensive international trading of emissions credits. Russia, Ukraine, and other countries of the former Soviet Union are widely discussed source of such credits. This is due to the expectation that the former Soviet Union's economy will not, by 2010, have recovered to its 1990 level. According to the Energy Information Administration, the former Soviet Union emitted 991 million metric tons in 1990 and is

expected to emit 792 million metric tons in 2010 (*International Energy Outlook* -- 1998). The former Soviet Union's agreed-to goal for the first budget period (2008-12) is its 1990 level -- no decrease. Thus, the former Soviet Union would be able to sell 199 million metric tons to the United States or other nations, to help them meet their targets.

- QII1) Do you agree with the Energy Information Administration's estimate that the former Soviet Union emitted 991 million metric tons in 1990 and is expected to emit 792 million metric tons in 2010 -- a reduction of 199 tons? Is it true that, despite its expected reduction in emissions between 1990 and 2010, Russia and Ukraine are required to make no reduction from its 1990 emission level by the first budget period? Can you help us understand why such a no-reduction goal was acceptable for the former Soviet Union, while the United States needs to achieve a 31% reduction by 2010?
- AII1) Through its annual publication of the *International Energy Outlook*, EIA provides forecasts for countries and regions from around the world on a variety of energy-related indicators, including carbon dioxide emissions. Other organizations, such as the International Energy Agency, also make forecasts of energy variables, including carbon dioxide emissions. There is some uncertainty inherent to any emissions forecast. We would note, for example, that EIA, in its 1999 *International Energy Outlook*, has revised its forecast for the Former Soviet Union for 2010. However, we would agree that, given current expectations about economic performance and energy sector activities, the former Soviet Union countries will have carbon dioxide emissions levels below their 1990 levels during the first commitment period (2008-2012) of the Kyoto Protocol.

Russia and Ukraine have emissions targets set at their 1990 emissions levels in Annex B of the Kyoto Protocol. The emissions targets for these countries, as well as for all other Annex B countries, and the various provisions of the Protocol reflect a negotiated compromise. The Conference of the Parties agreed to Russian and Ukrainian targets set at their 1990 levels.

- QII2) Assuming that there is international trading of emissions credits, wouldn't the former Soviet Union be able to sell those 199 tons to other countries? Are these 199 tons sometimes referred to as "hot air?" Would the former Soviet Union be able to sell those credits -- potentially reaping billions of dollars -- even if it does not any steps to reduce its emissions? Is there any net reduction in worldwide emissions as a result of selling the "hot air" credits? If not, how will the environment benefit? If there is no environmental benefit, why transfer billions of dollars to the former Soviet Union?

- AI2) While the rules for international trading have not yet been developed, the United States supports rules that would promote an efficient trading system.

The so-called “hot air” -- the term used by the European Union -- would be tradable in an efficient international emissions market. However, trade in these emissions allowances that exceed their actual emissions during the commitment period would not undermine the climate goal of Kyoto; a reduction of Annex B emissions to 5.2% below 1990 levels. If trading constraints are established that restrict the ability of Russia to sell permits (or restrict the opportunity for other Annex I countries to buy Russian permits), then emissions during the first commitment period would be lower than in the absence of such constraints. However, Russia would simply bank its allowances and use these allowances in a subsequent commitment period when its emissions exceed its target. While a trading constraint might lower emissions during the first commitment period, the cumulative emissions over several commitment periods from Annex I countries would be the same with and without the trading constraint. Given the long residence times of greenhouse gases (on the order of a 100 or more years), the cumulative effect is what is most relevant in terms of changes in the global climate.

- QII3) It might be argued that such an arrangement is needed to entice the former Soviet Union to become involved in a multinational effort to reduce greenhouse gas emissions. However, even if the former Soviet Union were to sell its “hot air” credits in the first budget period, would there be any necessary carry-over beyond 2012? Is there a legal obligation for the former Soviet Union to be involved beyond the first budget period? In essence, couldn't it reap a windfall in the first budget period and then refuse to participate unless there were another windfall?

- AI3) All countries have the opportunity under the Kyoto Protocol to leave the agreement with one year's notice. Further, under the Protocol, no country has a legal obligation beyond 2012. Thus, almost any hypotheses about subsequent commitments could be possible.

III) Emissions Reductions for the United States and Other Nations

Most economically developed countries agreed, in the Kyoto Protocol, to reduce their emissions during the first “budget period” -- 2008-2012. For example, Japan agreed to a 6% reduction below its 1990 emissions level; the United States, to a 7% reduction; and the European Union, to an 8% reduction. Thus, the United States' goal appears to be right in line with the Japanese and European Union goals. However, it is important to note that these reductions are -- with extremely minor exceptions -- relative to 1990 emissions levels, regardless of where we would have been in 2008-2012 without the

Kyoto Protocol. Thus, in determining the total reduction needed, one must take into account two factors: (1) where a country's emissions level would have been -- absent Kyoto -- in 2010 (the mid-point of the budget period) and (2) the agreed-to reduction below the 1990 level. Although the agreed-to reduction for the United States is roughly the same as the others' reductions, our economy has been, and is expected to be, more robust. Thus, the United States will need to make deeper reductions than the Japanese and the European Union economies. Specifically, the independent Energy Information Administration (*International Energy Outlook -- 1998*) estimated that the United States will need to reduce emissions by 31%; Japan, by 25% and the European Union, by 19%.

QIII1) I understand that the United States committed, in Kyoto, to a 7% reduction in greenhouse gases. Is that the same level of reduction as agreed to by Japan, the European Union, and other industrialized countries?

AIII1) The United States agreed to an emissions target of 1990 -7% for the 2008-2012 period, conditioned by the use of 1995 as the base year for PFCs, HFCs, and SF₆, and the use of specified carbon sink activities that could offset some emissions. With this formulation of a target, Japan agreed to 1990 -6%, while the EU agreed to 1990 -8%. How these targets translate into reductions from business as usual levels for 2008 to 2012 depends on emissions forecasts for all six greenhouse gases and carbon sink activities. EIA only makes forecasts for emissions of carbon dioxide from fossil fuel combustion. Moreover, its forecasts do vary some from year to year (refer to the 1999 International Energy Outlook for the latest EIA carbon dioxide emissions forecasts). Forecasts also vary from one organization to another. The International Energy Agency of the OECD also forecasts carbon dioxide emissions. In its 1998 World Energy Outlook, the IEA found, for example that OECD Europe emissions in 2010 would be 27% above an emissions level equal to a 1990 -8% carbon dioxide target while OECD North America emissions in 2010 would be 29% above an emissions level equal to a 1990 -7% carbon dioxide target and OECD Pacific emissions in 2010 would be 28% above an emissions level equal to a 1990 -6% carbon dioxide target. Thus, while we can state with certainty the Kyoto targets with respect to base year emissions, there is significant uncertainty with respect to describing emissions targets relative to forecast business as usual emissions.

QIII2) Is it true that this represents a 7% reduction against 1990 levels? If so, is it also true that the reduction does not account for likely growth between 1990 and 2008-2012?

AIII2) Annex B targets are designed as a percentage change from a base year. For the United States, the base year is 1990 (however, as noted in AIII1, the United States may use 1995 as the base year for PFCs, HFCs, and SF₆). Further, the Protocol

allows for specified activities from 1990 through 2012 that contribute to carbon sequestration to also count towards an emissions target. The nature of this commitment is a fixed quantitative target, and does not explicitly incorporate emissions growth between 1990 and the commitment period.

QIII3) How much are the United States' emissions expected to grow -- under a business as usual scenario -- between 1990 and 2010 (the mid-point of the budget period)? How does that compare with expected growth for Japan and the European Union? Isn't it true that, taking into account expected economic growth, the United States has taken on a much more ambitious target than other industrialized countries?

AIII3) As noted above, emissions forecasts vary from year to year and from one forecasting organization to another. This makes it difficult to state definitively if one country's target is more ambitious than another's. More importantly, the stringency of a target is not simply a function of the percentage change in emissions from business as usual, but also the opportunities for reducing emissions, both at home and abroad. With an efficient international emissions market, all participating countries should pay the same price for reducing a ton of greenhouse gas. Thus, while targets may vary, the incremental effect on energy prices would be common across these countries. Even without the international flexibility mechanisms, the costs of abating emissions could vary significantly across countries. Some models find that with the targets specified in the Kyoto Protocol, and assuming no international trading, the domestic marginal cost of abatement would be higher in the EU and Japan than in the United States. These results indicate that the United States may not have taken on a uniquely ambitious target.

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON SCIENCE

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

cc: JV
JA
AC
RL

Received
GEORGE E. BROWN, JR., California
Ranking Minority Member
6/14/99

June 3, 1999

The Honorable Janet L. Yellen
Chair, Council of Economic Advisers
Executive Office of the President
Old Executive Office Building
Washington, DC 20502

Dear Dr. Yellen:

I am writing to you about the proposal adopted by the European Union (EU) on May 17, 1999, that apparently attempts to define the term "supplemental to domestic actions" in regards to the mechanisms authorized by Articles 6, 12 and 17 of the Kyoto Protocol. I do so particularly in light of your April 29, 1999 remarks to the House Committee on Small Business where you reiterated that the costs of achieving the U.S. target under the Protocol "would be modest" if the U.S. "can succeed" regarding two conditions, namely "meaningful participation" in the Protocol through legally binding commitments by developing countries and implementation of the Kyoto mechanisms "in an efficient manner." In the case of the Kyoto mechanisms, you said such implementation "is critical to reducing the costs of achieving the targets established in the Kyoto Protocol," although you do not explain what is encompassed by the phrase "in an efficient manner." You also said:

"Assuming that effective mechanisms for international trading, joint implementation, and the Clean Development Mechanism are established, and assuming also that the United States achieves meaningful participation by key developing countries, the Administration's overall assessment is that the economic cost of attaining the targets and timetables specified in the Kyoto Protocol will be modest for the United States in aggregate and for typical households."

The EU, however, in its May 17 pronouncement restates that "the provisions in Articles 6, 12 and 17 of the Protocol require that domestic action should provide the main means of meeting the commitments under Article 3 of the Protocol and that a concrete ceiling on the use of the Kyoto mechanisms should be defined." The EU paper goes on to propose a definition of the "concrete ceiling" as a "basis for further negotiations," and press reports indicate that the EU's proposed "concrete ceiling" is 50 percent. Also on May 17, the State Department expressed disappointment that the EU is "seeking to restrict the use of emission trading" and stressed, as I would expect based on prior comments, that the U.S. will "strongly oppose" such restrictions in "future negotiations," saying that the matter was settled at Kyoto, "as part of the complex set of compromises that formed the Protocol." However, the EU obviously does not agree.

The Honorable Janet L. Yellen
June 3, 1999
Page two

Based on your testimony and the importance you place on unfettered availability of the Kyoto mechanisms as the basis for your economic analysis, I presume that the U.S. negotiators will stand fast through 2000 and beyond. However, I believe it important for Congress and the public to understand how and to what extent the EU definition, if adopted, would limit not only the trading mechanism, but also the project-based Kyoto mechanisms. I therefore request your analysis of the EU proposal and its impact on your claim of only "modest" costs in achieving the U.S. target "in an efficient manner without such a limit."

At the same time, I note that as to the Protocol's Articles 6 and 17 term "supplemental to domestic actions," the State Department said, in response to Senator Hagel's questions of February 11, 1998 (see questions 6.13 (c)(ii)(A)), that it was accepted by the Kyoto negotiators "as long as no specific quantified limits were imposed." In a September 18, 1998 reply to me, the Department said that the Conference of the Parties is "not authorized to further define (or quantify) that term." Assuming that the U.S. position on quantification is sustained, there still remains a lack of a clear explanation of the meaning of the term as it applies to the U.S. In its response to Senator Hagel, the State Department also said: "Our understanding of the Protocol text would be that any domestic action (and a considerable amount would be envisaged, including through the establishment of a domestic emissions trading program, as well as through domestic policies such as those described in the response to question 5.9 above) would satisfy the 'supplemental' requirement." Of course, the domestic emissions trading program does not now exist and it would require legislation if and when the Protocol is ratified. As to the other "domestic policies" in reply to "question 5.9," the State Department said:

"U.S. actions to mitigate climate change have been underway since the Bush Administration first negotiated our commitments under the UN Framework Convention on Climate Change — and are independent of any actions that we might take should the Protocol be ratified and enter into force. Furthermore, these actions make sense by reducing our energy costs, reducing local air pollution, and promoting the development and export of clean energy technology. The Administration intends to continue to take such actions, and expects that Congress will fully endorse such actions pursuant to U.S. undertakings under the Convention ratified in October 1992 after the advice and consent of the Senate.

* * * * *

"The G-8 agreement does not require additional commitments from the U.S. prior to entry into force of the Kyoto Protocol.

"Attached is a copy of (1) the U.S. Climate Change Action Plan, (2) the President's statement to the National Geographic Society from October 1997, and (3) the budget materials for the proposed Climate Change Technology Initiative; collectively, they outline actions currently proposed and anticipated to be taken to reduce emissions. In order for the United States to become a party to the Protocol, the Senate would need to give its advice and consent to ratification, and Congress would need to appropriate funding for, and where necessary, enact legislation to implement our commitments. The Administration would seek to work with Congress in the development of such legislation."

The Honorable Janet L. Yellen

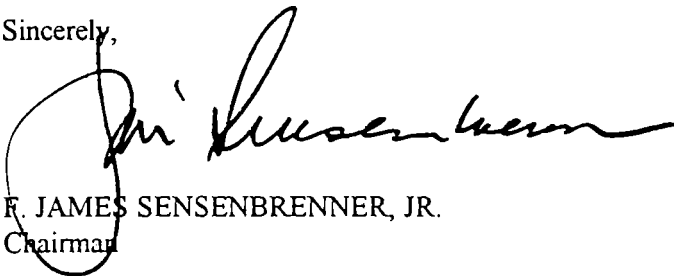
June 3, 1999

Page three

All of that is quite vague and uncertain and, to some extent, properly so because the Protocol has not been submitted to the Senate as yet. Nevertheless, your economic analysis is heavily dependent on unfettered use by the U.S. of the Kyoto mechanisms, while it does not address the issue of whether the U.S. can meet its target, if and when the Protocol is ratified, solely on the basis of the Kyoto mechanisms. It only addresses, as I understand it, the question of "modest" costs. The above reply to questions would suggest that the Kyoto mechanisms are not nearly enough to achieve the target and, of course, if the EU limitation or some form of a "quantified and qualitative" limitation is ultimately accepted by the U.S. at COP-6 or thereafter, the need for domestic policies would be exacerbated. I therefore would like to know to what extent is it expected from your analysis that the U.S. will achieve its target solely on the basis of the Kyoto mechanisms without any limitation on their use and without domestic policies requiring legislation or regulations. Can the U.S. continue to accept the Protocol's Article 3 target and commitment period if there is any limitation, quantified and/or qualitative, on one or all of the Kyoto mechanisms?

I would like your response to these matters within 60 days after receipt of this letter. In responding, please consult with the State Department and such other agencies as you believe necessary for a complete reply.

Sincerely,



F. JAMES SENSENBRENNER, JR.
Chairman

FJS/hlw

cc: Hon. Frank E. Loy, Under Secretary of State for Global Affairs
Hon. Bill Richardson, Secretary of Energy
Hon. Jay E. Hakes, Administrator, Energy Information Administration
Hon. Carol M. Browner, Administrator, U.S. Environmental Protection Agency

THE WHITE HOUSE
WASHINGTON

AR
JA
File

August 24, 1999

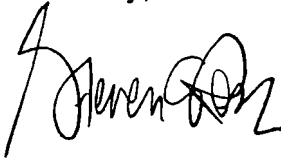
Roger Keller, Esq.
Counsel
Committee on Small Business
United States House of Representatives
2361 Rayburn House Office Building
Washington, D.C. 20515

Dear Roger:

As promised, enclosed are the final two privilege logs, which have been updated to show, on a document-by-document basis, the privilege to which the documents are subject. Consistent with the McIntosh production, the logs are captioned "Additional CEA Documents Not Produced," and "CEA Presidential or Vice Presidential Documents."

If you have any questions, please feel free to call.

Sincerely,



Steven F. Reich
Senior Associate Counsel to the President

Enclosures

cc: Mr. Michael Day
Minority Staff Director (w/o encs.)

ADDITIONAL CEA DOCUMENTS NOT PRODUCED
(Log from McIntosh Production)

DOCUMENT NUMBER	DATE	FROM	TO	SUBJECT	PRIVILEGE ¹
1	06/05/94	Seidman	Car Talk Steering Comm.	Memo to the President on Car Talk Advisory Comm. Nominees, with Draft Memo to the President attached	Executive Privilege
2	10/16/97			Draft Talking Points for Meeting with President on Safety Valve	Executive Privilege
3	10/22/97			Draft Speech for President for President at National Geographic Society	Executive Privilege
4	02/24/98	Lutter	Yellen, et al.	Memo Excerpting Earlier Memo to the President	Executive Privilege
5	03/16/98			Notes of Meeting with White House Counsel re: Document Requests and Potential Privilege Issues	Executive Privilege; Attorney Client Privilege; Document Request Compliance Document
6	05/28/98	Jolin	Yellen	Draft Presidential Letter to Congressman	Executive Privilege
7	04/17/98 06/06/98 06/15/98 06/19/98 07/26/98	Stern	President	Climate Change Weekly Reports	Executive Privilege

¹ Documents subject to claims of deliberative process and presidential communications privilege are, for these purposes, subsumed under the rubric of "executive privilege."

**CEA Presidential or Vice Presidential Documents
(Log from McIntosh Production)**

DOCUMENT NUMBER	DATE(S)	FROM	TO	SUBJECT	PRIVILEGE¹
1	12/13/94	Gibbons	Vice President	Memo re: communicating state of knowledge on climate change (CC)	Executive Privilege
2	12/19/94	CEQ Staff for McGinty	Vice President	Memo to prepare for mtg on CC	Executive Privilege
3	05/15/95	McGinty	Vice President	Memo on CC negotiations and policy process	Executive Privilege
4	05/23/97	Albright	Vice President	Sec of State memo on CC negotiations; same memo with cover memo to interagency group	Executive Privilege
5	02/97- 04/98	Yellen	President	Various Weekly Economic Briefing of the President (WEB) articles and drafts; WEB article w/attached memo from CEA to Senior WH Advisor	Executive Privilege
6	06/97	McGinty, Tarullo and others	President	Drafts of memo to President re: US position at Denver Summit of the Eight and UN General Assembly Special Session on Environment and Development; drafts w/ cover memos; memos w/comments on draft memo; CC Principals memo that was used to draft memo to President	Executive Privilege

¹ Documents subject to claims of deliberative process and presidential communications privilege are, for these purposes, subsumed under the rubric of "executive privilege."

DOCUMENT NUMBER	DATE(S)	FROM	TO	SUBJECT	PRIVILEGE
7	06/97	McGinty, Tarullo	President	Memo to President re: decisions on CC policy for Denver Summit and UNGA Special Session; revision of same memo; same memo w/ cover memo from WH Staff Secretary; WH Staffing memo circulating same memo	Executive Privilege
8	06/23/97		President	Draft remarks by President to UN session on environment and development in NY	Executive Privilege
9	08/97-10/97	Yellen, Summers and others	President	Drafts of, comments on, and substantive input for memo re: economics of CC policy	Locating file -- privilege information will be provided
10	08/10/97	NEC Staff	President	Draft memo re: Process for decision-making on CC policy	Executive Privilege
11	09/15/97	Frankel		Handwritten notes on CC from mtg w/President	Executive Privilege
12	09/30/97		President	Draft of remarks by President on CC to weather forecasters	Executive Privilege
13	09/97	Sperling, McGinty and Tarullo	President	Drafts of and comments on memo to the President re: CC policy options and decision points	Executive Privilege
14	09/97-10/97	Sperling, McGinty and Tarullo	President	Drafts of and comments on memo to the President re: CC policy options	Executive Privilege
15	10/97	Sperling, McGinty, Tarullo, Steinberg and Stern	President	Drafts of and comments on memo to the President re: CC policy options	Executive Privilege

DOCUMENT NUMBER	DATE(S)	FROM	TO	SUBJECT	PRIVILEGE
16	10/97	Summers	President	Drafts of and comments on memo to the President re: economics of CC policy options	Executive Privilege
17	10/1/97	Summers		Talking points for mtg w/ President re: economics of reducing emissions	Executive Privilege
18	10/1/97	Yellen		Talking points for mtg w/ President re: economics of reducing emissions	Executive Privilege
19	10/1/97	Frankel		Handwritten notes from mtg w/ President re: CC policy decisions	Executive Privilege
20	10/18/97	Sperling, McGinty, Tarullo, Steinberg and Stern	President	Draft memo to President re: CC policy decisions	Executive Privilege
21	10/21/97	Frankel		Handwritten notes from mtg w/ President	Executive Privilege
22	10/22/97		President	Draft remarks by President re: CC policy at National Geographic Society	Executive Privilege
23	11/3/97	Frankel		Handwritten notes from mtg w/ President	Executive Privilege
24	11/30/97	Sperling, McGinty, Tarullo, Steinberg and Stern	President	Memo to President re: Kyoto Negotiating Guidance	Executive Privilege

DOCUMENT NUMBER	DATE(S)	FROM	TO	SUBJECT	PRIVILEGE
25	1/30/98		President	WH staffing memo transmitting draft of President's radio address on climate change technology initiative; draft of radio address; e-mail re: same	Executive Privilege
26	02/06/98	Stern, McGinty Steinberg Sperling	President	Decision memo re: Kyoto Protocol; WH staffing memo transmitting same memo for comments	Executive Privilege
27	02/98	Sperling McGinty	President	Drafts of decision memo re: Administration's electricity restructuring proposal	Executive Privilege
28	03/04/98	Raines	President	Memo to the President re: message to Congress on Federal Resources for climate change programs	Executive Privilege

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

1. Is the July 1998 "Kyoto Protocol and the President's Policies to Address Climate Change: Administration Economic Analysis" the only analysis, economic or otherwise, published by the Administration with regard the Kyoto Protocol's economic effects?
 - a. Please provide the anticipated amount of greenhouse gas emissions and reduction obligations as published in the Administration's July 1998 analysis for each country from 2008 to 2012 identified in attached **Chart A**.
 - b. Please provide the anticipated amount of credits the Administration's July 1998 published analysis assumes each country from 2008 to 2012 identified in **Chart B** will supply or demand.
 - c. Complete the anticipated domestic baseline costs, e.g., without any flexibility measures, the Administration's July 1998 analysis assumes will be necessary for each country from 2008 to 2012 identified in **Chart C** to meet its Kyoto Protocol obligations.
2. If your response to question 1 is negative, identify and produce any additional analysis, economic or otherwise, published by the Administration. If any additional analyses are produced, provide the same information for each analysis as requested in question 1.
3. Has the Administration published an analysis, economic or otherwise, that demonstrates the Kyoto Protocol's effects on U.S. jobs?
4. If your response to question 3 is yes, identify and produce all analysis, economic or otherwise, published by the Administration.
5. Identify and produce all Administration documents used to prepare the United States delegates to the Conference of the Parties (COP-3) in Kyoto, Japan in December 1997.
 - a. Please identify and produce any quantitative economic analysis the Administration made before the Kyoto Protocol that analyzes the Protocol's effect on the United States' economy.
6. Identify and produce all Administration analyses after December 10, 1997 that analyzes, either economically or otherwise, the obligations assumed by the United States at the Conference of the Parties (COP-3) in Kyoto, Japan in December 1997.

- a. Complete the anticipated amount of greenhouse gas emissions and reduction obligation each analysis identified in your response to question no. 6 assumes for each country from 2008 to 2012 listed in attached **Chart A**.
- b. Complete the anticipated amount of credits each analysis identified in your response to question no. 6 assumes each country from 2008 to 2012 identified in **Chart B** will supply or demand.
- c. Complete the anticipated domestic baseline costs, e.g., without any flexibility measures, each analysis identified in your response to question no. 6 assumes will be necessary for each country from 2008 to 2012 identified in **Chart C** to meet its Kyoto Protocol obligations.

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

- a. Complete the anticipated amount of greenhouse gas emissions and reduction obligation each analysis identified in your response to question no. 7 assumes for each country from 2008 to 2012 identified in attached **Chart A**.
- b. Complete the anticipated amount of credits each analysis identified in your response to question no. 7 assumes each country from 2008 to 2012 identified in **Chart B** will supply or demand.
- c. Complete the anticipated domestic baseline costs, e.g., without any flexibility measures, each analysis identified in your response to question no. 7 assumes will be necessary for each country from 2008 to 2012 identified in **Chart C** to meet its Kyoto Protocol obligations.

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

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

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

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

- a. Complete the anticipated amount of greenhouse gas emissions and reduction obligation each analysis identified in your response to question no. 9 assumes for each country from 2008 to 2012 identified in **Chart A**.
- b. Complete the anticipated amount of credits each analysis identified in your response to question no. 9 assumes each country from 2008 to 2012 identified in **Chart B** will supply or demand.
- c. Complete the anticipated domestic baseline costs, e.g., without any flexibility measures, each analysis identified in your response to question no. 9 assumes will be necessary for each country from 2008 to 2012 identified in **Chart C** to meet its Kyoto Protocol obligations.

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

- a. Complete the anticipated amount of greenhouse gas emissions and reduction obligation each analysis identified in your response to question no. 10 assumes for each country from 2008 to 2012 identified in **Chart A**.
- b. Complete the anticipated amount of credits each analysis identified in your response to question no. 10 assumes each country from 2008 to 2012 identified in **Chart B** will supply or demand.
- c. Complete the anticipated domestic baseline costs, e.g., without any flexibility measures, each analysis identified in your response to question no. 10 assumes will be necessary for each country from 2008 to 2012 identified in **Chart C** to meet its Kyoto Protocol obligations.

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

- a. Complete the anticipated amount of greenhouse gas emissions and reduction obligation each analysis identified in your response to question no. 11 assumes for each country from 2008 to 2012 identified in **Chart A**.
- b. Complete the anticipated amount of credits each analysis identified in your response to question no. 11 assumes each country from 2008 to 2012 identified in **Chart B** will supply or demand.
- c. Complete the anticipated domestic baseline costs, e.g., without any flexibility measures, each analysis identified in your response to question no. 11 assumes will be necessary for each country from 2008 to 2012 identified in **Chart C** to meet its Kyoto Protocol obligations.

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

- a. Complete the anticipated amount of greenhouse gas emissions and reduction obligation each analysis identified in your response to question no. 12 assumes for each country from 2008 to 2012 identified in **Chart A**.
- b. Complete the anticipated amount of credits each analysis identified in your response to question no. 12 assumes each country from 2008 to 2012 identified in **Chart B** will supply or demand.
- c. Complete the anticipated domestic baseline costs, e.g., without any flexibility measures, each analysis identified in your response to question no. 12 assumes will be necessary for each country from 2008 to 2012 identified in **Chart C** to meet its Kyoto Protocol obligations.

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

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

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

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

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

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

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

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

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

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

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

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

- a. the Council of Economic Advisors estimates regarding increased costs for an average household in key regions of the country. This should

include estimates for oil (heating and gasoline), natural gas, and electricity for a typical household in the Northeast, Southeast, South, Mid-West, Northwest and Southwest regions of the United States;

- b. the Council of Economic Advisors estimates regarding increased 2010 living costs for a senior citizen living on social security;
- c. the Council of Economic Advisors estimates regarding increased 2010 living costs for an individual living on welfare;
- d. the Council of Economic Advisors estimates regarding operating costs for an average small business of 50 employees. This should include estimates for oil (heating and gasoline), natural gas, and electricity for a typical small business in the Northeast, Southeast, South, Mid-West, Northwest and Southwest regions of the United States.

Action: JA 001
cc: MJ
File



Cover + 7

SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
WASHINGTON, DC 20510
VOICE: 202-224-6476 8115
Fax 202-228-6559 0302

To: Michèle Jolin
Chief of Staff
F# 395-16958

Date: 4.6.99

From: Calleen Deegan *for*

Time: 11:45 am

SUBJECT: 3.25.99 Hq. on Climate Change
(Kyoto)

COMMENTS: See attached letter & questions.
Dr. Yellen's letter is being mailed
today.

FRANK H. MURKOWSKI, Alaska, Chairman

PETE V. DOMENICI, New Mexico
DON NICKLES, Oklahoma
LARRY E. CRAIG, Idaho
BEN NIGHTHORSE CAMPBELL, Colorado
CRAIG THOMAS, Wyoming
GORDON SMITH, Oregon
JIM BURNING, Kentucky
PETER G. FITZGERALD, Illinois
SLADE GORTON, Washington
ONRAD BURNS, Montana

JEFF BINGAMAN, New Mexico
DANIEL K. AKAKA, Hawaii
BYRON L. DORGAN, North Dakota
BOB GRAHAM, Florida
RON WYDEN, Oregon
TIM JOHNSON, South Dakota
MARY L. LANDRIEU, Louisiana
EVAN BAYH, Indiana
BLANCHE L. LINCOLN, Arkansas

ANDREW D. LUNDOQUIST, STAFF DIRECTOR
DAVID G. DYE, CHIEF COUNSEL
JAMES P. BEIRNE, DEPUTY CHIEF COUNSEL
ROBERT M. SIMON, DEMOCRATIC STAFF DIRECTOR
SAM E. FOWLER, DEMOCRATIC CHIEF COUNSEL

United States Senate

COMMITTEE ON
ENERGY AND NATURAL RESOURCES

WASHINGTON, DC 20510-8150

WWW.SENATE.GOV/~ENERGY

April 5, 1999

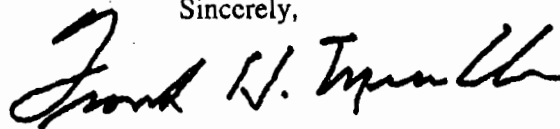
Dr. Janet L. Yellen
Chair
Council of Economic Advisers
Old Executive Office Building, Suite #314
Washington, DC 20502

Dear Dr. Yellen:

Thank you for testifying at the March 25, 1999, oversight hearing held by the Committee on Energy and Natural Resources to consider the economic impacts of the Kyoto Protocol to the Framework Convention on Climate Change. The Committee appreciated the opportunity to hear your views and concerns about this matter.

Attached please find additional questions from me, Senator Craig and Senator Graham. Please respond to these questions within two weeks from receipt of this letter. Your answers will be included in the hearing record. You may send your answers to the attention of Colleen Deegan, U.S. Senate, Dirksen Office Building, Room 308, Washington, DC 20510.

Sincerely,



Frank H. Murkowski
Chairman

FHM:CD:jm

**QUESTIONS FOR JANET YELLEN
CHAIR, COUNCIL OF ECONOMIC ADVISORS
FROM SENATOR FRANK MURKOWSKI**

**FOLLOW UP FROM MARCH 25, 1999 HEARING ON
ECONOMIC IMPACTS OF KYOTO PROTOCOL**

- 1) It is my understanding that when asked if any studies had been done on the impact on labor of the proposed Kyoto Protocol, the Department of Labor responded to the inquiry by sending out a copy of the DRI study commissioned by the United Mine Workers of America. Is that correct? If so, is the DRI study the Administration's official position?
- 2) Is it correct that only developed nations, or "Annex 1" parties to the Framework Convention can participate in emissions trading?
 - ▶ How many nations are included?
 - ▶ How many of them are trade competitors of the United States?
 - ▶ Why would these countries want to sell emissions credits to the US if they need them for their own economic growth?
- 3) Did CEA use any of the Energy Information Administration analysis as input to its analysis? If not, why not?
- 4) Who conducts the "peer review" of the CEA analysis? Does this include the EIA? If not, why not?
- 5) You mentioned in your testimony that meetings in Buenos Aires regarding Annex 1 trading "went well." WEFA says about the same meetings that "no substantial progress was made." What do you think accounts for this difference of opinion? Please elaborate on why you believe the meetings "went well."
- 6) To address global warming, most agree that some precautionary, non-regulatory measures to slow emissions of carbon into the atmosphere are appropriate and prudent at this time. Shouldn't the continued domestic use of nuclear power be one of those precautionary measures?
- 7) The President is personally committed to efforts to control greenhouse gas emissions. Yet, this same President continues to oppose legislation passed by both the House and the Senate to allow the US government to fulfill its obligation to provide safe, centralized, managed storage of spent nuclear fuel. Given that safe and efficient management of spent fuel is critical to the continued viability of nuclear power, and nuclear power is currently our only large-scale source of carbon-free electricity, how is the administration reconciling these two seemingly opposite positions?

- 8) EPA currently restricts many types of emissions under the Clean Air Act, and has recently added new, more stringent restrictions for ozone, particulate matter, and nitrous oxides. Carbon dioxide controls would also be added under the President's Global Climate position. Won't this country's energy policy have to maintain a robust nuclear generation industry as part of the energy portfolio if these ever-intensifying standards are to be achieved?
- 9) In page one of your testimony, you indicated that your analysis shows that costs of Kyoto can be "modest" if there is "meaningful developing country participation."
- ▶ Please describe what you mean by "meaningful developing country participation."
 - ▶ Does it include China?
 - ▶ What assumption did you make in your analysis? Does China have to participate for there to be "modest" costs?
 - ▶ Have you received any indication that China will agree to emissions limitations?
- 10) What kind of future do you see for nuclear power and hydroelectric power if the US has to abide by Kyoto or Kyoto-like targets?
- 11) Some people have expressed concerns that when the US has to absorb the costs of saving social security and complying with Kyoto at the same time, there could be a very negative effect on our current budget surplus? How should this be handled?

BOB GRAHAM
FLORIDA

United States Senate

WASHINGTON, DC 20510-0903

COMMITTEES:
FINANCE
ENVIRONMENT AND
PUBLIC WORKS
VETERANS AFFAIRS
SELECT COMMITTEE ON
INTELLIGENCE
ENERGY AND NATURAL
RESOURCES

Senator Bob Graham
Questions for Energy and Natural Resources Committee hearing
Thursday, March 25, 1999
Economic Effects of the Kyoto Protocol

Questions for Dr. Janet Yellen, Chair, Council of Economic Advisors

1. Does the Administration's analysis estimate the economic or environmental benefits of addressing climate change?
2. Have the costs associated with not taking action been analyzed?
3. What assumptions has the administration made in the analysis regarding the U.S. nuclear energy industry? Are the assumptions consistent with the Energy Information Administration's forecast for the future U.S. nuclear power production? If not, what is the basis for the difference?
4. Has the administration considered the impact that the lack of a clear nuclear waste policy may have on the future of the nuclear power industry?
5. Does your economic model include an uncertainty analysis (i.e. standard deviation, variance)? Have you performed sensitivity analyses for your baseline assumptions?

Re: 3.25.99 Oversight Hearing on the
Economic Effects of the Kyoto Protocol
Senate Energy & Natural Resources
Committee

Questions submitted by Senator Craig:

Directed to Dr. Janet Yellen:

I. July 1998 Report on the Kyoto Protocol

The Administration's July 1998 report concluded that the economic costs of complying with the Kyoto Protocol would be "modest." Specifically, predicted that the cost would be 0.1 percent of Gross Domestic Product. The report explained that this result assumed that reductions would be achieved in "an efficient manner." This is defined as employing all three "flexibility mechanisms" provided for by the Protocol: emissions trading, the Clean Development Mechanism, and joint implementation.

1. Your report states that the economic costs of complying with the Kyoto Protocol would be "modest." The report explains that this result assumes domestic and international emissions trading and other flexibility mechanisms. However, the report does not explicitly state how much of the United States' emissions reduction target will be achieved by trading and other flexibility mechanisms. In your model, what share of the United States' reduction target would be achieved by trading and other flexibility mechanisms and what share would be achieved by reducing domestic emissions?
2. In estimating the costs of a proposed policy change, responsible policy analysis normally involves making a range of reasonable assumptions and, thus, producing a range of results. That is certainly true of many other studies of the costs of complying with the Kyoto Protocol. I am puzzled that your study apparently used only one set of assumptions and, thus, produced only one result. Did you use only one set of assumptions? If so, would you consider that to be responsible policy analysis? Alternatively, did you use other sets of assumptions and produce other results? If so, what were the assumptions and results?

II. International Emissions Trading

The Administration's economic estimate of the cost of complying with the Kyoto Protocol apparently assumes extensive international trading of emissions credits. Russian, Ukraine, and other countries of the former Soviet Union are widely discussed source of such credits. This is due to the expectation that the former Soviet Union's economy will not, by 2010, have recovered to its 1990 level. According to the Energy Information Administration, the former Soviet Union emitted 991 million metric tons in 1990 and is expected to emit 792 million metric tons in 2010 (*International Energy Outlook -- 1998*). The former Soviet Union's agreed-to goal for the first budget period (2008-12) is its 1990 level -- no decrease. Thus, the former Soviet Union would be able to sell 199 million metric tons to the United States or other nations, to help them meet their targets.

3

1. I understand that the United States committed, in Kyoto, to a 7% reduction in greenhouse gases. Is that about the same level of reduction as agreed to by Japan, the European Union, and other industrialized countries?
2. Is it true that this represents a 7% reduction against 1990 levels? If so, is it also true that the reduction does not account for likely growth between 1990 and 2008-2012?
3. How much are United States' emissions expected to grow -- under a business as usual scenario -- between 1990 and 2010 (the mid-point of the budget period)? How does that compare with expected growth for Japan and the European Union? Isn't true that, taking into account expected economic growth, the United States has taken on a much more ambitious target than other industrialized countries?

TOM BLILEY, VIRGINIA, CHAIRMAN

W.J. "BILLY" TAUZIN, LOUISIANA
MICHAEL G. OXLEY, OHIO
MICHAEL BILIRAKIS, FLORIDA
DAN SCHAEFER, COLORADO
BARTON, TEXAS
NNIS HASTERT, ILLINOIS
UPTON, MICHIGAN
STEARNS, FLORIDA
L. PAXON, NEW YORK
PAUL E. GILLMOR, OHIO
JAMES C. GREENWOOD, PENNSYLVANIA
MICHAEL D. CRAPO, IDAHO
CHRISTOPHER COX, CALIFORNIA
NATHAN DEAL, GEORGIA
STEVE LARGENT, OKLAHOMA
RICHARD BURR, NORTH CAROLINA
BRIAN P. BILBRAY, CALIFORNIA
ED WHITFIELD, KENTUCKY
GREG GANSKE, IOWA
CHARLIE NORWOOD, GEORGIA
RICK WHITE, WASHINGTON
TOM COBURN, OKLAHOMA
RICK LAZIO, NEW YORK
BARBARA CUBIN, WYOMING
JAMES E. ROGAN, CALIFORNIA
JOHN SHIMKUS, ILLINOIS
HEATHER WILSON, NEW MEXICO

JOHN D. DINGELL, MICHIGAN
HENRY A. WAXMAN, CALIFORNIA
EDWARD J. MARKEY, MASSACHUSETTS
RALPH M. HALL, TEXAS
RICK BOUCHER, VIRGINIA
THOMAS J. MANTON, NEW YORK
EDOLPHUS TOWNS, NEW YORK
FRANK PALLONE, JR., NEW JERSEY
SHERROD BROWN, OHIO
BART GORDON, TENNESSEE
ELIZABETH FURSE, OREGON
PETER DEUTSCH, FLORIDA
BOBBY L. RUSH, ILLINOIS
ANNA G. ESHOO, CALIFORNIA
RON KLINK, PENNSYLVANIA
BART STUPAK, MICHIGAN
ELIOT L. ENGEL, NEW YORK
THOMAS C. SAWYER, OHIO
ALBERT R. WYNN, MARYLAND
GENE GREEN, TEXAS
KAREN MCCARTHY, MISSOURI
TED STRICKLAND, OHIO
DIANA DEGETTE, COLORADO

JAMES E. DERDERIAN, CHIEF OF STAFF

U.S. House of Representatives
Committee on Commerce

Room 2125, Rayburn House Office Building
Washington, DC 20515-6115

December 10, 1998

JLY
JAF
SP
JA
QF

rec'd 12-17-98

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

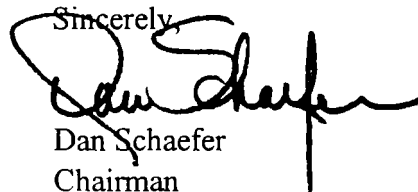
The Honorable Melinda Kimble
Acting Assistant Secretary of State
Oceans and International Environmental and Scientific Affairs
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Dr. Yellen and Ms. Kimble:

I appreciated your testimony at the hearing held by the Subcommittee on Energy and Power on October 6, 1998 regarding the Kyoto Protocol: The Outlook for Buenos Aires and Beyond. Since that hearing, the Administration participated in the Fourth Conference of the Parties to the Framework Convention on Climate Change (COP4) which reached decisions on a number of issues related to the Kyoto Protocol. I am writing to relay a number of follow-up questions from the hearing and COP 4, and would appreciate your reply by December 31, 1998. If you have any questions in this regard, please contact Cathy Van Way of the Commerce Committee staff at (202) 225-2927.

Thank you for your prompt attention to this matter.

Sincerely,



Dan Schaefer
Chairman

Subcommittee on Energy and Power

DS/cvw
Enclosure

Follow-up Questions

Energy and Power Subcommittee

1. What is the status of negotiations to obtain the participation of developing countries?
 - Which countries have expressed a willingness to participate?
 - What will be the nature of their participation (i.e., will they agree to binding emission reductions by the same commitment period as is facing developed countries)?
 - Could a developing country "volunteer" to take on binding emissions limitations that involve significant growth in their emissions (like Australia's 8%) so that they could trade emissions credits?
2. The Kyoto Protocol set a "binding" target of reducing U.S. emissions of greenhouse gases to a level seven percent less than what we emitted in 1990.
 - Who determines whether a particular emissions target has or has not been met?
 - What are the consequences, legal or otherwise, if the United States fails to attain this "binding" target?
 - What are the consequences if other countries fail to meet their targets?
 - What are the mechanisms to enforce compliance, both ours and that of other countries, with these binding targets?
3. The Administration has characterized the Kyoto Protocol as a "work in progress." Can the Protocol be amended before it enters into force?
4. Under the terms of the Kyoto Protocol what issues are still to be negotiated? What issues cannot be reopened in the Kyoto Protocol?
5. If the Protocol cannot be amended prior to ratification, how do you propose to secure their meaningful participation prior to the U.S. ratifying the Kyoto Protocol?
6. Does the Administration consider participation in the Clean Development Mechanism to be "meaningful participation" as promised by the President?
7. One of the stated advantages of the Kyoto Protocol is the amount of lead time it gives industry to prepare; binding commitments don't begin until 2008. However, the Administration has said it won't send the Treaty up for ratification until it has meaningful commitments by developing countries. The Administration has also indicated that it won't seek to implement the Protocol until it is ratified. How long will it take the Administration to secure meaningful participation by developing countries? If it is likely to take years, what will happen to the lead time built into the Protocol? Will the first budget period be extended?

8. In testimony before the Subcommittee it was noted that the Administration is developing a domestic emissions trading system to be in place by 2008. Can you please explain under what authority that program is being developed?
9. The Administration's forecast of "modest" costs of the Kyoto Protocol on the U.S. economy is predicated on the assumption of developing country participation and full use of flexible implementation mechanisms. What would be the total costs to the U.S. economy if those two assumptions are not correct - that is, if the major developing countries do not participate, and if the use of flexible implementation mechanisms is capped at no more than 50% of our 7% reduction target?
10. What U.S. industries and sectors of our economy would be hardest hit by the Kyoto Protocol?
11. Will the combination of tax credits, research and development, and emissions trading be sufficient to meet all of the U.S. target of a 7% reduction, or will additional measures be necessary? If additional measures are likely to be needed, what specifically is the Administration proposing?
12. The Administration is currently undertaking efforts to obtain voluntary commitments from U.S. companies to reduce their emissions of greenhouse gases. What sort of credits are being promised to these companies in exchange for early action?
13. The Administration has been working on a "conceptual agreement" with some countries to pursue "an umbrella group to trade emissions permits." There are no details about the nature of the agreement or what is contemplated. Would this be a part of the Protocol or a separate agreement outside the Protocol? How would it be recognized by the Protocol Parties?
14. Has the Administration offered its economic analysis for peer review?
15. One of the assumptions upon which the Administration's economic analysis is based is "meaningful participation by key developing countries". Could you please explain what that meant for purposes of the economic analysis? For example what was the nature of the commitment that was assumed for countries like China, India, etc.... How are cost estimates impacted if countries like Argentina or South Korea take on commitments but countries like China and India do not?
16. (From Mr. Markey) Dr. Yellen: Most of your testimony was about the costs of reducing greenhouse gas emissions. But you also mentioned that the same measures reduce pollution, thus bringing economic benefits. How can one compare the costs against the benefits of reduced pollution and reduced global warming?
17. (From Mr. Markey) Dr. Yellen: Do you account in your economic analysis for the number of lives saved due to reduced pollution? If not, why not?

18. (From Mr. Markey) Dr. Yellen: In your testimony you project that the cost per household of implementing the Kyoto Accord will be “nearly fully offset” by price declines from electricity restructuring. You also comment that the electricity restructuring is likely to cause a significant reduction of greenhouse gas emissions. Why is that – where would the reduced emissions come from? How are we going to get lower electricity prices, greater efficiencies, and technological innovations all at the same time?
19. (From Mr. Markey) Dr. Yellen: The breakup of AT&T was followed by rapid technological innovation and adoption in the telecommunications industry. If the breakup of electricity monopolies also spurs rapid changes in electricity generation, transmission, and distribution technologies, how would that affect the cost predictions of current economic models?
20. (From Mr. Markey) Dr. Yellen: The second panel presented economic analyses that project higher costs to reduce emissions than the ones you presented. Why do their results differ from the Administration’s forecasts?
21. (From Ms. Furse) Many countries wanted the Protocol to address only the three major greenhouse gases, carbon dioxide, methane, and nitrous oxide. The Administration advocated, and won, inclusion of all 6 categories of greenhouse gases. What are the economic benefits of including 6 kinds of gases, instead of 3?
22. (From Ms. Furse) You discuss in your testimony the cost-savings possible with effective international trading. Since the rules of international trading have not been agreed to, could you describe what you mean by an effective international emissions market?
23. (From Ms. Furse) You state in your testimony that the Kyoto Protocol will not affect aggregate employment. However, we have heard from other economists that this agreement could cost the U.S. millions of jobs. Why is the range of estimates so large?
24. (From Ms. Furse) The Kyoto Protocol does not require countries to meet binding targets until 2008. However, there are certain aspects of the Protocol, such as the Clean Development Mechanism, that allow for emissions reductions to occur as early as the year 2000. Further, the Administration is pushing for tax incentives and Research and Development now. Dr. Yellen, why is it so important to do these things now?
25. (From Ms. McCarthy) Ms. Kimble: Could you please review the business opportunities that this treaty creates for U.S. firms, both at home and abroad?
26. (From Ms. McCarthy) In Kyoto, many countries pushed for an early commitment period. The Administration pushed for a later commitment period of 2008-2012, which ultimately was included in the Protocol. What was the economic rationale behind pushing for this later commitment period?
27. (From Ms. McCarthy) How do we encourage countries, such as Russia, to invest money from emissions credits in clean energy developments?

F. JAMES SENSENBRENNER, JR., Wisconsin, CHAIRMAN

SHERWOOD L. BOEHLERT, New York
HARRIS W. FAWELL, Illinois
CONSTANCE A. MORELLA, Maryland
CURT WELDON, Pennsylvania
DANA ROHRBACHER, California
JOE BARTON, Texas
KEN CALVERT, California
COE G. BARTLETT, Maryland
ON J. EHLERS, Michigan
WELDON, Florida
T. SALMON, Arizona
THOMAS M. DAVIS, Virginia
GIL GUTKNECHT, Minnesota
MARK FOLEY, Florida
THOMAS W. EWING, Illinois
CHARLES W. "CHIP" PICKERING, Mississippi
CHRIS CANNON, Utah
KEVIN BRADY, Texas
MERRILL COOK, Utah
PHIL ENGLISH, Pennsylvania
GEORGE R. NETHERCUTT, Jr., Washington
TOM A. COBURN, Oklahoma
PETE SESSIONS, Texas

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON SCIENCE

SUITE 2320 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6301

(202) 225-6371

TTY: (202) 226-4410

<http://www.house.gov/science/welcome.htm>

GEORGE E. BROWN, JR., California
Ranking Minority Member

RALPH M. HALL, Texas
BART GORDON, Tennessee
JAMES A. TRAFICANT, JR., Ohio
TIM ROEMER, Indiana
JAMES A. BARCIA, Michigan
EDDIE BERNICE JOHNSON, Texas
ALCEE L. HASTINGS, Florida
LYNN N. RIVERS, Michigan
ZOE LOFGREN, California
MICHAEL F. DOYLE, Pennsylvania
SHEILA JACKSON LEE, Texas
BILL LUTHER, Minnesota
DEBBIE STABENOW, Michigan
BOB ETHERIDGE, North Carolina
NICK LAMPSON, Texas
DARLENE HOOLEY, Oregon
LOIS CAPPS, California
BARBARA LEE, California
Vacancy
Vacancy

November 18, 1998

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

Dear Under Secretary Eizenstat:

I congratulate you on your endurance and negotiating skills in regards to the recently completed fourth session of the Conference of the Parties (COP4) to the United Nations Framework Convention on Climate Change (FCCC) in which you successfully sought to fashion a decision by the COP4 for future action. I understand that decision has been designated as the "Buenos Aires Plan of Action." It is certainly an improvement over the rather disastrous "Berlin Mandate" negotiated at the first Conference of the Parties (COP1) in 1995 by former Under Secretary Timothy Wirth as the basis for the Protocol. I say this because the Buenos Aires Plan of Action, unlike the Berlin Mandate, contains no provision exempting developing country Parties from any new commitments and because it does not establish a firm deadline for completion of the detailed work outlined in the Plan of Action and related documents adopted by COP4. Obviously, the Administration and other Parties have learned from the Berlin Mandate experience. That is good.

Nevertheless, that decision and other decisions adopted by the Parties, including the decision on the first day of COP4 to delete Agenda Item 6 on voluntary commitments by developing countries, do little to move the Kyoto Protocol closer to making it conform to the provisions of the Byrd-Hagel Resolution, S. Res. 98, which was adopted by the Senate in 1997 by a unanimous vote of 95-0. If anything, they are a step backwards because the decisions do not, in any way, address the issue of adopting at any time legally binding, not voluntary, commitments for developing countries, nor do they even give any signal to Parties that entry into force is threatened because of a lack of such commitments. The Buenos Aires Plan of Action is silent on this portion of the Byrd-Hagel Resolution. That is clearly not good.

The announcement by Argentina that over the next year it will outline some voluntary limits on the growth of its greenhouse gas emissions from some unspecified baseline is, of course, welcome. However, it is my understanding that Argentina, which relies heavily on natural gas, nuclear energy and hydropower, does not plan to become an Annex I Party pursuant to Article 4.2(g) of the FCCC or otherwise accept the requirements of Article 3 of the Kyoto Protocol.

The Honorable Stuart E. Eizenstat
November 18, 1998
Page two

In reply to my question 3.2 of my letter of August 7, 1998, you quite rightly pointed out that the Byrd-Hagel Resolution "does not differentiate between key developing countries and other developing countries." However, you also agreed "that the participation of countries such as the Republic of Korea, Brazil, South Africa, Singapore, Thailand, Mexico, Malaysia, Indonesia, China, and India — and the example set by them — will be critical in dealing meaningfully with the threat of global warming." Obviously, Argentina and most other Latin American Parties are not on that list. Moreover, I do not understand Argentina's voluntary action to be, despite your Press Statement of November 14, 1998, a "legally binding" commitment of the kind adopted by Annex I Parties pursuant to Article 3 and Annex B of the Kyoto Protocol, unless, of course, there is a new interpretation or understanding of the term "legally binding."

As to the second condition of the Byrd-Hagel Resolution regarding the U.S. economy, I understand that the Plan of Action is composed of "six separate decisions" that primarily relate to Articles 2.3, 3.4, 3.14, 5.1, 5.2, 6, 7, 8, 12 and 17 of the Kyoto Protocol and to some Articles of the FCCC. The number, vagueness, and complexity of these decisions demonstrates how incomplete or unfinished the Kyoto Protocol really is and how difficult it will be to even try to conform to the requirements of the Byrd-Hagel Resolution anytime soon, if at all. The actions to be taken by the Parties under the Buenos Aires Plan of Action over the next two years are daunting, and many Parties do not share the U.S. view on mechanisms or sinks which are also crucial to the questions of entry into force. Indeed, there continues to be an effort to bash the U.S. as "big and bad," while others, like the European Union (EU), paint themselves green.

For example, at Buenos Aires there was great focus at COP4 by the U.S. delegation on the Article 6, 12 and 17 mechanisms. However, the EU once again used this Conference to press for "cooperation" on policies and measures and even sought a "workshop to assess benefits of additional coordination of policies and measures."

The EU also stressed compliance or enforcement of all issues under the Protocol, including compliance with regards to the mechanisms, and the Alliance of Small Island States wanted a special working group. These efforts resulted in a decision to establish not only a joint working group on compliance, but if necessary, an *ad hoc* working group on compliance or other procedures without ever mentioning Article 18 of the Kyoto Protocol. These actions, coupled with the EU's strong views, as outlined in its Environment Council Meeting "Conclusions" statement of October 6, 1998, on limiting emissions trading, suggest that future negotiations will continue to be extremely difficult, particularly if the EU joins with the Group of 77 and China on such issues as "supplementarity" and the Article 17 mechanisms where they appear to have similar views. Those views, unfortunately, are not in line with the views expressed by the Administration, at least as I understand them. Clearly, this problem alone demonstrates that it is fortunate for the U.S. that rule 42 of the proposed rules of procedure for the FCCC has never been adopted and that consensus continues to apply.

Over the next two years, the Plan of Action calls for only four sessions of the subsidiary bodies, along with two additional COPs, presumably including related ministerial meetings which are of questionable value. I understand that the dates are all fixed, except for COP6, which could occur before or after the next U.S. Presidential elections. No other sessions for the subsidiary bodies (where the real work must take place) are planned, despite a wise U.S. suggestion for fewer ministerials and more subsidiary body sessions. Instead, a November 13 "Draft Decision" called on the COP President to maintain contacts with Ministers

The Honorable Stuart E. Eizenstat
November 18, 1998
Page three

in order to provide "appropriate political guidance," whatever that means, to the work of the subsidiary bodies. Fortunately, that item was not part of the final Plan of Action, because I understand that Switzerland was openly critical of the closed-door, limited Parties negotiations initiated by the President in Buenos Aires with the so-called "Friends of the Chair." Many other Parties expressed agreement with Switzerland through applause. They want a more "democratic and transparent" process. Clearly, the above November 13 proposal was not consistent with that important concept.

I was, therefore, surprised to read your November 14 Press Statement that explains that the U.S. apparently favors "frequent, high-level consultations" to provide "political guidance" to the subsidiary bodies, since the issues have grown more "numerous and complex," and "annual meetings are no longer sufficient." I was surprised because that appears to be a "back-door" effort to do exactly what the negotiations agreed not to do when they abandoned the idea of maintaining intersessional ministerial "contacts" to provide "appropriate political guidance." It is also contrary to the spirit of the Swiss protest, because it is non-democratic and non-transparent. Possibly, you made the statement before the plenary began and the Swiss spoke.

The problem is not the number of annual meetings. It is the fact that the Kyoto Protocol was also the product of round-the-clock, closed-door, non-democratic negotiations under a deadline and mandate that were flawed and arbitrary. As a result, it is not only unfinished or incomplete, but also inconsistent, vague, ambiguous and, most importantly, unworkable and not in the interests of the U.S.

Your negotiations at Buenos Aires fortunately did not, as I have said, repeat the mandate and deadline problem of Berlin. The lack of a mandate and the more flexible language on when decisions should be forthcoming (*i.e.*, the words "with a view to taking discussions") hopefully can ease the pressure for rushed or incomplete decisions by COP6, particularly since ratification and entry into force, pursuant to Article 25 of the Kyoto Protocol, is not likely to occur by COP6. Such flexibility is a far better approach than non-transparent, intersessional meetings that exclude some Annex I and non-Annex I Parties, as well as non-governmental business, industry, labor, agriculture, local government, consumer and environmental organizations. If, as your Press Statement of November 14 states, the talks at COP4 were actually "infused by a promising spirit of engagement," such "political guidance" should not be needed and if Switzerland's remarks are indicative of that spirit, such guidance is likely not welcome. Thus, I urge you to reconsider and abandon that idea. If, however, any such intersessional meetings are held, I repeat my request that Congressional observers be allowed to monitor such meetings

I note that the paper issued by Australia for the Umbrella Group, which includes the U.S., set forth several other proposed decisions which also were fortunately not adopted by the Parties. Based on conversations I had with NGOs in Buenos Aires, it was fairly obvious that this paper and the proposals therein were not discussed at any time before Buenos Aires with them, including the business and industry representative who will be directly affected by the mechanisms and related rules, guidelines, etc. In my view, the paper

The Honorable Stuart E. Eizenstat
November 18, 1998
Page four

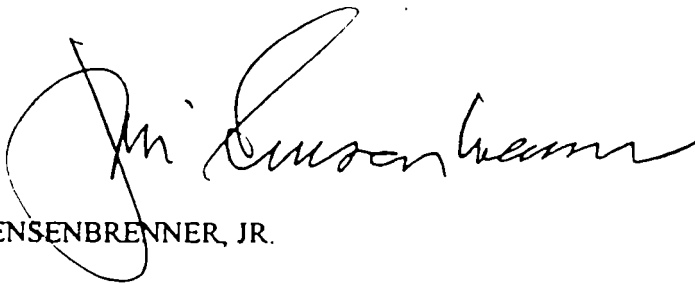
raised more questions than it answered and appeared to suffer from haste. With the arrival of Under Secretary Frank Loy, it seems to me that the State Department has the capacity to do more to open a dialogue on these matters with the NGOs before each session and to share ideas and proposals. Briefing and meetings with some more or less favored NGOs will not suffice. In this regard, enclosure 1 to this letter is an Environmental Defense Fund document of a presentation to "White House Task Force on Climate Change Consultation Meeting - March 13, 1998" which, strangely enough, seems to be the forerunner of U.S. proposals. I would like to know: (1) who attended that meeting; (2) the role of EDF, directly or indirectly, in the development by the U.S. delegation and its agencies, of its positions for Buenos Aires, including a list of all meetings by the delegation and its agencies with EDF since that time (*i.e.*, March 13, 1998); and (3) whether or not EDF receives any Federal funding from such agencies, directly or indirectly, regarding this and other climate matters.

In considering the Protocol for advice and consent to ratification, the Senate and because this involves potential legislative actions, the House, will undoubtedly want to review carefully all such rules, etc., and compliance provisions. Given their potential impact on the economy, both Houses will want to know to what extent and how these NGOs were given a meaningful opportunity to review and comment on proposals. Your comments on this matter are requested.

I also note that paragraph 3 of the decision on mechanisms (FCCC/CP/1998/L.21) calls for "two technical workshops before April 15, 1999, that are apparently open to NGOs. I assume that your Department will keep them and me informed as to the date and place of the workshops and their agendas.

Finally, I appreciate receiving your replies before COP4 to the questions in my letters of August 7 and September 18, 1998. They were helpful and are under review for hearings, particularly in regards to the work of the IPCC, in the 106th Congress. I would also request your prompt response to a number of additional matters related to COP4 that are raised in enclosure 2 to this letter.

Sincerely,

A handwritten signature in dark ink, appearing to read "F. James Sensenbrenner, Jr.", with a large, stylized initial "F" and a long, sweeping underline.

F. JAMES SENSENBRENNER, JR.
Chairman

FJS/hlw

Enclosures

cc: Hon. Frank E. Loy, Under Secretary of State for Global Affairs
Hon. Janet L. Yellen, Chair, Council of Economic Advisers
Todd Stern, President's Climate Change Coordinator

Building a Global GHG Emissions Trading Market: The Road to Buenos Aires

Presentation to White House Task Force on Climate Change, Consultation Meeting - March 13, 1998

Environmental Defense Fund

The Ultimate Design Objectives

- Ensuring Environmental Performance:
 - ▶ Compliance with Emissions Limitation Requirements
- Cutting Costs
- Driving Entrepreneurial Forces Toward Innovation and Environmental Improvement

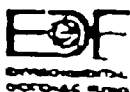
The Five Key Design Attributes

- Measurement/Quantification/Reporting
 - ▶ Key to Compliance
 - ▶ Key to Environmental Credibility of Trading
- Integrity
 - ▶ Key to Ensuring Environmental Equivalence of Traded Emissions
- Fungibility
 - ▶ Key to Firm Investment and Market Performance: Cost and Innovation



The Five Key Design Attributes (continued)

- Consistency
 - ▶ Key to Market Performance
- Transparency
 - ▶ Key to Political Environment Fostering
Compliance and Economic Environment
Fostering Investment



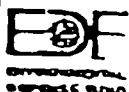
Key Design Tools: Ockham's Razor, Physicist's "Parsimony"

- Rules Should Do No More, and No Less, Than They *Absolutely Have To*
 - ▶ Assure that a traded reduction in emissions is qualified to offset an emissions increase: environmental integrity
 - ▶ Assure compliance
- Success in These Tasks the Foundation on Which Market Will Build Itself



Key Design Tool: Ockham's Razor (*continued*)

- Compare EPA Design Philosophy for Acid Rain Program:
 - ▶ Compliance = Emissions Allowances = Currency of Trading
 - ▶ Regulatory Impact on All Other Choices Minimized



Key Design Tool: Ockham's Razor (*continued*)

- "A Ton is a Ton" as a Negotiating Strategy:
 - ▶ Reveals Negotiators' Motives, Objectives and Rationales
 - ▶ Focuses Negotiators on Fundamental Points of Agreement



Minimum Elements for Trading and Compliance

- Definition of Qualified Reduction
 - ▶ Must be "Surplus" to Offset Emissions
 - ▶ Must be *Actual* Reduction that *Has Occurred*
- "True Up" and Non-Compliance Consequences
 - ▶ "Vintaging" Instrumental to Compliance Assurance and Transparency
- Quantification and Reporting



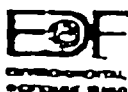
Defining a Qualified Reduction

- Increments of Annex B Nation's "Assigned Amount" (Budget Trading) (Articles 3 and 17)
- Project-based Reductions in Annex I Nations (Article 6)
- Project-based Reductions in non-Annex I Nations (Article 12)



Annex B "Budget Trading"

- Qualification of Reductions Embedded in Protocol:
 - ▶ "Any emission reduction units, or any part of an assigned amount which a Party acquires from/transfers to another Party ... [under] Articles 6 or 17 shall be added to/subtracted from the assigned amount for the acquiring/transferring Party" (Article 3.10 and 3.11).
 - ▶ Transacted Reductions "Surplus" by Definition so long as "Double-Entry" Recording Mandated by Article 3 Applied (See, Article 7.2)



Annex B "Budget Trading" (continued)

- *Additional Rules* should Specify Vintaging by Nation of Origin and Date of Transfer
 - ▶ Ensures Transparency
 - ▶ Facilitates Compliance Incentives



Annex I Project Trading (Article 6)

- Qualification of Reductions Same as Budget Trading:
 - ▶ "Any emission reduction units, or any part of an assigned amount which a Party acquires from/transfers to another Party ... [under] *Articles 6 or 17* shall be added to/subtracted from the assigned amount for the acquiring/transferring Party" (*emphasis added*) (Article 3.10 and 3.11).
 - ▶ Transacted Reductions "Surplus" by Definition so long as "Double-Entry" Recording Mandated by Article 3 Applied (See, Article 7.2)



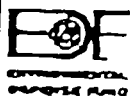
Annex I Project Trading (Article 6) (*continued*)

- *Additional Rules* should Specify Vintaging by Nation of Origin and Date of Transfer
 - ▶ Ensures Transparency
 - ▶ Facilitates Compliance Incentives



Annex I Project Trading (Article 6) (*continued*)

- Why Article 6?
 - ▶ Technically, Redundant of Articles 3.10, 3.11 and 17
 - ▶ May Provide Strategic Opportunity:
 - Tie between project-specific reductions and budget trading can address uncertainties about transferring nation's emissions reduction performance
 - ▶ Transactions May Best Be Governed by Sovereign Domestic Discretion, Policy and Rules of Exporting and Importing Nations (?)



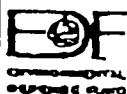
Non-Annex I Trading: Clean Development Mechanism

- Establishing "Project Baseline" Essential Task of Qualifying Reductions as "Surplus":
What Would Emissions Be in Absence of Project?
 - ▶ Environmental Integrity Essential Since Built-In Mechanics of Article 3 not Applicable
 - ▶ Methods of Answering the Question Should be Practical and Broadly Applicable to Enhance Transparency, Reduce Uncertainty and Minimize Transactions Costs
 - ▶ "Financial Additionality" and Similar Devices Do Not Enhance Environmental Integrity



Non-Annex I Trading: Clean Development Mechanism (continued)

- Vintaging by Nation, Project and Date of Reduction Needed to Provide Transparency and Aid Compliance
- *Additional Rule:* Reduction-Exporting Nation Should Include Export Transaction in National Report
 - ▶ May Affect Performance Against Future Obligations
 - ▶ "Double-Entry" Bookkeeping Buttresses Annex I Reporting



Non-Annex I Trading: Clean Development Mechanism (continued)

- *Interim Rules Needed to Fulfill COP-3's Apparent Intent to Foster Activity Beginning in 2000 (Article 12.10)*



True-Up and Non-Compliance Remedies

- Final Integral Element for Ensuring that All Traded Reductions are Qualified as Surplus...
 - ▶ Conversely, unaccounted emissions budget exceedances dis-qualify reductions transferred by violating Party from serving as offsets
 - ▶ True-up mechanism should be included in any Article 17 trading rules since essential to trading integrity



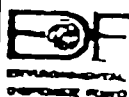
True-Up and Non-Compliance Remedies (*continued*)

- *Additional Rule:* Emission Budget Exceedances Automatically Deducted from Following Budget Period with "Interest" or Multiplier
 - ▶ "Automaticity" is critical: Triggered deduction thus preferable to otherwise attractive end-of-budget-period offset-purchase mandate



True-Up and Non-Compliance Remedies (*continued*)

- *Additional Rules:*
 - ▶ Automatic Discounting of Reductions Traded by Parties Exceeding Their Budgets
 - ▶ Prohibition on Transfers from Parties Exceeding Their Budgets until Such Parties Achieve Compliance
 - ▶ Implemented as Graduated, Sequential Remedies



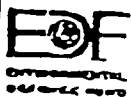
True-Up and Non-Compliance Remedies *(continued)*

- Discount and Prohibition Needed to Address "Surplus" Issue and Provide Compliance Incentives
- Credible Compliance Response in International Regime Critical to Mobilizing Domestic Investment in Compliance and Business Investment in Emissions Trading Market



Quantification and Reporting

- Framework Established by FCCC and Kyoto Protocol
 - ▶ National Reports
 - ▶ "Double-Entry" Bookkeeping Incorporated in Article 3.10 and 3.11
- "Double-Entry" Should be Extended to CDM Reporting *(Additional Rule)*



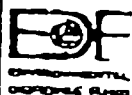
Quantification and Reporting (continued)

- *Additional Rule:* Article 7 National Reports Should Include Full Compliance and Trading Ledger
 - ▶ Party's Quantified Emissions Limitation
 - ▶ Transfers To and From the Party
 - ▶ Vintage Information on All Such Transfers
 - Date of Reduction, Nation of Origin or Receipt, Project of Origin for CDM Transfers
 - ▶ Domestic Offsets
 - ▶ Party's Actual Emissions



Quantification and Reporting (continued)

- SBSTA and IPCC Should Identify and Disseminate Emissions Quantification Protocols



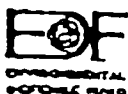
Reporting and Tracking: Institutional Needs for Compliance and Market Operation

- Annual Publication of Country Reports by Secretariat
- Establishment of National Registries of Persons and Firms Engaged in Trading
- Designation of National Authorities to Sanction, and Track, Transfers
 - ▶ For Non-Annex I Nations, Persons, Firms and Agencies Providing Certification of Emissions Reductions also Should be Identified



Domestic Policies' Impact on International Market

- Domestic Early Reduction Programs can Prime Market, Especially if International Reductions Are Recognized under Such Programs
- Annex I Countries' Domestic Rules can Spur or Chill Sources' Participation in International Market: Articles 3.10 and 3.11 Effectively Require Governments to Authorize Firm Trading Activity
 - ▶ Exclusive Retention of Trading by Government *versus* Workable Rules Authorizing Project Trading by Firms



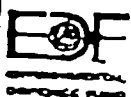
Domestic Policies' Impact on International Market (continued)

- Non-Annex I Countries' Domestic Policies Likely to Have Similar Range of Effects
 - ▶ Countries' Creation of Conducive Legal, Reporting and Certification "Infrastructure" can Facilitate CDM Trading
- International Strategies to *Promote* Trading with Foreign Governments and Firms May Be Crucial to Fostering Active, Robust Global Market



The Hot Button Issues

- No Consensus among NGO's
- Cap On Trading
 - ▶ Does Not Enhance Environmental Integrity or Performance



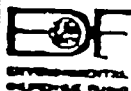
The Hot Button Issues ***(continued)***

- "No Trading Without Rules"
 - ▶ Immediate "Forward" Sales of Assigned Amounts of Annex I Countries not Prohibited, and Fully Consistent with Integrity of Protocol Regime
 - ▶ Nothing to Prevent Firms from Entering into Private Contracts -- Of Course, Traded Reductions Not Creditable toward Compliance in Absence of Regulatory Requirements and Rules



The Hot Button Issues ***(continued)***

- "Russian Tons"
 - ▶ Transfer of Any Increment of Assigned Amount Fully Consistent with Protocol Integrity
 - ▶ Conversely, Restriction on, or Disqualification of, Trading of Russia's Assigned Amount Inconsistent with, and Potentially Undermining of, Integrity of Protocol's Budget Structure for Annex B Countries



Conclusion

- Essential to Concentrate on the Central Elements of Trading System Integrity
- Collateral Policy Objectives Should be Minimized
- Environmental Integrity and Market Viability Inextricably Linked
 - ▶ All Proposed Design Elements of Trading Rules Should be Evaluated Against These Dual Objectives



Enclosure 2 to November 18, 1998 Letter from Science Committee Chairman F. James Sensenbrenner, Jr. to the Honorable Stuart E. Eizenstat

Argentina and Kazakhstan Pledges to Take on Binding Emissions Targets

1. Please explain the basis for your comment in your November 14 "Opening Statement" to the Press that Argentina has pledged "to take on a binding emission target" and that Kazakhstan "intends to do so as well."
 - 1.1 What do you mean by the word "binding"?
 - 1.2 Am I correct in my understanding that Argentina has not pledged to become an Annex I and Annex B Party, and that Kazakhstan has?
 - 1.3 Since the Kyoto Protocol has not entered into force, am I correct in my understanding that Kazakhstan cannot be added to Annex B except by an amendment to the Protocol, which in turn cannot be amended until it is ratified? Please describe in detail the "mechanics" of Kazakhstan becoming an Annex I and Annex B Party.
 - 1.4 When will the details, such as the baselines and actual targets, of Argentina's pledge be set forth?
 - 1.5 When will the details, such as the baselines and actual targets, of Kazakhstan's pledge be set forth?
 - 1.6 Also, what are the emissions of Argentina and Kazakhstan to date as shown by their latest national communications? Alternatively, if such national communications have not been submitted, what are the best estimates of their 1990 emissions levels and projected 2010 emissions levels?
 - 1.7 What, if any, commitments of any kind have been made by the U.S. to these Parties in relation to their announcement and future actions?

Use of the Terms "Rules", "Guidelines", and "Modalities"

2. As shown in the tables of actions in document FCCC/CP/1998/L.19, most of the actions reference such terms as "modalities" or "guidelines." The word "rules" is generally not, as best as I can ascertain, mentioned in the Kyoto Protocol except in the case of Articles 3.4 and 17. And to my knowledge, the nature and designation of the actions to be developed under the various Articles of the Kyoto Protocol was not discussed at COP4, unless, of course, that discussion occurred behind closed-doors. I presume that a modality or guideline is not the same as a rule.
 - 2.1 Since the Protocol does not make any reference to "rules" in, for example, Articles 6 and 12, under what authority could the Parties to the Protocol adopt provisions that would be designated as "rules" and be legally binding and enforceable?

- 2.2 What is your understanding of the meaning of the words “modalities” and “guidelines” in the context of each of the Articles in the Protocol where they are used?
- 2.3 Which of these various terms when adopted by decisions of the Parties are viewed as merely advisory or as legally binding?

Other International Agreements to Which the U.S. is a Party That Provide for Rules, Guidelines, and Modalities to Be Developed by the Parties for Application to All or Most Parties Without Amendment of the Applicable Agreement

- 3. Please identify and provide copies of other international agreements to which the U.S. is a Party that provide for rules, guidelines, and modalities to be developed by the Parties for application to all or most Parties without amendment of the applicable agreement. Also, please provide copies of any such rules, guidelines, and modalities and explain whether or not they are binding.

“Work Programme on Mechanisms”

- 4. The decision in document FCCC/CP/1998/L.21 of November 14, 1998 provides for a “work programme on mechanisms”, including all of the 142 elements mentioned therein, “with a view to taking decision on all of the mechanisms,” including Article 17, “at its sixth session.” The decision provides that the work programme will be undertaken with “priority given” to the CDM.
 - 4.1 Since you negotiated this decision, please provide your understanding of the nature and extent of this priority and how it will be achieved, particularly in light of the above quoted phrase, and indicate how you expect it to be carried out by either SBI or SBSTA, or both.
 - 4.2 What happened to the Honduras proposal for an interim CDM?
 - 4.3 That decision also calls upon the Secretariat to prepare a plan for next June to facilitate “capacity building for developing country Parties, especially the small island States and the least developed amongst them,” in CDM project activities, and for “facilitating the participation of Parties with economies in transition in other mechanisms.”
 - 4.3.1 What is intended and contemplated by this provision, taking into consideration the paper submitted by Uganda on behalf of the African Group in document FCCC/CP/1998/MISC.7/Add.2?
 - 4.3.2 Please explain the term “capacity building.”

Sink Issues

- 5. I am concerned, particularly because of comments made by developing countries at the IPCC in Vienna and by others, that the document FCCC/CP/1998/L.5 relative to sink issues apparently defers any decision on their applicability to, and inclusion in, any and all mechanisms to sometime after the IPCC’s Special Report, which is not due until 2000. Unlike the other decisions, there is no reference in the Action Plan to COP6 even though COP6 is due to occur after release of the Special Report. Why did the U.S. agree to such a vague timetable for this significant issue?

Policies and Measures

6. Please explain what is contemplated by the compromise EU/Umbrella Group decision in document FCCC/CP/1998/L.19 on "Consideration of ways to facilitate cooperation to enhance the individual and combined effectiveness of policies and measures under Article 2.1(b)" and explain whether this decision is leading to coordinated policies and measures among Annex I Parties as called for by the EU in its October 6, 1998 Environment Council "Conclusions." Is the word "combined," which is in Article 2.1(b) of the Protocol, an euphemism for "coordinated" or "harmonized"?
7. What is the U.S. understanding of the term " 'best practices' in policies and measures" in the decision in document FCCC/CP/1998/L.19? Does it refer to industry sector-by-sector and does it require identification of specific policies and measures?

Kyoto Protocol Compliance/Non-Compliance

8. Decision FCCC/CP/1998/L.19 includes procedures and mechanisms relating to compliance without reference to Article 18 or any other Article of the Protocol. It, however, also calls for COP5 to "take further steps" with a view to "adopting a decision" at COP6. It calls for a joint working group on compliance under SBI and SBSTA to:
 - Identify compliance-related elements in the Protocol
 - Follow the development of these elements in various groups including, for example, elements on substantive rules and consequences of non-compliance, and identify gaps in order that they are addressed in the suitable forum
 - Develop procedures by which compliance with obligations under the Protocol should be addressed, to the extent that they are not being considered by other groups
 - Ensure coherent approaches to developing a comprehensive compliance system
- 8.1 What Articles of the Protocol authorize or provide for decisions by the Parties regarding compliance, other than Article 18?
- 8.2 Since the word "rules" does not appear in Articles 6 and 12 and many other Articles, what is the basis for compliance mechanisms for modalities and guidelines?
- 8.3 Is it your understanding that all compliance measures will apply equally to all Parties? Does compliance include a due process element? How would non-compliance be determined?
- 8.4 Is it intended to apply to compliance by Parties only or to compliance by legal entities as well? Will there be penalties or punishment for non-compliance?
- 8.5 If so, what is the legal basis under the protocol for such action, absent an amendment under Article 18?

In response to these questions and question 2 above, please take into consideration your replies to my questions 4.1.1 - 4.3 of my August 7, 1998 letter.

9. I understand that an Umbrella Group paper by Australia mentioned a compliance decision for failure to comply with Articles 5 and 7, and proposed a penalty for non-compliance that would preclude trading.
- 9.1 What is the basis in the Protocol for this proposal? Please cite the appropriate Articles.
- 9.2 What process was intended to determine non-compliance and for review of that determination?
- 9.3 What were the criteria for making such a determination?
- 9.4 If the U.S. was subjected to such a penalty, what would be the economic consequences?
- 9.5 The Umbrella Group's paper seemed to also assume that Article 17 units would expire at the end of the commitment period because the Parties would agree to a second commitment period and all related details before 2012. However, such assumptions may be misplaced and in any event, a second commitment period would require an amendment and ratification. Such ratification and entry into force could be delayed beyond 2012. Also, some Parties may not ratify an amendment even if they are Parties to the Protocol. If any of these happened, what would be the impact on the Parties and entities if the units expire at the end of 2012? Could that cause economic chaos?

Umbrella Group "Bubble"

10. You have reportedly said that the Umbrella Group could form a bubble, such as that of the EU, and trade among its members.
- 10.1 Under what circumstances would the U.S. follow this approach?
- 10.2 Would that require the Umbrella Group to first enter into a multi-lateral agreement which would be subject to Senate advice and consent to ratification and subject the group and its members to the same requirements of the Protocol that are now applicable to the EU and its members? Does the FCCC or the Protocol provide for such an agreement? Has Congress provided authority for such an agreement?
- 10.3 How would such a bubble help the Group unless the trading included a measure of exclusivity for Group members?
- 10.4 How would WTO rules limit the effectiveness of the group?

EU "Supplementarity Principle"

11. In your November 14 Press Statement, you said that the talks at Buenos Aires were "arduous," but that Parties "recognized the value of directly involving the private sector" and that "there is a growing recognition that trading will help us achieve maximum environmental gain for each dollar, peso, euro or yen invested in greenhouse gas reduction." At the same time you said, what I perceived as a caution, that "Serious hurdles remain before this treaty is workable and complete." Actually, that is an understatement, when I call to mind CEA Chair Janet Yellen's recent economic analysis of the Protocol, which relies heavily on an emissions trading scheme that is unfettered and unencumbered, and then consider post Buenos Aires comments by several environmentalists aired on C-Span on November 17, 1998, that such reliance is unrealistic. They referred to the EU view, which may have broad support among FCCC Parties, that Annex I Parties, particularly the Umbrella Group, must meet their commitments through domestic action in Umbrella countries like the U.S., not through the purchase of emissions elsewhere. In this regard, the EU in a statement at Buenos Aires said:

"Mr. Chairman, at the recent EU Council meeting the EU environment ministers have endorsed the principles expressed in these non-papers that in our view should govern the functioning of the mechanisms. One of those essential points is the supplementarity principle. The EU reaffirms that the mechanisms defined in the Kyoto Protocol are supplemental to domestic action, which should provide the main means for meeting the commitments under Article 3 of the Protocol. The principles, modalities, rules and guidelines for the operation of the mechanisms have to ensure that they do not undermine domestic action or weaken these commitments. The EU recalls that a concrete ceiling on the use of mechanisms has to be defined to achieve these aims. Such a ceiling should be defined in quantitative and qualitative terms based on equitable criteria."

The EU, apparently with general support from the G-77 and China, achieved its objective, over the Umbrella Group's objection, to include the "supplementarity principle" in the applicable workplan. Apparently, the environmentalist's answer is that the Administration propose in 1999 more "domestic" actions, such as tax incentives, regulatory standards, and actions for the agriculture sector, as a way to convince Parties that the U.S. is serious about domestic actions, even though such proposals may not receive Congressional support. The environmentalists who appeared skeptical about the Yellen analysis also said that the U.S. must compromise with the EU on this matter.

- 11.1 Please explain what further "domestic" actions the Administration is contemplating and how the mere announcement of them would convince other Parties, like the EU whose goals in this regard certainly appear to relate more to economic interests and competition than the environment, that the U.S. is taking domestic actions.
- 11.2 It is my understanding the U.S. has not supported a "concrete ceiling on the use of flexible mechanisms" whether defined as "quantitative" or "qualitative." Is that still the U.S. position? How would you define such a ceiling in qualitative terms?
- 11.3 Does the U.S. continue to reject the EU's argument on supplementarity and on any limit on emissions trading?

- 11.4 If the U.S. delegation decides to compromise on these matters, as suggested by the environmentalists, between now and COP6, can I be assured that Chairman Yellen will provide a new economic analysis of that compromise since her latest analysis assumes, as I understand it, 85% or more of international emissions trading?

COP Intersessional Meetings

12. Also, in your November 14 Press Statement, you said that "the Parties, at our urging, also agreed that since the issues have grown more numerous and complex, annual meetings are no longer sufficient" and that "there will be more frequent, high-level consultations to provide political guidance to the subsidiary bodies that grapple with the outstanding issues" in order to "allow us to maximize our progress at future conferences." I understand that if the President of the COP holds a series of intersessional meetings, the attendees will be ministers or others of the countries that are fortunate enough to have places on the COP Bureau or to be selected by the COP President for such a seat at the negotiating table.
- 12.1 Is my understanding correct?
- 12.2 Please identify the Parties chosen by the President in Buenos Aires for negotiations.
- 12.3 What do you mean by the phrase "political guidance" and how does this group of 35 ministers or less so guide all 176 Parties to the FCCC who are independent nations, particularly if, as you contend, the G-77/China are, in fact, showing signs of division or fracture?
- 12.4 Was the session this year in Tokyo open to NGOs and Congressional designees? If not, please explain why not.
- 12.5 What Parties paid the costs of the Tokyo session?
- 12.6 Will there be public notice of any such 1999 sessions and will you insist that they be open to the NGOs, as well as to Congressional designees? If not, please explain why not.
- 12.7 What Parties will pay the cost of these sessions?

In responding these questions, please coordinate with other agencies as appropriate. In addition, under the set of decisions constituting the Buenos Aires Plan of Action and other decisions, Parties are invited to submit views and additional information to the FCCC Secretariat and/or FCCC Subsidiary Bodies. Please provide the Committee on Science a copy of the U.S. submissions as such views are submitted to the FCCC Secretariat and/or FCCC Subsidiary Bodies.

H. JAMES SENSENBRENNER, JR., Wisconsin, CHAIRMAN

SHERWOOD L. BOEHLERT, New York
HARRIS W. FAWELL, Illinois
CONSTANCE A. MORELLA, Maryland
CURT WELDON, Pennsylvania
DANA ROHRBACHER, California
JOE BARTON, Texas
KEN CALVERT, California
ROSCOE G. BARTLETT, Maryland
RONNIE J. EHLERS, Michigan
T. WELDON, Florida
T. SALMON, Arizona
JIMAS M. DAVIS, Virginia
GIL GUTKNECHT, Minnesota
MARK FOLEY, Florida
THOMAS W. EWING, Illinois
CHARLES W. "CHIP" PICKERING, Mississippi
CHRIS CANNON, Utah
KEVIN BRADY, Texas
MERRILL COOK, Utah
PHIL ENGLISH, Pennsylvania
GEORGE R. NETHERCUTT, Jr., Washington
TOM A. COBURN, Oklahoma
PETE SESSIONS, Texas

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON SCIENCE

SUITE 2320 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6301

(202) 225-6371

TTY: (202) 226-4410

<http://www.house.gov/science/welcome.htm>

GEORGE E. BROWN, Jr., California
Ranking Minority Member

RALPH M. HALL, Texas
BART GORDON, Tennessee
JAMES A. TRAFICANT, Jr., Ohio
TIM ROEMER, Indiana
JAMES A. BARCIA, Michigan
EDDIE BERNICE JOHNSON, Texas
ALCEE L. HASTINGS, Florida
LYNN N. RIVERS, Michigan
ZOE LOFGREN, California
MICHAEL F. DOYLE, Pennsylvania
SHEILA JACKSON LEE, Texas
BILL LUTHER, Minnesota
DEBBIE STABENOW, Michigan
BOB ETHERIDGE, North Carolina
NICK LAMPSON, Texas
DARLENE HOOLEY, Oregon
LOIS CAPPS, California
BARBARA LEE, California
Vacancy
Vacancy

October 20, 1998

The Honorable Janet L. Yellen
Chair, Council of Economic Advisers
Executive Office of the President
Old Executive Building, Room 314
17th and Pennsylvania Avenue, NW
Washington, DC 20500

Dear Dr. Yellen:

Paragraph 4 of Decision 1/CP.1 (the Berlin Mandate), adopted in March 1995 by the first Conference of Parties (COP) to the United Nations Framework Convention on Climate Change (UNFCCC), called for an analysis and assessment of the economic impacts of any future protocol. However, none was made by the Parties to the UNFCCC, including the European Union (EU). In the United States, the Administration started an analysis prior to Kyoto, but it was never finished. Although there have been several analyses by the private sector, yours of last March and July, to my knowledge, was really the first by a Government. However, it was not comprehensive and it is still preliminary. It was designed to show that the economic impacts of complying with the Kyoto Protocol "are likely to be relatively modest". Clearly, it was not the broader, independent analysis of the type promised in 1995 but never delivered.

For these and other reasons, this Committee made a bipartisan request to the Administrator of the Energy Information Agency (EIA), for the enclosed report entitled "Impact of the Kyoto Protocol on U.S. Energy Markets and Economic Activity." The report's Preface explains that EIA arranged for nine experts, including William Nordhaus of Yale University and three prominent persons from Resources for the Future, to review and comment on versions of the report.

Nevertheless, I understand that some in the Administration, reportedly including the Secretary of Energy, are critical of the EIA report. In fact, Ms. Kathleen McGinty, Chair of the Council on Environmental Quality, is reported by the October 13, 1998 edition of *The Energy Daily* as disputing the EIA conclusions. She reportedly believes that "several key factors were conspicuously missing from EIA's analysis", including cost savings from international trading of greenhouse gas emissions which she says "has already begun" and is likely to exist on a

The Honorable Janet L. Yellen
October 20, 1998
Page two

"broad scale within a decade." The article quotes her as saying: "Some people try to make the point that this is an expensive endeavor and it isn't. Those who want to mislead will use this account."

That is rather harsh criticism of another Administration Agency that long ago was required by section 205(c) of the Department of Energy Organization Act and a 1974 law to provide independent analysis of this kind to Congress and its Committees. Nevertheless, I take this criticism seriously and I request your views and comments on the EIA report, taking into consideration your latest version of your March analysis, which, apparently, was not available to the EIA in preparing this report and those made by the private sector, particularly the analysis made by DRI for the United Mine Workers, and the enclosed article.

I understand from your analysis and your October 6, 1998 testimony before the House Commerce Committee, that your optimism, and that of Ms. McGinty, about the economic impact of the Protocol is largely based on expectations about the availability of so-called "flexible mechanisms" under Articles 6, 12, and 17 of the Kyoto Protocol which, of course, has not entered into force. Additionally, it has not been submitted to the Senate for advice and consent to ratification, nor has it been signed by the Administration on behalf of the Executive Branch.

The EIA report, on page xii, also takes note of these mechanisms and says that they "may reduce the cost of compliance in the United States." The EIA then adds:

"Guidelines for those provisions, however, remain to be resolved at future negotiating meetings, and rules and guidelines for the accounting of emissions and sinks from activities related to agriculture, land use, and forestry activities must be developed. The specific guidelines may have a significant impact on the level of reductions from other sources that a country must undertake.

"Because the exact rules that would govern the final implementation of the Protocol are not known with certainty, the specific reductions in energy-related emissions cannot be established."

As the State Department knows, the UNFCCC Secretariat prepared a proposed work plan and schedule relating to these mechanisms, other Protocol provisions, and some UNFCCC provisions for decision of the Parties at the eighth Subsidiary Body session last June (FCCC/SB/1998/1, April 9, 1998). However, there was no progress on that proposal. Instead, on June 12, 1998, Indonesia, speaking for the Group of 77 and China (G77/China), said:

The Honorable Janet L. Yellen
October 20, 1998
Page three

“The Group of 77 and China maintains that the mechanisms of the Kyoto Protocol have to proceed on a step-by-step basis, as the protocol has yet to enter into force, and that a common understanding has to be reached on the nature of these mechanisms. The study of methodological issues is a first step to be taken. All the mechanisms have to be examined on the basis of the principles of equity, sustainable development, the other principles, and the objective of the Convention. The issues relating to the Clean Development Mechanism (CDM) should be addressed first. The Group further maintains that domestic actions by the developed countries should be their primary means of greenhouse gas limitation and reduction, and that the overseas mechanisms should be supplemental to such domestic actions by developed countries for the purpose of meeting their quantified emissions limitation and reduction commitments.”

It appears therefore that the aim of the developing countries is not only to avoid new commitments to reduce and limit their greenhouse gas emissions, but also to restrict the very flexibility mechanisms that you and Ms. McGinty are counting on to keep the Protocol costs “modest.”

I understand that the UNFCCC Secretariat has prepared a new work plan proposal (FCCC/CP/1998/3, Sept. 9, 1998) for the fourth Conference of Parties (COP-4) in Buenos Aires. However, there is little to suggest that this document or something similar to it will be well received at COP-4. In fact, another group, the European Union Environment Ministers, who were reported to be mellowing in their views on some significant issues in regards to the Mechanisms, met earlier this month and issued on October 6th their “Community Strategy on Climate Change - Council Conclusions.” It appears that, in reality, the EU Ministers who also want a work plan and schedule adopted at COP-4, have not changed their views, but have attempted to “re-package” them. They continue to press for “coordinated” policies and measures “amongst Annex I Parties”, including taxes, “to achieve the targets of the Kyoto Protocol.” As to the mechanisms, they concluded in paragraph 6:

“The Council reaffirms that the flexible mechanisms defined in the Kyoto Protocol are supplemental to domestic action, which should provide the main means for meeting the commitments under Article 3 of the Protocol. The principles, modalities, rules and guidelines for the operation of the mechanisms have to ensure that they do not undermine domestic action or weaken these commitments. In this context, the Council also recalls that a concrete ceiling on the use of flexible mechanisms has to be defined to achieve these aims. It should be defined in quantitative and qualitative terms based on equitable criteria. The Council believes that the discussion between all Parties on the practical elaboration of the supplementarity principle has effectively to start at COP-4. This elaboration needs

The Honorable Janet L. Yellen
October 20, 1998
Page four

to constitute an essential element of the work plan to be adopted at Buenos Aires. The Council urges all Parties to co-operate with a view to reaching final agreement on this issue at COP-5."

It does not appear that the views and positions of the G-77/China and the EU coincide with those of New Zealand, in reply for the so-called "Umbrella Group" (which includes the U.S.) to questions by the G-77/China on the mechanisms. As the views and positions of these two large groups persist, it becomes more and more difficult to accept your rather rosy economic analysis of the Protocol's impacts on consumers, business, and jobs. There appears to be broader support among the UNFCCC Parties for the limitations sought by the EU than for the more flexible view urged by the U.S. through the Umbrella Group. It would seem therefore that the EIA's broader analysis which recognizes these uncertainties about future negotiations, and does not assume their availability without the limits urged by these groups, is more realistic, at least for now, than your analysis. Therefore, in commenting on the EIA report, please explain the basis for your optimism about these negotiations and indicate what your views will be if the EU and G77/China continue to press those views and positions over the next two years of the Administration's term.

Let me stress that I and many of my colleagues in Congress fully agree that the Administration must continue at all costs to continue to stand firm at COP-4 and thereafter against coordinated policies and measures and the interpretation of "supplemental" urged by these groups if the Administration intends to conform with S. Res. 98 which is your basic "bible".

In addition, I note that the incomplete version of the Administration's analysis that was started prior to Kyoto seemed to recognize that the Protocol is not self-executing in the U.S. (even with COP guidelines, rules, etc.) and that, if and when, it is ratified, implementing legislation would be needed. That document also contemplated an emission permit program and the recycling of rather large sums of money. The EIA report also mentions the likelihood of such legislation and recycling. However, your July analysis appears to omit any mention of the need for implementing legislation or discuss the possibility of a domestic emission trading proposal that would generate large sums of money which might be recycled, subject to the provision of 31 U.S.C. 3302 and other applicable provisions of law regarding the disposal of revenues. In your reply, I request that you address the issue of the need for implementing legislation, if and when, the Protocol is ratified and whether the pre-Kyoto analyses about domestic programs and revenue recycling are still under consideration. I recognize, of course, that such matters may only be in the early stages of consideration and, may never be developed if the Protocol is not submitted to the Senate for advice and consent to ratification during the remaining term of this Administration.

The Honorable Janet L. Yellen
October 20, 1998
Page five

Finally, your response should identify any "key factors" that are missing in the EIA report. This should include a discussion of the international trade that Ms. McGinty says "has already begun," and an explanation as to how that trade relates to a Protocol that is not in force and is not yet complete in many important details. Specifically, what is that trade, what entities are involved, what are they trading, and for what purpose?

In responding to these matters, please consult, as necessary, with Ms. McGinty and others in the Executive Branch to ensure a full and complete response. Also, so that you may have the benefit of the results of the COP-4 session, I do not expect your comments about the EIA report and these related matters until November 30, 1998. However, if you cannot meet that deadline, please advise in writing and indicate when you will reply before the end of 1998.

Sincerely,



F. JAMES SENSENBRENNER, JR.
Chairman

Enclosure

FJS/hlw

cc: Secretary of State
Secretary of Energy Bill Richardson
The Honorable Kathleen A. McGinty, Chair, Council on Environmental Quality



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

CHIEF OF STAFF

September 15, 1998

Dear Mr. Brechtel:

In a letter dated June 30, 1998, Chairman Talent posed several questions as follow-up to the June 4 testimony given by Dr. Janet Yellen before the Committee on Small Business. I am pleased to enclose herein the responses to those questions.

If you or Chairman Talent have any questions, please contact us at 202-395-5084.

Sincerely,

A handwritten signature in black ink, which appears to read "Michele Jolin", is written above the printed name.

Michele Jolin

Mr. Peter Brechtel
Legislative Assistant
Committee on Small Business
U.S. House of Representatives
Room 2361 Rayburn House Office Building
Washington, D.C. 20515-6315

Enclosure

**Answers to Questions From Chairman Talent
to Dr. Yellen, Chair of the CEA**

1) In your written testimony, you referenced the increase in an average household's energy bill. What is your estimate of the impact of the Kyoto Protocol for the following cases:

a) Energy costs for an average household assuming that emissions trading is not allowed (approximately \$200/metric ton based on the SGM model). This data should include the components from oil (heating and gasoline), natural gas, and electricity.

This question does not apply to the Kyoto Protocol because Article 17 of the Protocol establishes the right to trade emissions among parties with emissions targets. However, our informal analyses of such a policy suggest that the effects on energy prices would be nearly 10 times greater than under the policy conditions that were identified in Dr. Yellen's testimony. The testimony indicated that effective international trading and meaningful developing country participation could result in permit prices of about \$14 to \$23/ton. We believe that this difference of nearly a factor of 10 underscores the importance of international permit trading and developing country participation, two cornerstones of the Administration's climate change policies.

This data should include a typical household in the following regions: Northeast, Southeast, South, Mid-West, Northwest and Southwest.

We have no data on spending by region and have not undertaken such analysis.

b) Direct energy costs for an average small business of 50 employees under the same conditions as listed in Item a above.

We have no data on spending on energy by small businesses and have not undertaken such analysis.

2) In addition to the direct energy costs, what is your estimate of the indirect costs of the policy for the cases described above?

We do not have quantitative estimates of indirect compliance costs.

[3)] Please provide the following:

1) At the time of the President's policy statement in October the reduction target for carbon stabilization at 1990 levels was approximately 375 million metric tons (Mmt). Since this announcement the EIA outlook has added another 80 Mmt to the target and the Kyoto reduction of 7 percent has added another 95 Mmt. The total reduction for energy alone is now 550 Mmt.

If you add the other gases the Kyoto target for reduction is 650 Mmt. Since the total amount of emissions is critical to any economic analysis, please provide the assumptions used in your analysis for the amount of emissions to be traded. Also confirm which of the analyses you used were performed after Kyoto.

As with any conventional economic model, our model assumed simply that the amount of emissions permits to be traded would be determined by the supply and demand for emissions permits among the trading countries. All of the quantitative analyses underlying Dr. Yellen's testimony were developed after Kyoto.

2) What are the Clinton Administration's assumed further emission reduction targets for the period 2013-2020?

We have made no assumptions about the emissions targets for the periods beyond 2012. The Administration has not proposed emissions targets for the second or subsequent commitment periods. We acknowledge that Kyoto is a first step, and the President in October said that we must work toward further reductions in the years beyond 2012. The Administration, however, is not prepared at this time to propose an emissions target for these years.

3) What analysis of the total impact on the economy (both direct and indirect costs) of the U.S. has been performed using these assumptions?

The analysis that we have performed is summarized in Dr. Yellen's testimony to Congress and in the July 1998 report titled "The Kyoto Protocol and the President's Policies to Address Climate Change: Administration Economic Analysis."

How are total costs reflected in your analysis since the SGM analysis you referenced in your testimony only treats direct costs, which is recognized to underestimate total costs by a factor of 2-4?

Our approach follows the practice of the researchers who have developed the SGM model and is consistent with other uses of this model. It reports costs as the sum of 1) the cost of emissions reductions achieved in the United States, calculated to reflect only the incremental cost of each reduction, i.e., the minimum compensation that a profit-oriented firm would need as compensation for such reductions, and 2) the total value of payments to firms outside of the United States for emission permits acquired through international trading.

Although we have followed a practice accepted by many modelers the measurement of total costs in the computable general equilibrium models used to assess the economic impacts of mitigating climate change is an area of ongoing study. For example, researchers within the Energy Modeling Forum recognize that modelers need a better understanding of why the costs are so different across models and some way to decompose the many components contributing to the overall cost of mitigation.

Differences in cost have not yet been decomposed into distinct components in a manner that lets independent researchers evaluate the validity of such claims.

4) Estimates of the U.S. demand for emissions credits by year for the period 2008-2012 and the potential supply from Russia and the Ukraine based on

A) Projected demand relative to the Kyoto target.

B) Projected demand relative to the assumed additional reductions targets.

The Administration has no estimates of the demand for emission credits by year for the period 2008-2012. Demand will be sensitive to a variety of factors that are quite difficult to forecast 10 to 14 years in advance, especially the rate of technological innovation and the diffusion and adoption of current innovations and those placed on the market over the next ten years. For the same reason we have no estimates of the supply of emission credits.

In addition, as mentioned above, the Administration has not proposed additional reductions targets for periods beyond 2012.

[4)] Given this strong opposition by developing nations to even consider voluntary commitments and given the lack of progress on fleshing out the skeletal flexibility provisions (such as trading) in the protocol, isn't it unrealistic to expect savings from these areas and isn't the Kyoto Protocol likely to cost America substantially more? Please elaborate in your answer and supply details of your calculations.

The President will not submit the Kyoto Protocol to the Senate for its advice and consent to ratification without the meaningful participation of developing countries. Some forms of developing country participation, together with emissions trading among Annex I countries, can produce significant cost-savings in meeting the Protocol's targets. For details, see the discussion surrounding Table 4 (p. 52) in "The Kyoto Protocol and the President's Policies to Address Climate Change: Administration Economic Analysis."

JAMES M. TALENT, MISSOURI
CHAIRMAN

NYDIA M. VELÁZQUEZ, NEW YORK

JLY, JA,
cc. RL, JA,
HJ

Rec'd 7-6-98

Congress of the United States
House of Representatives
105th Congress
Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515-6515

June 30, 1998

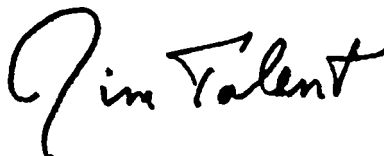
Honorable Janet L. Yellen
Chair
Council of Economic Advisors
OEOB
17th & Pennsylvania Ave., N.W.
Washington, DC 20500

Dear Dr. Yellen:

Thank you for testifying at the Committee's hearing on the Kyoto Protocol. The hearing was held to give you and others the opportunity to provide Members of the Committee with a report on the potential economic impact of the Protocol on small businesses.

As mentioned at the hearing, the hearing record has been kept open for Members of the Committee for follow-up questions. In light of this, please provide the Committee with answers to the enclosed follow-up questions for the hearing record. Please send your response to the Committee office at 2361 Rayburn House Office Building by July 24, 1998. If you have any questions concerning this request, please direct them to Peter Brechtel of the Committee staff at 225-5821.

Sincerely,



James M. Talent
Chairman

Enclosure

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

- 1) In your written testimony, you referenced the increase in an average household's energy bill. What is your estimate of the impact of the Kyoto Protocol for the following cases:
 - a) Energy costs for an average household assuming that emissions trading is not allowed (approximately \$200/metric ton based on the SGM model). This data should include the components from oil (heating oil and gasoline), natural gas, and electricity. This data should include a typical household in the following regions: Northeast, Southeast, South, Mid-West, Northwest, and Southwest.
 - b) Direct energy costs for an average small business of 50 employees under the same conditions as listed in Item a above.
- 2) In addition to the direct energy costs, what is your estimate of the indirect costs of the policy for the cases described above?

On page 10 of your written testimony, you said "the emission cuts agreed upon in Kyoto are only a first step in a long journey." Since the implications of these further reductions contemplated by President Clinton are substantial in terms of the impact on the U.S. economy and the availability of emissions credits, please provide the following:

- 1) At the time of the President's policy statement in October the reduction target for carbon stabilization at 1990 levels was approximately 375 million metric tons (Mmt). Since this announcement the EIA outlook has added another 80 Mmt to the target and the Kyoto reduction of 7% has added another 95 Mmt. The total reduction for energy alone is now 550 Mmt. If you add the other gases the Kyoto target for reduction is 650 Mmt. Since the total amount of emissions is critical to any economic analysis, please provide the assumptions used in your analysis for the amount of emissions to be traded. Also, confirm which of the analyses you used were performed after Kyoto.
- 2) What are the Clinton Administration's assumed further emission reduction targets for the period of 2013-2020?

3) What analysis of the total impact on the economy (both direct and indirect costs) of the U.S. has been performed using these assumptions? How are total costs reflected in your analysis since the SGM analysis you referenced in your testimony only treats direct costs, which is recognized to underestimate total costs by a factor of 2-4?

4) Estimates of the U.S. demand for emissions credits by year for the period 2008-2020 and the potential supply from Russia and the Ukraine based on:

- a) Projected demand relative to the Kyoto target.
- b) Projected demand relative to the assumed additional reduction targets.

Dr. Yellen, your testimony before the Committee on June 4 was that the Kyoto Protocol would have a modest economic impact on the United States and that the cost per ton of greenhouse gas reductions would be in the range of \$14 to \$23 per ton. You also testified that this cost estimate was predicated on achieving developing country participation and other flexibility mechanisms in future international negotiations. However, during the recent UN FCCC Subsidiary Bodies meeting in Bonn, Germany, the Group of 77 (G-77) and China voiced strong opposition to even placing voluntary responses for developing nations on the agenda for the fourth Conference of Parties (COP-4). On June 12, the closing statement by the Ambassador of Indonesia on behalf of G-77 and China stated:

“The Group reiterates that there must be no new commitments, voluntary or otherwise, introduced for all developing countries, under any guise, in such reviews.”

Given this strong opposition by developing nations to even consider voluntary commitments and given the lack of progress on fleshing out the skeletal flexibility provisions (such as trading) in the protocol, isn't it unrealistic to expect savings from these areas and isn't the Kyoto Protocol likely to cost America substantially more. Please elaborate in your answer and supply details of your calculations.

ONE HUNDRED FIFTH CONGRESS

TOM BILEY, VIRGINIA, CHAIRMAN

W.J. "BILLY" TAUZIN, LOUISIANA
 MICHAEL G. OXLEY, OHIO
 MICHAEL BILIRAKIS, FLORIDA
 DAN SCHAEFER, COLO. ORADO
 JOE BARTON, TEXAS
 J. DENNIS MASTERT, ILLINOIS
 FRED UPTON, MICHIGAN
 CLIFF STEARNS, FLORIDA
 BILL PAXON, NEW YORK
 PAUL E. GILLMORE, OHIO
 SCOTT L. KLUG, WISCONSIN
 JAMES C. GREENWOOD, PENNSYLVANIA
 MICHAEL D. CRAPO, IDAHO
 CHRISTOPHER COX, CALIFORNIA
 NATHAN DEAL, GEORGIA
 STEVE LARGENT, OKLAHOMA
 RICHARD BURN, NORTH CAROLINA
 BRIAN P. BILBRAY, CALIFORNIA
 ED WHITFIELD, KENTUCKY
 GREG GANESKE, IOWA
 CHARLIE NORWOOD, GEORGIA
 RICK WHITE, WASHINGTON
 TOM COBURN, OKLAHOMA
 RICK LAZIO, NEW YORK
 BARBARA CUBIN, WYOMING
 JAMES E. ROGAN, CALIFORNIA
 JOHN SHIMKUR, ILLINOIS

JOHN D. DINGELL, MICHIGAN
 HENRY A. WAXMAN, CALIFORNIA
 EDWARD J. MARKEY, MASSACHUSETTS
 RALPH M. HALL, TEXAS
 RICK BOUCHER, VIRGINIA
 THOMAS J. MANTON, NEW YORK
 EDOLPHUS TOWNS, NEW YORK
 FRANK FALLOWS, JR., NEW JERSEY
 SHERRILL BROWN, OHIO
 BART GORDON, TENNESSEE
 ELIZABETH PURSE, OREGON
 PETER DEUTSCH, FLORIDA
 BOBBY L. RUSH, ILLINOIS
 ANNA G. ESHOO, CALIFORNIA
 RON KLUM, PENNSYLVANIA
 BART STUPAK, MICHIGAN
 BUOT L. ENGEL, NEW YORK
 THOMAS C. SAWYER, OHIO
 ALBERT R. WYNN, MARYLAND
 GENE GREEN, TEXAS
 KAREN MCCARTHY, MISSOURI
 TED STRICKLAND, OHIO
 DIANA DEGETTE, COLORADO

JAMES E. DERDERIAN, CHIEF OF STAFF

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

Dear Dr. Yellen:

We are writing to inform you of the decision to include in the March 4, 1998 printed hearing record the economic analysis you recently provided to the Committee concerning the potential costs of the Kyoto Protocol to the U.S. economy. As you know, at the March 4 hearing, Chairman Schaefer and Ranking Member Dingell requested that you provide these documents to the Committee, and Mr. Dingell requested that these documents be included in the hearing record. After reviewing the document entitled "The Kyoto Protocol and the President's Policies to Address Climate Change: Administration Economic Analysis" and considering the letter from Mr. Robert Weiner, Senior Counsel, Office of Counsel to the President regarding release of the documents, we believe that failing to include these documents in the printed hearing record would hinder the ability of the Committee to carry out its oversight responsibilities and would leave stakeholders and the public without complete information regarding the range of possible costs of implementation of the Kyoto Protocol. The potentially enormous impact of these policies to the United States economy, the Administration's less than forthcoming dealings with Congress on this matter, and the nature of the documents, underscore the need for disclosure as part of our oversight efforts, and outweigh any arguments to keep these documents hidden from public scrutiny.

You noted at the July 15, 1997 hearing, "when a decision has been arrived at, it is incumbent on us to explain how we arrived at that decision and why we regard it as a sensible decision. I feel we have to be prepared to explain that." We agree. If the Administration is going to present certain economic conclusions as justification for its policies, then it is inappropriate for the Administration to shield the assumptions used to reach those economic conclusions.

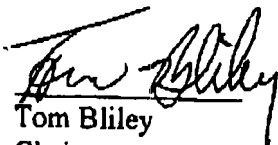
Thank you for your cooperation on this matter. We also will enter into the printed hearing record a copy of this letter. If you have any questions, please contact Ms. Catherine Van Way or Mark Paoletta of the Majority Staff at 225-2927 or Dennis Fitzgibbons or Sue Sheridan of the Minority staff at 225-3641.

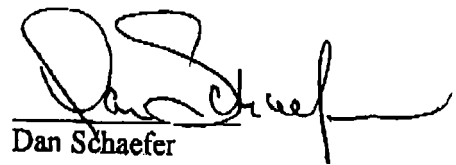
U.S. House of Representatives
 Committee on Commerce
 Room 2125, Rayburn House Office Building
 Washington, DC 20515-6115

September 11, 1998

cc: MJ
 JAF
 JV
 JA
 SP

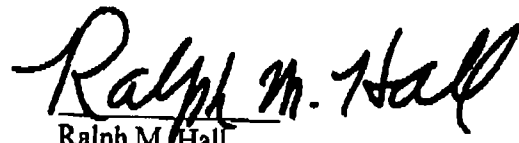
The Honorable Janet Yellen
Page 2


Tom Bliley
Chairman


Dan Schaefer
Chairman
Subcommittee on Energy and Power

Sincerely,


John D. Dingell
Ranking Member


Ralph M. Hall
Ranking Member
Subcommittee on Energy and Power

FAX COVERCOMMITTEE ON GOVERNMENT REFORM
AND OVERSIGHTDEMOCRATIC STAFF OFFICE

Bob Dams 395-7285
David Benish 586-9891

HON. HENRY A. WAXMAN

RANKING MINORITY MEMBER

8350A RAYBURN HOUSE BUILDING

Ellen Athas 395-3744 PHONE (202) 225-5051

Rob Weiner 456-1647 FAX (202) 225-4784 or 8185

DATE: Sally Brandel 647-6217
Bob Dreher 260-8046

TO: Michelle John 395 6958 FAX # _____

Greg Peterson

FROM: Elly H. Lindner

SUBJECT: Global Warming Document ProductionNO. OF PAGES _____
(EXCLUDING COVER SHEET)

COMMENT:

FYI

IF THERE IS A PROBLEM WITH THIS
TRANSMITTAL, PLEASE CALL OFFICE A.S.A.P.CC: JCY
JAF
JA
SP
MJ

DAN BURTON, INDIANA
 CHAIRMAN
 BENJAMIN A. GILMAN, NEW YORK
 DENNIS HASTERT, ILLINOIS
 JUDY FANKE, MARYLAND
 CHRISTOPHER SHAYS, CONNECTICUT
 CHRISTOPHER COX, CALIFORNIA
 JANA MOSKOWITZ, FLORIDA
 JOHN M. MURPHY, NEW YORK
 STEPHEN HORN, CALIFORNIA
 JOHN L. MICA, FLORIDA
 THOMAS M. DAVIN III, VIRGINIA
 DAVID M. MCINTOSH, INDIANA
 MARK E. ZUDER, INDIANA
 J. SCARBOROUGH, FLORIDA
 JOHN S. SHADDOCK, ARIZONA
 STEVEN C. MCQUIN, OHIO
 MARSHALL T. WARD, SOUTH CAROLINA
 JOHN E. LUNGMAN, NEW HAMPSHIRE
 STEVE SESSIONS, TEXAS
 MICHAEL E. BASS, NEW JERSEY
 BOB SHAW, KANSAS
 BOB BARR, GEORGIA
 DAN MILLER, FLORIDA
 DON LEWIS, KENTUCKY

ONE HUNDRED FIFTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

PHONE 202-225-5074
 FAX 202-225-5051
 TDD 202-225-4832

August 24, 1998

HENRY A. WAXMAN, CALIFORNIA
 RANKING MINORITY MEMBER
 TIM LANTOS, CALIFORNIA
 ROBERT E. WISE, JR., WEST VIRGINIA
 MAJOR R. OWENS, NEW YORK
 DOUGLAS TOWNE, NEW YORK
 PAUL E. KANJORSKI, PENNSYLVANIA
 TERRY A. CONDIT, CALIFORNIA
 CAROLYN B. MALONEY, NEW YORK
 THOMAS M. BARRETT, WISCONSIN
 ELEANOR HOLMES NORTON
 DISTRICT OF COLUMBIA
 SHAKA PATTAH, PENNSYLVANIA
 ELLAH B. CUMMINGS, MARYLAND
 BENNIE J. KUCINICH, OHIO
 BOO R. BLAGOVESHCHIKOV, ILLINOIS
 LARRY K. DAVIS, ILLINOIS
 JOHN F. TIERNEY, MASSACHUSETTS
 THOMAS H. ALLEN, MAINE
 ARLO H. FORD, JR., TENNESSEE

BERNARD SANDERS, VERMONT
 INDEPENDENT

The Honorable Dan Burton
 Chairman, Committee on Government Reform and Oversight
 U.S. House of Representatives
 Washington, DC 20515

Dear Mr. Chairman:

It is my understanding that at a meeting last week between the White House, the Council on Environmental Quality, and the staff of the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs concerns were raised about how the Committee would handle certain documents related to global warming that you have subpoenaed.

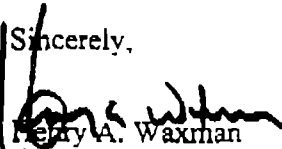
We faced a similar issue during the early months of the campaign finance investigation. As you will recall, the minority members of the Committee wrote to you on March 10, 1997, about the need to establish a protocol to handle the documents subpoenaed by the Committee as part of the campaign finance investigation. As we pointed out in that letter, the House rules provide that subpoenaed documents are the property of the Committee. They cannot be unilaterally released by any member, including the chairman, without Committee approval.

The same considerations apply to the documents relating to global warming that the Committee has obtained by subpoena. These documents belong to the Committee and must be handled under procedures adopted by the Committee.

The Committee responded to the concerns expressed in the March 10, 1997, letter by adopting a document protocol for the campaign finance investigation. Although I have concerns with aspects of the document protocol adopted by the Committee, a similar approach would seem to be required for the global warming investigation, especially given its heavy reliance on Committee subpoenas.

For your convenience, I have attached copies of the March 10, 1997, letter, as well as the current version of the document protocol for the campaign finance investigation.

Sincerely,


 Henry A. Waxman
 Ranking Minority Member

Enclosures

cc: The Honorable David M. McIntosh

DAN BURTON, INDIANA
CHAIRMANHARRY A. WADSWORTH, CALIFORNIA
RANKING MINORITY MEMBER

ONE HUNDRED FIFTH CONGRESS

Congress of the United States
House of Representatives**COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT**
2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-8143
(202) 225-5074

March 10, 1997

The Honorable Dan Burton
Chairman
Committee on Government Reform and Oversight
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Pursuant to House rule XI clause 2(c)(2), we are writing to request that you convene a special meeting of the Committee to establish fair procedures and approve an appropriate scope and budget for the Committee's investigation into alleged campaign finance abuses.

As the minority members of the Committee, we wish to work with you and the other majority members in investigating alleged campaign finance abuses. As a prerequisite to bipartisan cooperation, however, the Committee must adopt impartial procedures for the conduct of the investigation: the investigation must avoid pursuing a strictly partisan agenda; and the minority must be provided adequate resources to participate actively in the investigation. Unfortunately, without seeking the approval of the Committee, you have implemented procedures that are unfair to the minority and have established a partisan scope and budget for the investigation.

The ranking minority member has written you on January 24, February 3, February 18, February 20, February 26, and March 7 of this year to raise these issues and make suggestions for more appropriate ways to proceed. The ranking minority member has also met privately with you on February 4 and February 27 to raise our concerns directly with you. These efforts have been to no avail. Despite the minority's many requests, you have determined to proceed in a manner that vests unprecedented power in the chair and that unfairly prejudices the minority.

At this point, we have no alternative but to appeal your decisions to the full Committee. For this reason, we request that you call a special meeting of the Committee under House rule XI clause 2(c)(2) at which we will ask the Committee to vote on whether the procedures, scope, and budget that you have set for the investigation are appropriate. The traditions of the House -- as well as principles of fundamental fairness -- dictate that we should be afforded the opportunity to bring our concerns before the Committee for decision by Committee vote.

The Honorable Dan Burton

March 10, 1997

Page 2

At the special meeting, we would raise the following three matters: (1) whether the "Protocol for Documents" that you have announced, which gives you the unilateral authority to release Committee documents, is a fair protocol; (2) whether you should have the authority to issue subpoenas unilaterally, without seeking either the concurrence of the ranking minority member or a Committee vote; and (3) whether the scope of the investigation and the budget requests that you have submitted to the Committee on House Oversight are appropriate.

Our concerns regarding each of these three fundamental issues are described in more detail below.

The Protocol for Documents

Late last month, you announced a "Protocol for Documents" that "sets forth the procedures to be followed by the House Committee on Government Reform and Oversight for the obtaining, handling and releasing of documents and other materials during investigations conducted by the Committee." Under this protocol, you "retain the discretion" to release Committee documents "to the media ... or to any other person" without the prior consent of the Committee. Indeed, you assert that you may even release to the media -- without the approval of the Committee -- confidential and privileged documents obtained by the Committee through subpoena.

The unilateral authority that you assert to release Committee documents, including privileged and confidential documents, is an extraordinary and unprecedented power. It far exceeds the power of the chair in other similar investigations, such as the Iran-Contra investigation, House ethics investigations, and the Senate Whitewater investigation.

The unilateral implementation of the "Protocol for Documents" is also inconsistent with the House rules. We have consulted extensively with the House Parliamentarian about this matter. After careful consideration, the Parliamentarian has advised us that the unilateral implementation of the Protocol -- without the approval of the Committee -- is not consistent with the House rules.

House rule XI clause 2(e)(2) provides that "[a]ll committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the Member serving as chairman of the committee; and such records shall be the property of the House." According to the Parliamentarian, the documents submitted to the Committee pursuant to Committee requests or subpoenas become part of the Committee records and files. As such, they must be handled under procedures adopted by the Committee -- not under procedures announced unilaterally by the chair.

The Honorable Dan Burton

March 10, 1997

Page 3

House rule XI clause 2(m)(2)(A), which provides committees with their subpoena authority, is also relevant. This rule provides that the power to issue subpoenas resides in the Committee. Under this rule, the chair can issue a subpoena only when the authority to do so has been expressly "delegated" by the Committee to the chair. Under this rule, according to the Parliamentarian, all documents received under a subpoena belong to the Committee. Even when a chair has been delegated authority to issue subpoenas, the chair's delegated authority under the rule is limited to the issuance of the subpoena. The documents that are received pursuant to the subpoena belong to the Committee and must be handled under procedures adopted by the Committee.

The Parliamentarian's advice makes it clear that it is the Committee -- not the chair acting on its own -- that must decide how the documents received during the investigation will be handled. It is necessary, therefore, that a Committee meeting be called at which this issue can be resolved by Committee vote. At such a meeting, we intend to propose that privileged and confidential documents received by the Committee must be kept confidential until their release is authorized by the Committee.

The Unilateral Issuance of Subpoenas

We also object to the issuance of subpoenas by the chair without a Committee vote or the concurrence of the ranking minority member. We believe that our Committee rules should be modified to provide that the chair may issue a subpoena without a Committee vote or the concurrence of the ranking minority member only in emergency situations, such as when relevant documents may be destroyed before a Committee vote can be held.

We recognize that the chair of the Government Reform and Oversight Committee has for many years had the authority under Committee rules to issue subpoenas unilaterally. Under Democratic chairmen, however, this power was never exercised. Instead, as a matter of prudence, your Democratic predecessors always asked for a Committee vote or the concurrence of the ranking minority member before issuing subpoenas. This practice provided a procedural safeguard designed to insure that the subpoena power was not abused for partisan political purposes.

Unfortunately, you have decided not to follow the traditional practice of the Committee. Since the Committee organized on February 12, you have issued 46 subpoenas -- without once seeking either Committee approval or the concurrence of the ranking minority member. The result has been an abuse of the Committee's subpoena power. As the ranking minority member described in his letter of March 7, the unilateral subpoenas you have issued compel the production of extraordinarily sensitive national security and foreign policy documents that have no apparent connection to any alleged fundraising abuse. The subpoenas would also require the production of purely personal information about the Clintons, such as a record of doctor visits to the White

The Honorable Dan Burton
March 10, 1997
Page 4

House, as well as copies of confidential Democratic political strategies developed as a legitimate part of the last Presidential campaign.

The issuance of a subpoena is an exceptionally serious step that compels the person subpoenaed to provide documents to the Committee against his or her will, often at great personal sacrifice and expense. It is clear to us that except in emergency circumstances, it should be the Committee -- not the chair acting unilaterally -- that determines when a subpoena should be issued and what its scope should be.

The Investigation's Scope and Budget

Finally, we have three fundamental objections to the Committee budgets that you have submitted to the Committee on House Oversight. We believe that the Committee should also meet to resolve these issues.

First, the supplemental \$3.8 million budget that you submitted to the Committee on House Oversight last week proposes that the scope of the investigation be limited to alleged Democratic fundraising abuses. Specifically, it provides that the supplemental budget would be used to investigate:

The DNC and allegations of illegal or unethical fundraising activities, misuse of the White House and White House personnel, the questionable political activities of John Huang and other Commerce Dept. personnel, questionable political activities of Clinton appointees in connection with DNC fundraising at numerous Government Agencies and Departments including, but not limited to: Department of Commerce, Department of State, Export-Import Bank, Office of Trade Representative, Department of Interior, Office of Comptroller General.

This scope is partisan. It focuses the investigation on the White House and the DNC and ignores fundraising abuses in congressional campaigns. It is also inconsistent with your pledge at our organizational meeting that "[w]e would apply equally the investigative procedures of this committee to whomever, Republican or Democrat." We believe that the Committee investigation should focus on all illegal or improper fundraising activity, including illegal or improper fundraising activity by the Presidential campaigns, Democratic and Republican fundraising organizations, and individual House and Senate campaigns.

Second, the budgets you have proposed would provide the minority with no more than -- and likely substantially less than -- 25% of the staff available to the Committee. As the ranking minority member has explained in correspondence with you and at the House Oversight hearing on March 6, this allocation is not sufficient to allow the minority to participate effectively in the campaign finance investigation. It is also in violation of House policy, which provides that the

The Honorable Dan Burton
 March 10, 1997
 Page 5

minority should receive at least 33% of the Committee's resources.

Finally, the Committee budgets were developed in violation of Committee rules. On February 12, the Committee adopted a rule that requires the chair to develop a Committee budget only "after consultation with ... the minority." Two days later, however, you submitted a budget to the House Oversight Committee with no consultation with the minority. On March 5, you submitted a "supplemental" budget to the House Oversight Committee seeking an additional \$3.8 million for the campaign finance investigation -- again with no consultation with the minority. These are serious violations of our Committee rules. They should be rectified by bringing the Committee budgets before the Committee for vote.

Conclusion

For the reasons set forth above, we respectfully request that you schedule a special meeting of the Committee within seven calendar days at which the matters discussed above may be resolved by Committee vote.

Sincerely,

Henry A. Waxman Carol B. Malley Tom Barrett Elizbeth Cummings
Tom Barrett Rod R. Blagojevich Tom Allen
Edmarcos T. Nolasco Tom Lantos Bill Wra
B. J. S. O. Jim J. J. J. Tim Holden
Donny K. Davis Chase LaRue John F. Tierney
Dennis J. Kucinich Paul E. Kayser

CAR BURTON INDIANA

CHAIRMAN

BENJAMIN S. CALMAN NEW YORK

CATHY HARTLEY ILLINOIS

CONSTANCE A. MORELLA MARYLAND

CHRISTOPHER SMAYS CONNECTICUT

STEVEN SCHIFF NEW MEXICO

CHRISTOPHER COX CALIFORNIA

JANA ROSENTHAL FLORIDA

DAN M. MURPHY NEW YORK

DEN HORN CALIFORNIA

T. L. MCCA FLORIDA

JAMES M. DAVIS III VIRGINIA

DAVID W. MINTOSH INDIANA

MARK E. SCUDER INDIANA

JOE SCARBOROUGH FLORIDA

JOHN SHADDOCK ARIZONA

STEVE C. LAPOURTE OHIO

MARSHALL "MARK" SANFORD SOUTH CAROLINA

JOHN E. T. YOUNG NEW HAMPSHIRE

KATE SESSIONS TEXAS

MIKE RABBIT NEW JERSEY

KEE SCHWARTZ KANSAS

JOE BARR GEORGIA

JOE BORTMAN OHIO

ONE HUNDRED FIFTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-5143

CLERK: 202-225-5074
 CHIEF CLERK: 202-225-5061
 CLERK: 202-225-5032

HENRY A. WATMAN CALIFORNIA
RANKING MEMBER

TOM LANTOS CALIFORNIA

JOE BICE WEST VIRGINIA

MAJOR R. OWENS NEW YORK

COLLINS TOWNS NEW YORK

PAUL E. KANJORSKI PENNSYLVANIA

JARY A. CONNITT CALIFORNIA

CAROLYN E. MALONEY NEW YORK

THOMAS M. BARRETT WISCONSIN

SLEAHOR HOLMES MONTANA

DISTRICT OF COLUMBIA

CHINA PATTAN PENNSYLVANIA

ELIJAH R. CLUMBERS MARYLAND

SERGE KLUMICH OHIO

ROD R. BLANKENHORN ILLINOIS

CARMY H. DAVIS ILLINOIS

JOHN F. TIERNEY MASSACHUSETTS

JIM KUPPER TEXAS

THOMAS H. ALLEN MARY

AROLD E. BOND JR. TENNESSEE

BERNARD SANDERS VERMONT
 INDEPENDENT

June 23, 1998

PROTOCOL FOR DOCUMENTS

This Protocol sets forth the procedures to be followed by the House Committee on Government Reform and Oversight ("the Committee"), and its Subcommittees, for obtaining, storing and releasing of documents and other materials.

Applicability and Interpretation of Protocol

This Protocol shall apply only to Committee and Subcommittee investigation of political fund-raising improprieties and possible violations of law by persons or entities within the Committee's oversight jurisdiction ("the Investigation") and to documents and materials ("documents") obtained during the Investigation by Committee subpoena or letter request. The Protocol shall not apply to any other oversight conducted by the Committee or any Subcommittee unless specifically adopted by decision of the Chairman or by vote of the Committee.

All employees and representatives of any government office, department or agency shall address to the Chairman of the Committee or his designated representative any inquiries, concerns or other communications relating to this Protocol and the matters addressed herein. No representation, commitment or practice by persons other than the Chairman or his designee concerning document-related matters are applicable to or binding on the Chairman.

A. Obtaining Documents

1. **Requests for Documents.** Document requests shall be made under the auspices of the Committee only as authorized by the Chairman on behalf of the Committee, or by the appropriate Subcommittee Chairman on behalf of any Subcommittee. Authorized requests may include the production of documents by agencies, entities, and/or individuals, by letter, facsimile, or other means.

a) **Procedure for Document Requests** -- The Chairman of the full Committee or the Chairman of any Subcommittee, as the case may be, shall notify the appropriate Ranking Minority Member of the intention to request, on behalf of the Committee or Subcommittee, the production of documents, and shall provide the Ranking Minority member an opportunity to suggest how the scope or substance of the proposed requests might be modified or improved. The Ranking Minority Member shall advise the Chairman whether the Minority will join in the request. Any agreed joint request will be issued by the Chairman and the Ranking Minority Member on behalf of the Committee, or Subcommittee, as appropriate. The request for documents may issue following the provision of notice to the Ranking Minority Member as provided herein. The Chairman retains the discretion to cause letter requests to be issued without the Minority's review or concurrence. Following issuance, copies of letter requests shall be provided to the Ranking Minority Member.

2. Subpoenas for Documents or Witnesses. A subpoena, whether from the full Committee or any Subcommittee, may be issued only with the express authorization of the Chairman, Committee or Subcommittee.

(a) **Procedure for Issuance of Subpoenas** -- The Chairman of the full Committee shall advise the appropriate Ranking Minority Member of his intention to issue subpoenas for documents or witnesses, and shall provide the Ranking Minority Member an opportunity to suggest how the scope or substance of the proposed subpoenas might be modified or improved. The Chairman shall notify the Ranking Minority Member of the proposed subpoenas at least twenty-four (24) hours before the Chairman issues the subpoenas, excluding Saturdays, Sundays and federal holidays, unless the provisions of Section A.2(b) apply. The Ranking Minority Member shall advise the Chairman whether the Minority agrees with the proposed subpoenas. For the purpose of deciding whether or not to issue document subpoenas, a Working Group consisting of the Chairman, the Ranking Minority Member, the Vice Chairman, a majority member chosen by the Chairman, and a minority member chosen by the Ranking Minority Member, shall be created. In the event that the Ranking Minority Member objects to the proposed subpoenas, the Chairman shall present the subpoenas to the Working Group for decision regarding the advisability of issuing the proposed subpoenas. The Working Group shall endeavor in good faith to reach consensus and shall render its opinion to the Chairman within twenty-four (24) hours of presentation of the subpoenas by the Chairman. The Working Group shall meet in person, or if a face-to-face meeting is not practicable, by telephone or conference call. If the Working Group is unable to reach timely consensus concerning the proposed subpoenas, the Working Group shall, upon motion of the Chairman, render an opinion by majority vote. The Chairman shall abide by the opinion rendered by the Working Group when deciding whether to issue a subpoena.

11. The term "notify" as used in this Protocol means all communications, including those made by telephone, letter and telefax, between the Chairman and the Ranking Minority Member, the Subcommittee Chairmen and the appropriate Ranking Subcommittee Members, as well as contacts on their behalf by respective staff.

b) **Issuance of Subpoenas Without Prior Notice** -- In accordance with long-standing rules of the Committee, the Chairman may cause a subpoena to be issued without prior notice to members of the Committee including the Ranking Minority Member if, in the Chairman's judgment, delay in issuance could hinder or compromise the Committee's ability to obtain documents or testimony in furtherance of the Committee's investigation. In such event, as soon after issuance as is practicable, the Chairman shall notify the Ranking Minority Member of the existence of subpoena.

B. Handling and Storage of Documents

All documents obtained by the Committee shall be handled and stored by Majority and Minority Investigative Staff in a manner consistent with the level of sensitivity of the documents. Documents shall be stored in a locked area ("the Secure Area") within the Majority and Minority Investigative Staff offices which, in the judgment of the Chairman, provide a secure environment for the storage, handling and review of such documents. The Committee may maintain documents at locations other than the Secure Areas provided that they are stored in secure facilities under the respective control of the Majority or Minority Investigative Staff. Subcommittees involved in the investigation shall maintain a locked area within Subcommittee offices for the secure storage of documents. In recognition of office space limitations, this Protocol does not envision that Subcommittees will create and maintain separate areas similar to the Committee's Secure Area. Subcommittees will maintain and store documents in such other manner required to prevent unintended disclosure.

1. **Public Documents** -- "Public Documents" include all documents obtained by the Committee and any Subcommittee which are publicly available prior to the time they come into the possession of the Committee or Subcommittee, or which thereafter become publicly available as a result of disclosure by sources other than the Committee or Subcommittee. Since Public Documents are by definition already in the public domain, this Protocol shall not apply to such documents and materials.

2. **Non-Classified Documents** -- "Non-Classified Documents" include all documents obtained by the Committee, except "Public Documents" and "Classified Materials" as defined below. This category of documents includes non-sensitive documents, as well as those for which the possessing party asserts a claim that the documents contain proprietary, privileged, confidential or other sensitive information. All Non-Classified Documents will be maintained within the Secure Area, or such other secure facility as is necessary to prevent unintended disclosure. Non-Classified Documents will not be removed from such area(s) except as required in furtherance of the Committee's oversight and investigative responsibilities. In the event that an individual or entity in possession of documents asserts that some or all of the documents contain proprietary, privileged, confidential or other sensitive information, the Chairman will

2/ "Documents" includes originals and all copies made therefrom.

determine whether or not the claim is properly made and will so advise the individual or entity, and the Ranking Minority Member, in writing. Documents determined to contain proprietary, privileged, confidential or other sensitive information will be maintained by the Committee in *locked file cabinets* located within the Secure Area, or in such other secure facility as is required by the circumstances. Copies of all documents in the Committee's possession will be limited to the number required for the Committee's oversight and investigation functions. Subcommittees involved in the Investigation shall make such arrangements for the secure storage of Non-Classified Documents and materials in Subcommittee offices, or in such other secure facility as is necessary to prevent unintended disclosure.

3. Classified Documents -- "Classified Documents" are documents and materials containing "classified information" as defined by Title 50, United States Code, Section 438(2). **Classified Documents shall be maintained by the Committee in a *locked safe* within the Secure Area, or at such other secure facility required by the level of classification of the documents. Access to Classified Documents shall be restricted as required by law. These procedures shall also apply to Subcommittees involved in the Investigation.**

Access to Secure Areas and Documents. Access to the documents and materials maintained in the Majority and Minority Secure Areas shall be restricted to Members of the House, as provided by Rule XI, clause 2(e)(2), respective Investigative Staff, to other Committee staff engaged in the Committee's oversight and investigative functions, and to law enforcement officials. A list of all staff with access to the Secure Areas will be maintained by the Majority and Minority and will be updated from time to time as necessary. Subcommittees participating in the Investigation shall limit access to documents and materials to Members of the House, Majority Investigative Staff, to other Committee and Subcommittee staff engaged in the Subcommittee's oversight and investigative functions, and to law enforcement officials.

C. Release of Documents

The Committee, and its members, shall not publicly or privately release documents obtained by the Committee in accordance with the provisions of Paragraph A, except as provided herein. The provisions of this paragraph do not apply to Public Documents or Classified Documents. Non-Classified Documents, the third category of documents defined in Paragraph B, shall not be publicly or privately released except as follows:

1. Release During Committee Meetings -- In accordance with House Rules, Non-Classified Documents shall, unless otherwise directed by the Committee, be available for use by members of the Committee in open session, in Committee Reports, and as attachments to official correspondence:

2. Executive Session -- Pursuant to House Rule XI, clause 2(k)(7), no evidence or testimony taken in executive session shall be released or used in public sessions without the consent of the Committee; and

3. Other Public Release -- In the event that circumstances, including the necessity of correcting the public record after a partial release of documents by another party, require the public release of Non-Classified Documents through channels other than as set forth above, the Committee shall proceed as set forth below:

(a) **Agreed Release --** The Chairman shall notify the Ranking Minority Member of his desire to release documents. The Chairman and the Ranking Minority Member shall share their views about the proposal and shall endeavor to reach consensus about the issue. The Ranking Minority Member shall notify the Chairman within twenty-four (24) hours whether he agrees or objects to the proposed release. If the Ranking Minority Member agrees with the proposed release, the Chairman may release the documents.

(b) **Contested Release --** If the Ranking Minority Member objects to the proposed release, the Committee shall vote upon the proposed release of documents.

D. Minority Document Procedures

Unless otherwise indicated by Committee Rules or this Protocol, the procedures set forth herein shall apply to both the Majority and the Minority. This Protocol anticipates that the Minority Investigative Staff will receive separate copies of the documents obtained by Committee subpoena and letter requests during the investigation. The Minority Investigative Staff shall handle and store all documents consistent with the security requirements and procedures specified in Paragraph B herein, including the creation and maintenance of a Secure Area. The Chairman shall request in Committee letter requests and direct in subpoenas that government agencies, private corporations and persons producing documents provide the Minority Investigative Staff with a duplicate set of documents contemporaneous with production to the Committee and its Majority Investigative Staff. In the event that the party producing documents does not make a duplicate set of documents, the Majority Investigative Staff will assist the Minority Investigative Staff in duplicating a set of the documents.

E. Internal Policy Guidance

These procedures are solely for the internal policy guidance of the Committee in handling investigative documents. Nothing in these procedures affects or waives the privileges of the Committee Members or others referred to; subjects them to any forum, authority, or questioning outside the House itself; creates rights or duties enforceable or cognizable in court; or invokes or expands the jurisdiction of any House entity, including the Committee on Standards of Official Conduct, other than the Committee.

JAMES M. TALENT, MISSOURI
CHAIRMAN

NYDIA M. VELÁZQUEZ, NEW YORK

JL4 JA
cc. RL (A)
MS

Rec'd 7-6-98

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

June 30, 1998

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

Dear Dr. Yellen:

Thank you for testifying at the Committee's hearing on the Kyoto Protocol. The hearing was held to give you and others the opportunity to provide Members of the Committee with a report on the potential economic impact of the Protocol on small businesses.

As mentioned at the hearing, the hearing record has been kept open for Members of the Committee for follow-up questions. In light of this, please provide the Committee with answers to the enclosed follow-up questions for the hearing record. Please send your response to the Committee office at 2361 Rayburn House Office Building by July 24, 1998. If you have any questions concerning this request, please direct them to Peter Brechtel of the Committee staff at 225-5821.

Sincerely,



James M. Talent
Chairman

Enclosure

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

- 1) In your written testimony, you referenced the increase in an average household's energy bill. What is your estimate of the impact of the Kyoto Protocol for the following cases:
 - a) Energy costs for an average household assuming that emissions trading is not allowed (approximately \$200/metric ton based on the SGM model). This data should include the components from oil (heating oil and gasoline), natural gas, and electricity. This data should include a typical household in the following regions: Northeast, Southeast, South, Mid-West, Northwest, and Southwest.
 - b) Direct energy costs for an average small business of 50 employees under the same conditions as listed in Item a above.
- 2) In addition to the direct energy costs, what is your estimate of the indirect costs of the policy for the cases described above?

On page 10 of your written testimony, you said "the emission cuts agreed upon in Kyoto are only a first step in a long journey." Since the implications of these further reductions contemplated by President Clinton are substantial in terms of the impact on the U.S. economy and the availability of emissions credits, please provide the following:

- 1) At the time of the President's policy statement in October the reduction target for carbon stabilization at 1990 levels was approximately 375 million metric tons (Mmt). Since this announcement the EIA outlook has added another 80 Mmt to the target and the Kyoto reduction of 7% has added another 95 Mmt. The total reduction for energy alone is now 550 Mmt. If you add the other gases the Kyoto target for reduction is 650 Mmt. Since the total amount of emissions is critical to any economic analysis, please provide the assumptions used in your analysis for the amount of emissions to be traded. Also, confirm which of the analyses you used were performed after Kyoto.
- 2) What are the Clinton Administration's assumed further emission reduction targets for the period of 2013-2020?

3) What analysis of the total impact on the economy (both direct and indirect costs) of the U.S. has been performed using these assumptions? How are total costs reflected in your analysis since the SGM analysis you referenced in your testimony only treats direct costs, which is recognized to underestimate total costs by a factor of 2-4?

4) Estimates of the U.S. demand for emissions credits by year for the period 2008-2020 and the potential supply from Russia and the Ukraine based on:

- a) Projected demand relative to the Kyoto target.
- b) Projected demand relative to the assumed additional reduction targets.

Dr. Yellen, your testimony before the Committee on June 4 was that the Kyoto Protocol would have a modest economic impact on the United States and that the cost per ton of greenhouse gas reductions would be in the range of \$14 to \$23 per ton. You also testified that this cost estimate was predicated on achieving developing country participation and other flexibility mechanisms in future international negotiations. However, during the recent UN FCCC Subsidiary Bodies meeting in Bonn, Germany, the Group of 77 (G-77) and China voiced strong opposition to even placing voluntary responses for developing nations on the agenda for the fourth Conference of Parties (COP-4). On June 12, the closing statement by the Ambassador of Indonesia on behalf of G-77 and China stated:

“The Group reiterates that there must be no new commitments, voluntary or otherwise, introduced for all developing countries, under any guise, in such reviews.”

Given this strong opposition by developing nations to even consider voluntary commitments and given the lack of progress on fleshing out the skeletal flexibility provisions (such as trading) in the protocol, isn't it unrealistic to expect savings from these areas and isn't the Kyoto Protocol likely to cost America substantially more. Please elaborate in your answer and supply details of your calculations.

Congress of the United States
House of Representatives
105th Congress
Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515-6515

JLY
JAF
RL
JA
CEA Rec'd
7-8-98
MJ

June 11, 1998

Honorable Janet Yellen, Chair
Council of Economic Advisors
c/o White House Climate Change Task Force
734 Jackson Place, NW
Washington, DC 20503

Dear Dr. Yellen:

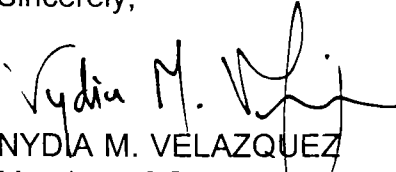
This is to follow up on the recent hearing of the Committee on Small Business into the Kyoto Protocol and its potential impact on our nation's economy and, in particular, small businesses in the United States.

Would you please address the following questions:

1. During the hearing, questions were raised about the expertise of members of the Intergovernmental Panel on Climate Change (IPCC) and their suitability to be commenting on the climate change issue. Please provide the Committee a complete list of the IPCC authors, their affiliations, and their areas of expertise, along with a description of how the IPCC process works. Feel free to supplement this with any other information you may have that bears on the credibility and capability of the IPCC and its members.
2. During the hearing, questions were raised about the percent of carbon dioxide in the atmosphere which occurs naturally, as opposed to the percent which is generated by human endeavors. Please provide the Committee with a description of the evidence of how human activity is affecting the atmospheric concentrations of carbon dioxide.

Thank you for your attention to these follow up questions. A formal response should be sent to the Committee (The Honorable James M. Talent, Chairman) at room 2361 Rayburn Building, Washington, DC 20515; please send a copy of your response to me at my office, 1221 Longworth Building, Washington, DC 20515.

Sincerely,



NYDIA M. VELAZQUEZ
Member of Congress

cc: Hon. James M. Talent

FAX COVER

COMMITTEE ON GOVERNMENT REFORM
AND OVERSIGHT

DEMOCRATIC STAFF OFFICE

HON. HENRY A. WAXMAN
RANKING MINORITY MEMBER
511 FORD HOUSE OFFICE BUILDING
PHONE (202) 225-5420
FAX (202) 226-3348

DATE: 6-15-98

TO: Michelle Idin FAX # 3756988

FROM: Krys Campaign

SUBJECT: _____

NO. OF PAGES 2
(EXCLUDING COVER SHEET)

COMMENT:

IF THERE IS A PROBLEM WITH THIS
TRANSMITTAL, PLEASE CALL OFFICE A.S.A.P.

ION, INDIANA
WAXMAN

BENJAMIN A. GILMAN, NEW YORK
J. GENE HARTY, ILLINOIS
CONSTANCE A. MORELLA, MARYLAND
CHRISTOPHER SHAYS, CONNECTICUT
STEVEN SCHIFF, NEW MEXICO
CHRISTOPHER COOK, CALIFORNIA
ILEANA ROSA-BENTIN, FLORIDA
JOHN M. MCNUH, NEW YORK
STEPHEN HORN, CALIFORNIA
JOHN L. MICA, FLORIDA
THOMAS W. DAVIS II, VIRGINIA
DAVID M. WINTOSH, INDIANA
MARK E. SCUDER, INDIANA
JOE SCARBOROUGH, FLORIDA
JOHN SHADDEG, ARIZONA
STEVE G. LATOURETTE, OHIO
MARSHALL "MARK" SANFORD, SOUTH CAROLINA
JOHN E. SUNUNU, NEW HAMPSHIRE
PETE SESSIONS, TEXAS
MIKE CAPPAS, NEW JERSEY
VINCE SHOWRAGER, KANSAS
BOB BARK, GEORGIA
RON PORTMAN, OHIO

ONE HUNDRED FIFTH CONGRESS

Congress of the United States

House of Representatives

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

MAJORITY (202) 225-8074
MINORITY (202) 225-5081
TTY (202) 225-6462

June 5, 1998

HENRY A. WAXMAN, CALIFORNIA
RANKING MINORITY MEMBER
TOM LANTOS, CALIFORNIA
BOB WISE, WEST VIRGINIA
MAJON R. OWENS, NEW YORK
COLLIER TOWNE, NEW YORK
PAUL E. KAHNORSKI, PENNSYLVANIA
BART A. GONIT, CALIFORNIA
CAROLYN B. WALONEY, NEW YORK
THOMAS H. BARRETT, WISCONSIN
CLEANOR HOLMES NORTON,
DISTRICT OF COLUMBIA
CHAMA FATTAH, PENNSYLVANIA
ELIJAH E. OUMINGS, MARYLAND
DENNIS KUCINICH, OHIO
ROD R. BLANDFORD, ILLINOIS
DANNY K. DAVIS, ILLINOIS
JOHN F. TIERNEY, MASSACHUSETTS
JIM TURNER, TEXAS
THOMAS H. ALLEN, MAINE
HAROLD E. FORD, JR., TENNESSEE

BERNARD SANDERS, VERMONT
INDEPENDENT

The Honorable Henry Waxman
Ranking Member
Committee on Government Reform and Oversight
U.S. House of Representatives
Room B-350A Rayburn House Office Building
Washington, D.C. 20515

Dear Ranking Member Waxman:

I am in receipt of your June 4, 1998 letter regarding your concerns with the Subcommittee's requests for documents from the Council on Economic Advisors (CEA).

Your letter mistakenly suggests that the documents made available by CEA to the Subcommittee staff that are responsive to requests from the Subcommittee on Energy and Power are the same documents that are responsive to this Subcommittee's March 13, 1998 request. They are not. Indeed, at the end of the Subcommittee hearing on May 19, 1998, Dr. Yellen expressly acknowledged that CEA was "working very hard at getting the answers" to the Subcommittee's inquiries. May 19, 1993 Hearing Transcript at 123.

Moreover, neither the White House Counsel's Office nor the CEA has ever suggested to the Subcommittee that the documents requested in the Subcommittee's March 13, 1998 letter cannot be released because doing so might undermine the Administration's position in international negotiations. Again, Dr. Yellen testified at the May 19 hearing that only "the documents that we have offered you access to" implicate the Administration's negotiations. May 19, 1998 Hearing Transcript at 55 (emphasis supplied). These documents are only the documents responsive to the Subcommittee on Energy and Power's request, not this Subcommittee's request.

I also fail to understand how the documents that the Subcommittee has requested could undermine the United States negotiating position. For example, there is no basis for withholding economic analyses on which the Administration relies (or chooses to disregard) for its claims that the impact of implementation of the Kyoto Protocol on American jobs and the economy would be "modest." Yet CEA continues to withhold this material.

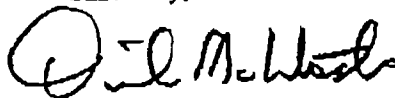
The Subcommittee can only make an informed decision with respect to CEA's withholding of documents if CEA identifies with particularity those documents that it intends to withhold and the reasons for withholding them. To date, CEA has not produced the requested documents or any valid explanation for not producing them. Thus, raising the possibility with

CEA of obtaining a subpoena at this time is not only appropriate but also the only responsible way to conduct oversight on these issues.

The Subcommittee is seeking to fulfill its Constitutional responsibilities on behalf of the American people who are entitled to know the facts concerning the Administration's efforts on global warming. I know that you do not want to be a party to concealing those facts.

As always, I appreciate your continuing interest in the work of the Subcommittee.

Sincerely,



David M. McIntosh

Chairman

Subcommittee on National Economic Growth,
Natural Resources, and Regulatory Affairs

cc: The Honorable Dan Burton
The Honorable John Tierney ✓

DAN BURTON, INDIANA
CHAIRMANBENJAMIN A. GELMAN, NEW YORK
J. DENNIS HASTERT, ILLINOIS
CONSTANCE A. MORELLA, MARYLAND
CHRISTOPHER SHAYS, CONNECTICUT
TERRY SCHIFF, NEW MEXICO
CHRISTOPHER COX, CALIFORNIA
LEAH ROSEN, FLORIDA
JOHN M. McHUGH, NEW YORK
STEPHEN L. HORN, CALIFORNIA
JOHN L. WICK, FLORIDA
THOMAS M. DAVIS, VIRGINIA
DAVID M. MCKEON, INDIANA
MARK E. SOUDER, INDIANA
JOE SCARBOROUGH, FLORIDA
JOHN SHADDEGG, ARIZONA
STEVE C. LATHROP, OHIO
MARSHALL "MARK" SANFORD, SOUTH CAROLINA
JOHN E. SUNUNU, NEW HAMPSHIRE
PETE SESSIONS, TEXAS
MIKE PAPPAS, NEW JERSEY
VINCE SNOWBARGER, KANSAS
BOB BARR, GEORGIA
BOB PORTMAN, OHIO

ONE HUNDRED FIFTH CONGRESS

Congress of the United States
House of Representatives

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-0074
MINORITY (202) 225-0001
TTY (202) 225-6653HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBERTOM LANTOS, CALIFORNIA
BOB WICK, WEST VIRGINIA
MAJOR R. OWENS, NEW YORK
EDOLPHUS TOWNS, NEW YORK
PAUL E. KAMJORSKI, PENNSYLVANIA
GARY A. CONNITT, CALIFORNIA
CAROLYN E. MALONEY, NEW YORK
THOMAS M. BARRITT, WISCONSIN
ELEANOR HOLMES NORTON,
DISTRICT OF COLUMBIA
DIANA FATTAH, PENNSYLVANIA
ELIJAH E. CUMMINGS, MARYLAND
DENNIS KUCINICH, OHIO
ROD R. BLAGOJEVICH, ILLINOIS
DANNY K. DAVIS, ILLINOIS
JOHN P. TIERNEY, MASSACHUSETTS
JIM TURNER, TEXAS
THOMAS H. ALLEN, MAINE
HAROLD E. FORD, JR., TENNESSEEBERNARD SANDERS, VERMONT
INDEPENDENT**SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH,
NATURAL RESOURCES, AND REGULATORY AFFAIRS**

B-377 Rayburn House Office Building

Washington, DC 20515

Phone: (202) 225-4407

Fax: (202) 225-2441

FAX TRANSMITTAL

TO:

THE HON. JAMES J. HENRY

FAX NUMBER:

391-6958# of PAGES: 3 (including cover page)DATE: 6/3/98

FROM:

☒ Chairman David M. McIntosh☐ Mildred J. Webber - Staff Director
(mildred.webber@mail.house.gov)☐ Jay Apperson - Special Counsel
(jay.apperson@mail.house.gov)☐ J. Keith Ausbrook - Senior Counsel
(keith.ausbrook@mail.house.gov)☐ Karen Barnes - Professional Staff
(karen.barnes@mail.house.gov)☐ Sean Cunningham - Counsel
(scan.cunningham@mail.house.gov)☐ Larisa Dobriansky - Senior Counsel
(larisa.dobriansky@mail.house.gov)☐ Barbara Kahlow - Professional Staff
(barbara.kahlow@mail.house.gov)☐ Andrew Wilder - Clerk
(andrew.wilder@mail.house.gov)

COMMENTS:

DAN BURTON, INDIANA
CHAIRMANBENJAMIN A. GILMAN, NEW YORK
J. DENNIS HASTERT, ILLINOIS
CONSTANCE A. MORELLA, MARYLAND
CHRISTOPHER SHAYS, CONNECTICUT
STEVEN SCHIFF, NEW MEXICO
CHRISTOPHER COX, CALIFORNIA
ILEANA ROS-LEHTINEN, FLORIDA
JOHN M. MCNULGH, NEW YORK
STEPHEN HORN, CALIFORNIA
JOHN L. MICA, FLORIDA
THOMAS M. DAVIS III, VIRGINIA
DAVID M. MCINTOSH, INDIANA
MARK C. SOUDER, INDIANA
JOE SCARBOROUGH, FLORIDA
JOHN SHADDEG, ARIZONA
STEVE C. LATOURETTE, OHIO
MARSHALL "MARK" SANFORD, SOUTH CAROLINA
JOHN E. SUNUNU, NEW HAMPSHIRE
PETE SESSIONS, TEXAS
MIKE PAPPAS, NEW JERSEY
VINCE SNOWBARGER, KANSAS
BOB BARR, GEORGIA
ROB PORTMAN, OHIO

ONE HUNDRED FIFTH CONGRESS

Congress of the United States
House of Representatives

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-9074
MINORITY (202) 225-9051
TTY (202) 225-6852HENRY A. WAXMAN, CALIFORNIA
RANKING MINORITY MEMBERTOM LANTOS, CALIFORNIA
BOB WISE, WEST VIRGINIA
MAJOR R. OWENS, NEW YORK
PHILIP TOWNE, NEW YORK
PAUL C. KANJORSKI, PENNSYLVANIA
GARY A. CONDOTT, CALIFORNIA
CAROLYN B. MALONEY, NEW YORK
THOMAS M. BARNETT, WISCONSIN
ELIZABETH HOLMES NORTON,
DISTRICT OF COLUMBIA
CHAKA FATTAH, PENNSYLVANIA
ELIJAH E. CUMMINGS, MARYLAND
DENNIS KUCONICH, OHIO
ROD R. BLAUGHPUGH, ILLINOIS
DANNY K. DAVIS, ILLINOIS
JOHN F. TIERNEY, MASSACHUSETTS
JIM TURNER, TEXAS
THOMAS H. ALLCEN, MAINE
HAROLD L. FORD, JR., TENNESSEEBERNARD SANDERS, VERMONT
INDEPENDENT

June 3, 1998

BY FACSIMILEThe Honorable Janet L. Yellen
Chair
Council of Economic Advisers
Washington, D.C. 20500

Dear Chair Yellen:

Your May 18, 1998 partial response to the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs' March 13, 1998 oversight questions about the White House Initiative on Global Climate Change was incomplete with respect to question 4 and failed to provide other requested information and documents. Accordingly, this letter restates that question and renews my request for the information and documents responsive to my original request.

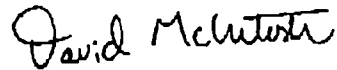
Question 4 asked you to provide a table with FY 89 - FY 99 historical budget authority for your agency for any other components of the Administration's climate change program. My question was intended for you to include not only program dollars but also salaries and expenses account dollars since they account for most of your agency's expenditures. In fact, because your agency has been a major participant in the Administration's climate change policy development process, your staff time has probably been considerable.

Finally, while I appreciate your agency's effort to develop answers and locate responsive documents for my remaining questions, it has already taken more than two and one-half months to conduct a search. I have specifically excluded the Council on Economic Advisers (CEA) from my requests for subpoenas from Chairman Burton in the hope that CEA would be responsive. Unless you can commit to a full and prompt response and production of documents, I will pursue the issuance of a subpoena from Chairman Burton.

Please contact Subcommittee Senior Counsel Keith Ausbrook at 225-4407 to discuss the production of documents and any other questions you may have regarding the Subcommittee's requests. All responses and documents should be produced to the Subcommittee office in Room B-377 Rayburn House Office Building.

Thank you in advance for your attention to these matters.

Sincerely,



David M. McIntosh

Chairman

Subcommittee on National Economic Growth,
Natural Resources, and Regulatory Affairs

cc: The Honorable Dan Burton
The Honorable John Tierney

JLY
CC MJ
AM
RL
JA

DAN BURTON, INDIANA
CHAIRMAN

BENJAMIN A. GILMAN, NEW YORK
J. DENNIS HASTERT, ILLINOIS
CONSTANCE A. MORELLA, MARYLAND
CHRISTOPHER SHAYS, CONNECTICUT
EVEN SCHIFF, NEW MEXICO
CHRISTOPHER COX, CALIFORNIA
KLEANA ROSE-LENTINEN, FLORIDA
JOHN M. MCCLUGH, NEW YORK
STEPHEN HORN, CALIFORNIA
JOHN L. MICA, FLORIDA
THOMAS M. DAVIS III, VIRGINIA
DAVID M. MCINTOSH, INDIANA
MARK E. SCHULZ, INDIANA
JOE BARNES, ARIZONA
JOHN SHADEGG, ARIZONA
STEVE C. LATOUCHE, OHIO
MARSHALL "MARK" SANFORD, SOUTH CAROLINA
JOHN E. SUNUNU, NEW HAMPSHIRE
PETE SESSIONS, TEXAS
MIKE PAPPAS, NEW JERSEY
VINCE SNOWBARGER, KANSAS
BOB BARR, GEORGIA
BOB PORTMAN, OHIO

ONE HUNDRED NINTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

Majority (202) 225-5074
Minority (202) 225-5051
TTY (202) 225-6852

HENRY A. WAXMAN, CALIFORNIA
RANKING MEMBER

TOM LANTOS, CALIFORNIA
BOB WISE, WEST VIRGINIA
MAJOR R. OWENS, NEW YORK
EDOLPHUS TOWNS, NEW YORK
PAUL E. KANJORSKI, PENNSYLVANIA
GARY A. CONDT, CALIFORNIA
CAROLYN B. MALONEY, NEW YORK
THOMAS M. BARRETT, WISCONSIN
ELEANOR HOLMES NIXON
DISTRICT OF COLUMBIA
CHAKA FATTAH, PENNSYLVANIA
ELIJAH E. CUMMINGS, MARYLAND
DENNIS KUCINICH, OHIO
ROD R. BLAGOJEVICH, ILLINOIS
DANNY K. DAVIS, ILLINOIS
JOHN F. TIERNEY, MASSACHUSETTS
JIM TURNER, TEXAS
THOMAS H. ALLEN, MAINE
HAROLD E. FORD, JR., TENNESSEE

LEONARD SANDERS, VERMONT
INDEPENDENT

SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH, NATURAL RESOURCES, AND REGULATORY AFFAIRS

B-377 Rayburn House Office Building

Washington, DC 20515

Phone: (202) 225-4407

Fax: (202) 225-2441

FAX TRANSMITTAL

TO:

Sandy
The Honorable Janet Yellen

FAX NUMBER:

395-6958 or 395-6347

of PAGES: 3 (including cover page)DATE: 5/1/98

FROM:

☒ Chairman David M. McIntosh

5/7/98

___ Mildred J. Webber - Staff Director
(mildred.webber@mail.house.gov)

___ Sean Cunningham - Counsel
(scan.cunningham@mail.house.gov)

___ Jay Apperson - Special Counsel
(jay.apperson@mail.house.gov)

___ Larisa Dobriansky - Senior Counsel
(larisa.dobriansky@mail.house.gov)

___ J. Keith Aushrook - Senior Counsel
(keith.aushrook@mail.house.gov)

___ Barbara Kahlow - Professional Staff
(barbara.kahlow@mail.house.gov)

___ Karen Barnes - Professional Staff
(karen.barnes@mail.house.gov)

___ Andrew Wilder - Clerk
(andrew.wilder@mail.house.gov)

COMMENTS:

DAN BURTON, INDIANA
CHAIRMAN

BENJAMIN A. GILMAN, NEW YORK
I. DENNIS HASTERT, ILLINOIS
KRISTIANE A. NOBLE, MARYLAND
CHRISTOPHER SHAYS, CONNECTICUT
EVEN H. SCHIFF, NEW MEXICO
CHRISTOPHER COX, CALIFORNIA
ILFANA ROE LEHTINEN, FLORIDA
JOHN M. MANUOH, NEW YORK
STEPHEN HORN, CALIFORNIA
JOHN L. MICA, FLORIDA
TIMOTHY M. DAVIS III, VIRGINIA
DAVID M. MCINTOSH, INDIANA
MARK E. SOUDER, INDIANA
JOE SCARBOROUGH I, FLORIDA
JOHN SHADEGG, ARIZONA
STEVE C. LATOURETTE, OHIO
MARSHALL "MARK" SANFORD, SOUTH CAROLINA
JOHN B. SUNUNU, NEW HAMPSHIRE
PETE SESSIONS, TEXAS
MIKE PAPPAS, NEW JERSEY
VINCE SNOWBARGER, KANSAS
BOB BARR, GEORGIA

ONE HUNDRED FIFTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
MINORITY (202) 225-5061
TTY (202) 225-6052

May 1, 1998

HENRY A. WAXMAN, CALIFORNIA
RANKING MINORITY MEMBER

TOM IANTOS, CALIFORNIA
DOD WISE, WEST VIRGINIA
MAJON R. OWENS, NEW YORK
EDOUARD TOWN, NEW YORK
PAUL E. KANJORSKI, PENNSYLVANIA
BARRY A. CONNIT, CALIFORNIA
CAROLYN B. MALONEY, NEW YORK
THOMAS M. BARRITT, WISCONSIN
ELEANOR HOLMES NORTON,
DISTRICT OF COLUMBIA
CHAKA PATTAN, PENNSYLVANIA
TIM HOLDEN, PENNSYLVANIA
ELIJAH C. CUMMINGS, MARYLAND
DENNIS KUONICH, OHIO
ROD H. ULAGNEVICH, ILLINOIS
DANNY K. DAVID, ILLINOIS
JOHN F. FERRICY, MASSACHUSETTS
JIM TURNER, TEXAS
THOMAS H. ALLEN, MAINE

BERNARD SANDERS, VERMONT
INDEPENDENT

BY FACSIMILE

The Honorable Janet Yellen
Chair
Council of Economic Advisers
Old Executive Office Building
Washington, D. C. 20500

Dear Chair Yellen:

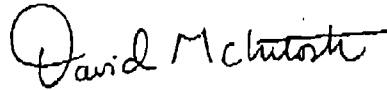
This letter follows up on the March 13, 1998 letter to you in which the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs raised questions about the Administration's global warming policies and the potential impact of the Kyoto Protocol on the U.S. economy. Not only has my Subcommittee not received any response to that letter, but also your staff has indicated that they have not even begun to draft any answers.

This unexplainable delay is impeding my Subcommittee's effective oversight of these matters. When the Subcommittee conducted its first hearing on global warming policies last week, all of the federal agency witnesses indicated that you are the Administration's voice on the likely economic consequences of the Kyoto Protocol. It is, therefore, both astounding and unacceptable that the Council has not provided any information to date, not even concerning the testimony you presented on March 4, 1998 before the House Commerce Committee.

As you know, the Subcommittee plans to conduct another hearing on these issues in May and has invited you to testify. Therefore, it is crucial that we receive your responses before the hearing. Please contact Larisa Dobriansky, Senior Counsel, at (202) 225-4407, no later than Tuesday, May 5, 1998, with a schedule for expeditiously submitting the requested information.

Thank you in advance for your cooperation with respect to this request.

Sincerely,

A handwritten signature in cursive script that reads "David McIntosh". The signature is written in dark ink and is positioned above the printed name and title.

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

cc: The Honorable Dan Burton
The Honorable John Tierney



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D C 20503

TRANSMISSION NUMBER: 202/395-5836
VERIFICATION NUMBER: 202/395-6827

ENVIRONMENT BRANCH
ROOM 8026
NEW EXECUTIVE OFFICE BLDG.

Fax # X56870

Name

To:

Joe Aldy

From:

Bob Trucillo

Message:

Comments on Senate Ag Q/A and Qs/As for
Small Business Committee

Number of Pages to Follow: 7

Date:

6/1/98

Time:

3:25 pm

Response to Question from Senate Agriculture Committee

Question 2:

Dr. Yellen, a study by the American Farm Bureau estimates 25 to 50 percent increases in energy costs for farmers due to actions to reduce greenhouse gases. Your estimates are significantly less. How do you reconcile the Administration's numbers with doomsday reports we are hearing from industry?

Answer:

A variety of economic studies on the effects of reducing greenhouse gas emissions have been made public recently, and some of these predict much higher costs to the economy than does the Administration's analysis. To understand why these estimates differ, it is important to understand that incorporating certain assumptions regarding the many important flexibility mechanisms embedded in the Kyoto Protocol can affect the estimated costs of climate change policy. In general, the Administration's analysis takes into account these flexibility mechanisms while other analyses do not.

The Administration's analysis incorporates the opportunity to achieve emissions reductions at low cost through effective international trade of emissions allowances. We found that international trading can dramatically reduce the costs to the economy of achieving our Kyoto emissions target. International trading among industrialized countries could reduce the total cost to the U.S. by about 50-75%, depending on the nature of ~~EU~~ participation in international trading. The economic modeling literature indicates that the cost-savings associated with international trading in our analysis is a robust result. by the European Union

Further, the Administration's analysis accounts for the opportunity for trading across gases based on the gases' global warming potentials. Since some greenhouse gases have global warming potentials more than 10,000 times greater than carbon dioxide on a molecular basis, there could be substantial opportunities for cost-effective trading across gases. The Administration analysis found that intergas trading could reduce costs by about 10% relative to an approach where each gas had to be reduced proportionately.

Finally, the Administration's analysis includes the case of participation by developing countries through the Clean Development Mechanism established in the Kyoto Protocol and the case of their participation by adopting emissions targets as the Administration is advocating, thereby expanding the market for international trade in emissions allowances. Both of these approaches can substantially lower the costs of climate policy.

In contrast, economic studies that ignore these important flexibility mechanisms in the Kyoto Protocol have generated much higher economic cost estimates. For example, some studies focus exclusively on carbon dioxide emissions from energy consumption, assume no international trading, and assume no participation by developing countries. Economic analyses that ignore these flexibility provisions are not analyses of the Kyoto Protocol or the Administration's position on developing country participation. These analyses are, however,

beneficial in one way. They do provide more evidence of the importance of flexible, cost-effective implementation that is the cornerstone of the Administration's position.

We also note that the President's FY 1999 Budget includes more R&D money on the production of fuels and electricity from agricultural wastes or dedicated bioenergy crops. This will provide incentives for increased use of ethanol, methanol, or other liquid fuels while directly benefitting the farm communities that help produce those fuels. A five-year extension of the tax credit for electricity produced from wind and biomass is also included in the President's Budget.

Finally, it is also important to examine what the costs of inaction may be to U.S. farmers. Although specific regional impacts of climate change are not yet known in detail, studies show that soil moisture content in the midwest and plains states is likely to decrease, and the frequency of flooding and drought are both likely to increase.



EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
WASHINGTON, D.C. 20500

April 8, 1998

The Honorable James M. Talent
Chairman
Committee on Small Business
United States House of Representatives
2361 Rayburn House Office Building
Washington, DC 20515-6315

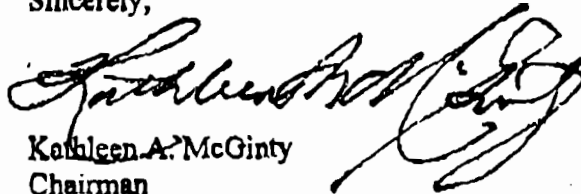
Dear Chairman Talent:

Thank you for your letter requesting information from the Council on Environmental Quality about the Kyoto Protocol. Given the press of business before the House, I appreciate your courtesy and attention as well as that of the other members of the Committee.

Enclosed you will find the answers I have prepared in response to your questions as well as those of other members of the Committee for the record. I have attempted to answer each question -- even those within the purview of other agencies -- with information that I hope will be helpful. If you have any questions or require clarification, please let me know.

Again, thank you.

Sincerely,



Kathleen A. McGinty
Chairman

KAM/rsk

cc: The Honorable John LaFalce
Ranking Member

Enclosures

**QUESTIONS FOR THE RECORD FROM CHAIRMAN KATHLEEN A. McGINTY
FOR CHAIRMAN TALENT**

QUESTION 1: Please provide any and all regulatory impact or economic analyses performed by federal agencies, contractors or grantees regarding the implementation of the Kyoto Protocol in the United States;

ANSWER 1: The Council on Environmental Quality is not the lead White House office on economic issues, and would not be the appropriate respondent to questions regarding economic impacts or analyses of the Kyoto Protocol. Dr. Janet Yellen, Chair of the Council of Economic Advisers, provided congressional testimony recently on this issue, and I have enclosed a copy of her testimony for your information.

QUESTION 2: Please provide any and all activities and/or plans for federal agency implementation of the Kyoto Protocol;

ANSWER 2: As Undersecretary of State Stuart Eizenstat testified before Congress recently, the President will not seek to implement the Kyoto Protocol without the advice and consent of the U.S. Senate. The President has made clear that the Protocol does not yet include the meaningful participation of key developing countries. Until it does, he will not submit it for Senate approval. The President indicated in the October 22, 1997 announcement of his policy (see enclosures), however, that he believes it is in the best interest of the U.S. to begin taking long-term steps to reduce domestic emissions without regard to the achievement of a climate change agreement. Towards that end, he proposed a five year, \$6.3 billion climate technology initiative in the FY 1999 budget to enhance U.S. R&D and technology development and deployment for a variety of energy intensive sectors. This initiative has the benefits of improving basic economic productivity, reducing dependence on foreign energy, and reducing greenhouse gas emissions.

QUESTION 3: Please provide any and all evidence, documentation, or scientific bases for the existence of the phenomenon described as Global Warming;

ANSWER 3: It would not be practicable to identify or reproduce all scientific evidence regarding global warming, however, accompanying this letter are several documents providing a broad scientific background on global warming. I draw your attention particularly to the Intergovernmental Panel on Climate Change (IPCC) documents that summarize the state of science on the issues.

During the 1980s, scientific evidence about global climate change and its consequences led to growing concern among scientists, policy makers, and the public. In 1988, the United Nations Environment Programme (UNEP) and the World Meteorological Organization (WMO) jointly established the IPCC. Through the IPCC process, scientists representing more than 150 countries have assessed the available information on climate change and its environmental and economic effects and have provided the scientific understanding needed to help formulate appropriate responses.

A series of IPCC reports, incorporating extensive peer review and a commitment to scientific excellence, have provided the most authoritative and comprehensive information available on the science of climate change. In 1996, the IPCC published its Second Assessment Report, which summarizes the most recent information on climate change science and the vulnerability of natural and socioeconomic systems. (IPCC Website: <http://www.ipcc.ch/>). The chapters within these documents also refer to thousands of peer-reviewed articles that further detail the science and earlier compendia of information.

The documents accompanying this letter include:

- Testimony of Dr. Janet Yellen, Chair, Council of Economic Advisers. Before the House Commerce Committee on the Economics of the Kyoto Protocol. March 4, 1998.
- Remarks by the President on Global Climate Change. National Geographic Society. October 22, 1997.
- Climate Change 1995. The Science of Climate Change. Contribution of Working Group I to the Second Assessment Report of the Intergovernmental Panel on Climate Change. Cambridge University Press.
- Climate Change 1995. Impacts, Adaptations and Mitigation of Climate Change: Scientific-Technical Analyses. Contribution of Working Group II to the Second Assessment Report of the Intergovernmental Panel on Climate Change. Cambridge University Press.
- Climate Change 1995. The Science of Climate Change. Summary for Policymakers and Technical Summary of the Working Group I Report. Cambridge University Press.
- Climate Change 1995. IPCC Second Assessment. A Report of the Intergovernmental Panel on Climate Change. Summaries for Policymakers for IPCC Working Group I, II, and III. (enclosed are several copies of this document for distribution)
- Climate Change 1994. Radiative Forcing of Climate Change and an Evaluation of the IPCC IS92 Emission Scenarios. Cambridge University Press.
- The Regional Impacts of Climate Change: An Assessment of Vulnerability. 1997. Intergovernmental Panel on Climate Change. Cambridge University Press.
- The Regional Impacts of Climate Change: An Assessment of Vulnerability. Summary for Policymakers. 1997. Intergovernmental Panel on Climate Change. Cambridge University Press.

- Technologies, Policies and Measures for Mitigating Climate Change. IPCC Technical Paper I. 1996. Intergovernmental Panel on Climate Change. Cambridge University Press.
- An Introduction to Simple Climate Models Used in the IPCC Second Assessment Report. IPCC Technical Paper II. 1997. Intergovernmental Panel on Climate Change. Cambridge University Press.
- Stabilization of Atmospheric Greenhouse Gases: Physical, Biological and Socio-economic Implications. IPCC Technical Paper III. 1997. Intergovernmental Panel on Climate Change. Cambridge University Press.
- Implications of Proposed CO₂ emissions limitations. IPCC Technical Paper IV. 1997. Intergovernmental Panel on Climate Change. Cambridge University Press.
- Policy Implication of Greenhouse Warming: Mitigation, Adaptation, and the Science Base. 1992. Panel on Policy Implications of Greenhouse Warming, Committee on Science, Engineering, and Public Policy, National Academy of Sciences, National Academy of Engineering, Institute of Medicine. National Academy Press, Washington, DC.
- Our Changing Planet: The FY 1993-1998 US Global Change Research Program. A Report by Subcommittee on Global Change Research of the Committee on Environment and Natural Resources (formerly Committee on Earth and Environmental Sciences.)
- Our Changing Climate. Reports to the Nation on our Changing Planet. 1997. Publication of the UCAR Joint Office for Science Support and the NOAA Office of Global Programs.
- Common Questions About Climate Change. 1997. United Nations Environment Programme and World Meteorological Organization.
- Climate Change: State of Knowledge. 1997. A publication by the Office of Science and Technology Policy.

QUESTION 4: Please provide any known or perceived specific time frame for signing of the Kyoto Protocol by the President of the United States;

ANSWER 4: As Undersecretary of State Stuart Eizenstat testified recently before a number of Congressional committees, the Kyoto Protocol is open for signature from March 15, 1998 through March 15, 1999. The President expects to sign the agreement sometime during this period. However, the President will not seek the advice and consent of the U.S. Senate on the Kyoto Protocol until there is meaningful participation from key developing countries.

QUESTION 5: Please provide copies of any side agreements, memoranda, protocols or other documents concerning the Kyoto Protocol entered into or contemplated between the Executive Branch and other nations, parties or non-governmental entities;

ANSWER 5: I am not aware of and CEQ does not have any such agreements, memoranda, protocols or other similar documents.



United States Department of State

*Bureau of Oceans and International
Environmental and Scientific Affairs*

Washington, D.C. 20520

May 7, 1998

CC PL
AK

TO: CEA - Joe Aldy
OSTP - Peter Backlund
Treasury - Jon Gruber
WHCCTF - Tom Peterson

FROM: OES/EGC - Daniel A. Reifsnyder *SAR*

SUBJECT: Q's & A's from House Science Committee to U/S
Eizenstat

We request your assistance in providing responses to the questions submitted to U/S Eizenstat by Chairman Sensenbrenner following the hearing before the House Science Committee on March 5, 1998. The responses which we are requesting from each agency, respectively, are listed in the table below. Additionally, the list of questions is attached. Unless otherwise noted, a question number should be assumed to include all the sub-questions underneath (i.e., assignment of Question 31 would also include Questions 31.1 and 31.2, unless noted otherwise).

Please provide a response to Duncan Marsh in my office (tel. 647-4688; fax 647-0191) by Friday, May 15. We greatly appreciate your assistance.

RESPONSES TO QUESTIONS		
OSTP		1, 2, 20
CEA	Joe Aldy	3, 30, 31, 32 (except 32.5), 33, 34
Treasury	Jon Gruber	35
WHCCTF	Tom Peterson	21.3

COMMITTEE ON SCIENCE
U.S. HOUSE OF REPRESENTATIVES

Hearing
on

The Road from Kyoto—Part 3: State Department Overview

Thursday, March 5, 1998

Post-Hearing Questions
Submitted to

The Honorable Stuary E. Eizenstat
Under Secretary of State for Economic, Business and Agricultural Affairs
U.S. Department of State

Post-Hearing Questions Submitted by Chairman Sensenbrenner

Climate Change and Infectious Diseases

- Q1. On page 2 of your prepared testimony you stated that "Diseases that thrive in warmer climates, such as dengue fever, malaria, yellow fever, encephalitis, and cholera are likely to spread due to the expansion of the range of disease carrying organisms. By 2100, there could be an additional 50-80 million cases of malaria each year."

Please provide detailed documentation of the statement that "By 2100, there could be an additional 50-80 million cases of malaria each year."

- Q2. I note that the November 7, 1997, edition of *Science* contains an article by Gary Taube, entitled "Apocalypse Not," which has the following subtitle:

"Predictions that global warming will spark epidemics have little basis," say infectious-disease specialists, who argue that public health measures will inevitably outweigh effects of climate."

The article concludes with a quote by virologist Barry Beatty of Colorado State University in Fort Collins:

" 'You don't have to be a rocket scientist to say we've got a problem,' he says. 'But global warming is not the current problem. It is a collapse in public health measures, an increase in drug resistance in parasites, and an increase in pesticide resistance in vector populations. Mosquitoes and parasites are efficiently exploiting these problems.' "

- Q2.1 What is the Administration doing to address these obvious serious public health measures?
- Q2.2 Why does the Protocol and the Administration not put more emphasis on such measures?

- Q2.3 Please also provide more details about efforts mentioned in the article to try to resolve disputes over these issues, including studies and other efforts by the Centers for Disease Control and Prevention, National Research Council and NASA. Also, please identify all the persons involved in the Administration's efforts, including their expertise and a description of their mission and timetable.

Is the Kyoto Protocol Target the United States Agreed to Actually 7% Lower than What the President Proposed in October?

- Q3. On page 3 of your prepared testimony you stated that "When changes in the accounting rules for certain gases and offsets for activities that absorb carbon dioxide are factored in, the level of effort required of the United States is quite close to the President's original proposal to return emissions to 1990 levels by 2008-2012, representing at most a 3 percent real reduction below that proposal, and perhaps less."

In addition, the January 15, 1998 "Fact Sheet" on the Kyoto Protocol released by the Department of State's Bureau of Oceans and International Environmental and Scientific Affairs contained the following:

"Is the target the United States agreed to actually 7% lower than what the President proposed in October?"

"No. The 7% target represents at most a 3% real reduction below the President's initial proposal of reducing greenhouse gases to 1990 levels by 2008-2012. The remaining 4 percentage points result from certain changes in the way gases and sinks are calculated and do not reflect any increase in effort as compared to the President's original proposal.

"Changing the baseline for the three synthetic greenhouse gasses from 1990 to 1995 accounts for about 1% of the 7% reduction. Use of these three gases has grown since 1990, so that permitting a 1995 baseline allows for a higher overall baseline than the Administration assumed last October when the President announced his goal of reaching 1990 levels by 2008-2012. Making reductions to meet a higher baseline is of course easier than making reductions to meet a lower baseline. Had the United States maintained the same level of effort assumed by the President in October, and no other factors had changed, the shift to a 1995 baseline for the three synthetic gases would, alone, have transformed the President's goal of 1990 levels into a goal equivalent to 1% below 1990 levels.

"Altering the accounting method for carbon-absorbing activities, such as planting trees, accounts for about 3% of the 7% reduction. The President's original goal assumed that the 1990 baseline would be lowered by carbon-absorbing activities, but under the method agreed in Kyoto, such activities do not lower the 1990 baseline. Because the 1990 level baseline is thus higher under the Kyoto agreement, the U.S. target becomes somewhat less stringent. Specifically, had the U.S. maintained the same level of effort assumed by the President in October, and no other factors had changed, the shift in the accounting method for carbon-absorbing activities would, alone, have transformed the President's goal of 1990 levels into a goal equivalent to at least 3% below 1990 levels. (As noted above, certain carbon-absorbing activities will count against emission reduction commitments in the budget period.)"

Please provide a detailed listing of all assumptions and a detailed set of calculations that verify both the above quoted statement in your written testimony and the above quoted passage contained in the January 15, 1998, "Fact Sheet."

Significance of U.S. Signing the Kyoto Protocol

Q4. During the hearing you stated that the U.S. signing of the Kyoto Protocol will not legally bind us to any of its provisions.

Q4.1 Could the signing of the Protocol sometime over the next year and before the Administration obtains such "meaningful participation of key developing countries" possibly mislead them and other countries into believing that the U.S. will ultimately ratify the Protocol, notwithstanding the provisions of the Byrd-Hagel Resolution (S. Res. 98)?

Q4.2 What signals would you be trying to convey to these countries by signing the Protocol?

Q5. On March 16, 1998, the Secretariat of the UN Framework Convention on Climate Change issued a press release entitled, "Kyoto Protocol on climate change opens for signature," which stated the following: "By signing a treaty a State indicates that it recognizes the authentic text, intends to complete the procedures for becoming legally bound by it, and is committed not to act against the treaty's objectives before being so bound."

Does the U.S. agree with this interpretation of the meaning of "Signature"?

Developing Country Participation: The Bonn and Buenos Aires Agendas and Processes for Addressing Developing Country Participation

Q6. A number of the decisions adopted by the Conference of the Parties to the U.N. Framework Convention on Climate Change (COP) at its Third Session (COP-3) in Kyoto relate to topics to be addressed by the COP Subsidiary Bodies in Bonn in June and by the COP at its Fourth Session (COP-4) in Buenos Aires. However, it does not appear that any of the decisions address the issue of further developing country participation in the Kyoto Protocol.

Q6.1 Do the tentative agendas for Bonn and Buenos Aires include a process of any kind for addressing this developing country participation issue?

Q6.2 If not, will the U.S. and other Annex I countries seek to include it on these agendas?

Q6.3 In the absence of such an agenda item, when and how will negotiations for such participation begin?

Q6.4 Are you suggesting a process outside of the COP process, such as bilateral country-by-country process?

Q6.5 What is the major diplomatic effort you plan and when will it start?

Developing Country Participation: Use of Article 41 of the Vienna Convention on the Law of Treaties to Obtain Developing Country Participation

Q7. Article 41 of the Vienna Convention on the Law of Treaties provides for agreements to modify multilateral treaties between certain parties only as follows:

"1. Two or more of the parties to a multilateral treaty may conclude an agreement to modify the treaty as between themselves only if:

(a) The possibility of such a modification is provided for by the treaty; or

(b) the modification in question is not prohibited for by the treaty and:

(i) does not affect the enjoyment by the other parties of their rights under the treaty or the performance of their obligations;

(ii) Does not relate to a provision, derogation from which is incompatible with the effective execution of the object and purpose of the treaty as a whole.

2. Unless in a case falling under paragraph 1(a) the treaty otherwise provides, the parties in question shall notify the other parties of their intention to conclude the agreement and of the modification to the treaty for which it provides."

Q7.1 It is my understanding that the Kyoto Protocol neither provides the possibility of such a modification nor prohibits such a modification, so that Article 41 procedures could apply. Do you agree and if not, why not?

Q7.2 Does the Administration intend to use the Article 41 procedures to entice key developing country participation in some matter under the Protocol to seek compliance with the provisions of the Byrd-Hagel Resolution (S. Res. 98)?

Q7.3 Would any such agreements using Article 41 procedures to modify multilateral treaties between certain parties have to be submitted to the Senate for its advice and consent to ratification, and if not, why not?

Developing Country Participation: Possibility of New and Additional U.S. Commitments or Requirements to Obtain Developing Country Participation

Q8. In seeking a new amendment or a supplemental protocol, what assurances do we have that the developing countries will not insist, as a *quid pro quo*, on new and additional commitments or requirements, including financial and post-2012 commitments, by the Annex I Parties to the FCCC that the U.S. would have to accept, even with modifications, to achieve such participation by developing countries?

Developing Country Participation: Developing Country Participation in Emissions Trading through an Amendment to Annex B of the Protocol

- Q9. The January 15, 1998 "Fact Sheet" on the Kyoto Protocol released by the Department of State's Bureau of Oceans and International Environmental and Scientific Affairs, states that "Developing countries may, as a prerequisite for engaging in emissions trading, voluntarily assume binding emissions targets through amendment to the annex of the Protocol that lists countries with targets."
- Q9.1 Please explain how and when an amendment to Annex B (which currently applies to Annex I Parties) can be accomplished and how it would enable developing countries to participate in trading.
- Q9.2 Would such countries also be subject to all of the Articles of the Protocol?
- Q9.3 Since developing countries can already "sell" an unlimited supply of emissions credits under the Clean Development Mechanism, why would they accept an emissions target so they could "trade" a limited supply of credits?

Impacts of Delaying Submission of the Kyoto Protocol to the Senate for Its Advice and Consent to Ratification on Ability of the U.S. to Meet Protocol Requirements

- Q10. During the hearing you said that the Administration "won't even submit" the Kyoto Protocol to the Senate for its advice and consent to ratification until developing country participation is obtained.
- Q10.1 Is it the intention of the Administration to defer for the remainder of the President's term, if necessary, submittal of the U.S. to the Senate so long as such participation of the key developing countries you have mentioned in your testimony is not achieved by Protocol amendment or supplemental Protocol, notwithstanding that delaying such submittal for Senate consideration eats into the Protocol's lead time prior to the Article 3.2 requirement that the U.S. is "to have made demonstrable progress in achieving its commitments" by 2005 and the commitment period of 2008-2012?
- Q10.2 What signal does that policy send to other nations and to the U.S. economy?
- Q10.3 In short, how long will you pursue such participation before deciding to submit the Protocol to the Senate?

Administration's Commitment to Submitting to the Senate for Ratification Any Amendment and/or Supplemental Protocol to the Kyoto Protocol

- Q11. Is the Administration committed to submitting to the Senate for advice and consent to ratification any amendment to the Protocol or supplemental protocol regarding such participation by developing countries?
- Q11.1 If the answer to Q10 is yes, would it be submitted at the same time as the original Protocol?
- Q11.2 If the answer to Q10 is no, please explain why not, given the provisions of S. Res. 98.
- Q11.3 If not, please explain why not, given the provisions of S. Res. 98.

Must Any Amendments to the Protocol Be Submitted to the Senate for Advise and Consent to Ratification?

- Q12. In response to questions by Representative Rivers, you said that the Protocol Parties will, under Article 20, try to decide on amendments by consensus, but if that fails, that could be accomplished by a 3/4ths vote. You also said any amendment to the Protocol, once adoption, "would not bind a Party until it ratifies an amendment."

Does the Administration agree that any amendments to the Protocol must be submitted to the Senate for advise and consent to ratification?

Is the Adoption of an Amendment by "the Conference of the Parties Serving as the Meeting of the Parties" a Decision of "the Conference of the Parties Serving as the Meeting of the Parties"?

- Q13. It appears that under the Kyoto Protocol most rules, guidelines, procedures, modalities, etc., for joint implementation, sinks, clean development mechanism, and other measures are to be developed by the "Conference of the Parties serving as the meeting of the Parties to this Protocol" at its first session after entry-into-force "or as soon as practicable thereafter."

Article 13.1 states: "The Conference of the Parties, the supreme body of the Convention, shall serve as the meeting of the Parties to this Protocol."

And, Article 13.2 states: "Parties to the Convention that are not Parties to this Protocol may participate as observers in the proceedings of any session of the Conference of the Parties serving as the meeting of the Parties to this Protocol. When the Conference of the Parties serves as the meeting of the Parties to this Protocol, decisions under this Protocol shall be taken only by those that are Parties to this Protocol."

Is the adoption of an amendment by "The Conference of the Parties Serving as the Meeting of the Parties" *always* defined to be a decision of "the Conference of the Parties Serving as the Meeting of the Parties"? In other words, *could there ever be* a circumstance when the adoption of an amendment to the Protocol by "the Conference of the Parties Serving as the Meeting of the Parties" *could not* be considered a decision under the Protocol so that the amendment would apply to Parties to the U.N. Framework Convention on Climate Change who are not Parties to the Kyoto Protocol?

Article 17 Provision for the Conference of the Parties to Define the Principles, Modalities, Rules and Guidelines for Emissions Trading

- Q14. As noted in Question 13 above, "The Conference of the Parties serving as the meeting of the Parties to this Protocol" is to develop most the most Protocol's rules, guidelines, procedures, modalities, etc., for joint implementation, sinks, clean development mechanism, and other measures. However, Article 17 provides that the Conference of the Parties, *not* the Parties to the Protocol, must "define the relevant principles, modalities, rules and guidelines, in particular for verification, reporting and accountability for emissions trading."

Q14.1 Why did you agree to this different approach for emissions trading?

Q14.2 Is it your understanding that the Bonn meeting and COP-4 will try to adopt by decision all these types of rules by consensus, and if not, what is your understanding of the plan?

Q14.3 Will all such rules, etc., including those on emissions trading also be subject to adoption by the Protocol Parties after entry-into-force and could those Parties change them prior to such adoption, or are those adopted by the Conference of the Parties for emissions trading merely to be accepted by the Protocol Parties without any further action?

Q14.4 Are all such decisions subject to the provisions of either Articles 19 or 20 of the Protocol?

Article 17 and the Possible Role of the United Nations Relative to U.S. Economic Growth and Foreign Policy

Q15. Representative Rivers raised the issue of the possible role of the United Nations relative to U.S. economic growth and foreign policy, and you said that "We determine the rules for trading." That seems inconsistent with my understanding of Article 17 which, as noted above in Question 14, provides that "The Conference of the Parties shall define the relevant principles, modalities, rules, and guidelines, in particular for verification, reporting and accountability for emissions trading." That mandate appears to authorize and direct the Conference of the Parties to perform that function and could include the involvement of the Secretariat or another international body.

Do you agree, and if not, please explain why?

Article 17 Requirement That Emissions Trading Be Supplemental to Domestic Actions

Q16. Article 17 also provides that "Any such [emissions] trading shall be supplemental to domestic actions for the purpose of meeting quantified emission limitation and reduction commitments under that Article [i.e., Article 3]."

On Thursday, December 11, 1997, *Agence France-Presse*, in an article entitled, "Germany sets conditions for signing Kyoto climate accord," reported the following:

"Germany Environment Minister Angela Merkel said in a communique: 'Germany will not sign the protocol until the rules of the marketplace have been set.'"

" 'It is not acceptable that industrialized countries meet their pledges to reduce emissions strictly by trade' in polluting permits, Merkel said.

"She said 'at least 50 percent of pledges must be met by national measures.'"

And the Tuesday, March 24, 1998, edition of the *BNA Daily Report for Executives*, in an article entitled "European Ministers to Press U.S. On Domestic Greenhouse Reductions" on page 26, stated the following:

"European ministers agreed March 23 to a tentative text that would serve as part of the EU's negotiating position of the next meeting of the parties to the climate change convention. It states that 'domestic action should provide the main means of meeting the commitment under Article 3 of the Kyoto Protocol and that the modalities, rules and guidelines for the operation of flexible mechanisms should ensure that those mechanisms do not undermine this principle or weaken the commitments under Article 3.'

"The ministers also agreed that 'in this context a concrete ceiling on the use of flexible mechanisms has to be defined to achieve these aims.'

"European Commissioner Ritt Bjerregaard stated that the EU 'fears the United States will not live up to its Kyoto Protocol commitments' to reduce greenhouse gases.

" 'As it is the leading emitter of greenhouse gases, the United States needs to take tough domestic measures,' said Commission Spokesman Peter Jorgenson. 'We believe that it is going to try and buy its way out of its Kyoto commitments and we are determined to prevent that from happening.' "

We understand that in your response to a question posed by Subcommittee on Energy and Power Chairman Schaefer on prior House testimony you said that "we would not accept such a limitation. Period."

Q16.1 Please explain the purpose and meaning of the reference to "domestic actions," taking into consideration the above comments.

Q16.2 Is this phrase in Article 17 a potential "artificial restraint" on such trading?"

Legal Status of Kyoto Protocol Rules, Guidelines, Procedures, Modalities, Etc., Adopted by the Conference of the Parties and/or the Parties to the Protocol

Q17. Once adopted by the Conference of the Parties and/or the Parties to the Protocol, are the rules, guidelines, procedures, modalities, etc., referred to in Questions 13 and 14 above legally binding obligations of the United States, or are they first required to be submitted to the Senate for advice and consent to ratification?

Q17.1 If they are not legally binding, what is their status and how can they be changed?

Q17.2 How would the U.S. treat them?

U.S. Conceptual Agreement With a Number of Countries to Pursue an Umbrella Group to Trade Emissions Permits

Q18. The January 15, 1998 "Fact Sheet" on the Kyoto Protocol released by the Department of State's Bureau of Oceans and International Environmental and Scientific Affairs states that the "United States also reached a conceptual agreement with a number of countries, including Australia, Canada, Japan, New Zealand, Russia and Ukraine, to pursue an umbrella group to trade emissions permits."

Q18.1 When was that agreement reached and what are its details?

Q18.2 What are this "umbrella" group's relationships to the Protocol and Articles 3, 6, and 17?

Q18.3 Did the U.S. reach any other agreements or understandings at Kyoto or thereafter with one or more countries that have not yet been reported?

Administration Plans to Implement the Kyoto Protocol Without Senate Ratification

- Q19. On March 10, 1998, Patrice Hill of *The Washington Times* reported on a "predecisional" Environmental Protection Agency (EPA) document that "asserts that EPA could use its authority under the Clean Air Act to force power plants to curb their emissions of carbon dioxide, the principal gas said to be warming the earth's atmosphere." In the same article, *The Washington Times* also reported that an administration source said that "the Department of Justice is proposing to expand the Community Right to Know law to require plants that emit carbon dioxide to notify surrounding communities of the potential environmental hazard." The source also said that "Carbon dioxide is regarded more and more as a regular pollutant within the administration, though it is one of the most common atmospheric gasses emitted by humans, animals, and machines."

I also understand that EPA proposed a rule on February 3, 1998, under Section 612 of the amended Clean Air Act of 1990, banning self-chilling cans using HFC-134a or HFC-152a—not as protection of the ozone layer, but to control one of the six greenhouse gases referenced in the Kyoto Protocol.

How are these Administration actions consistent with your assurances to Representative English and to the rest of the Committee, presumably on behalf of the Administration, that "in terms of binding obligations, we do not intend to in any way, shape, or form, through the back door, the front door, the side door, or any other efforts, to bind this country, or any other sectors of this country, until the Senate has acted in a constitutional manner"?

Administration's Bases for Declaring Carbon Dioxide and Other Greenhouse Gases to be Pollutants

- Q20. It is my understanding that carbon dioxide, water vapor, methane, and other gases, known collectively as greenhouse gases, help maintain the Earth's temperature, which is critical to the maintenance human, animal and plant life as we know it; that some greenhouse gases are produced continuously by humans; that greenhouse gases, such as carbon dioxide and water vapor are critical to the well-being of most plants; and that within the meaning of the Clean Air Act, humans are not polluters.

Q20.1 Is my understanding as stated above correct, and if not, what is the correct information?

Q20.2 What, then, is the Administration's basis for declaring carbon dioxide a "pollutant" for purposes of regulatory actions within the meaning of the Clean Air Act, such as those just referenced above in Question 19?

Q20.3 Are you trying to suggest that there is "good" carbon dioxide and "bad" carbon dioxide?

Q20.4 Would you reach the same conclusion for water vapor, the most dominant greenhouse gas?

Opportunity for Congressional and Public Review of U.S. Positions for Upcoming Bonn and Buenos Aires Meetings

Q21. In January and June 1997, the State Department released to the public drafts of a proposed protocol that was submitted to the Ad-Hoc Group on the Berlin Mandate (AGBM). However, there was no prior opportunity for Congressional and public review and comment on those drafts.

Q21.1 Does the Administration plan to develop and propose in Bonn and/or Buenos Aires text for the rules, guidelines, etc., mentioned in Questions 13 and 14 above?

Q21.2 Given your comments about "working closely with industry" and the potential importance of such rules, etc., to our domestic economy, will the Administration allow at least 30 days for review and comment by Congress and the public prior to any such submittal, and if not, why not?

Q21.3 If your answer to Q21.2 is no, please explain how you will be "working closely with industry," and does the term "industry" include labor and agriculture?

New U.S. Requirements Imposed by Articles 10 and 11 of the Kyoto Protocol

Q22. I understand that Articles 10 and 11 of the Protocol relate to existing commitments under Article 4.1 of the U.N. Framework Convention on Climate Change and apply to all Parties to the Convention. And in the U.S. 1996 Non-Paper, it was stressed that "next steps under the Convention must include all Parties."

Q22.1 Do I understand correctly that implementation of the provisions of Articles 10 and 11 by all Parties depends on "all Parties" becoming Parties to the Protocol?

Q22.2 Please explain what new requirements these Articles would impose on the U.S. and what, if any, new funds and legislation would be needed to implement them.

Q22.3 Are Articles 10 and 11 those the only articles in the Protocol addressing the issue of adaptation?

Q22.4 What measures are planned or underway for implementing effective adaptation?

Clarification of the Protocol's Article 25.1 Entry-Into-Force Provisions

Q23. Article 25.1 of the Protocol states: "This Protocol shall enter into force on the ninetieth day after the date on which not less than 55 Parties to the Convention, incorporating Parties included in Annex I which accounted in total for at least 55 percent of the total carbon dioxide emissions for 1990 of the Parties included in Annex I, have deposited their instruments of ratification, acceptance, approval or accession."

However, the January 15, 1998 "Fact Sheet" on the Kyoto Protocol released by the Department of State's Bureau of Oceans and International Environmental and Scientific Affairs contained the following: "To enter into force, it must be ratified by at least 55 countries, accounting for at least 55 percent of the total 1990 carbon dioxide emissions of developed countries."

It appears to me that Article 25.1 says that the Protocol would enter into force on the ninetieth day after the date on which at least 55 Convention Parties—which also must include Annex I Parties

that accounted for least 55 percent of Annex I Party carbon dioxide emissions in 1990—"have deposited their instruments of ratification, acceptance, approval or accession." However, the State Department "Fact Sheet" says that the Protocol would enter into force whenever it is ratified by any 55 Convention Parties that accounted "for at least 55 percent of the total 1990 carbon dioxide emissions of developed countries." There appears to be a contradiction between these two interpretations.

Please clarify the meaning of Article 25.1

Parties Covered Under Article 3.5 of the Protocol

Q24. Article 3.5 of the Protocol states: "The Parties included in Annex I undergoing the process of transition to a market economy whose base year or period was established pursuant to decision 9/CP.2 of the Conference of the Parties at its second session, shall use that base year or period for the implementation of their commitments under this Article. Any other Party included in Annex I undergoing the process of transition to a market economy which has not yet submitted its first national communication under Article 12 of the Convention may also notify the Conference of the Parties serving as the meeting of the Parties to this Protocol that it intends to use a historical base year or period other than 1990 for the implementation of its commitments under this Article. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall decide on the acceptance of such notification."

Q24.1 Please identify those "Parties included in Annex I undergoing the process of transition to a market economy whose base year or period was established pursuant to decision 9/CP.2 of the Conference of the Parties at its second session," the base year used those Parties, and the difference between each of those Party's base year emissions and each of those Party's 1990 emissions.

Q24.2 Please identify any other Party "included in Annex I undergoing the process of transition to a market economy which has not yet submitted its first national communication under Article 12."

Article 18 and Kyoto Protocol Enforcement and Compliance

Q25. It is my understanding that Article 18 of the Protocol is intended to be an enforcement or compliance article. However, the development and approval of "appropriate and effective procedures and mechanisms" to determine and address cases of non-compliance have been delayed until the Protocol enters into force. Moreover, any such procedures or mechanisms "enacting binding consequences" must be adopted as an amendment to the Protocol.

Would you agree that Article 18 is weak and is not effective enforcement and compliance "for both environmental and economic competitiveness reasons," which was a prime objective of the Administration as spelled out in the U.S. Non-Paper of December 1996, and if not, why not?

U.S. Opposition to Mandatory, Harmonized Policies and Measures

Q26. On page 10 of your written testimony you state that "The United States firmly opposed mandatory, harmonized policies and measures that would be imposed upon us in order to reach our target. We prevailed. The Protocol leaves Parties entirely free to decide how best to meet their targets based on national circumstances."

- 26.1 Isn't it correct that during the negotiations leading up to the adoption of the Protocol, other countries, including the European Union were insisting that the Protocol must contain certain mandatory or coordinated policies and measures?
- 26.2 You have said that the Protocol "leaves Parties entirely free to decide how best to meet their targets based on national circumstances," but is it not true that Article 2.4 of the Protocol provides that "The Conference of the Parties serving as the Parties to this Protocol, if it decides that it would be beneficial to coordinate any of the policies and measures. . . , shall consider ways and means to elaborate the coordination of such policies and measures [emphasis added]"?
- 26.3 Given the above, why is it not more accurate to say that the Europeans have preserved the option to impose mandated or coordinated policies and measures rather than to suggest that the Administration succeeded in getting the Protocol to leave Parties "entirely free to decide how best to meet their targets based on national circumstances"?

Implication of Article 26 (No Reservations) of the Kyoto Protocol

Q27. Article 26 of the Kyoto Protocol states: "No reservations may be made to this Protocol."

Article 19 of the Vienna Convention on the Law of Treaties provides for formulations of reservations by a State, when signing, ratifying, accepting, approving or acceding to a treaty unless:

- "(a) the reservation is prohibited by the treaty;
- (b) the treaty provides that only specified reservations, which do not include the reservation in question, may be made; or
- (c) in cases not falling under sub-paragraphs (a) and (b), the reservation is incompatible with the object and purpose of the treaty"

- Q27.1 It is my understanding that the U.S. is not a party to the Vienna Convention on the Law of Treaties, but does view parts of it as declarative of customary international law. Is my understanding correct, and if not, why not?
- Q27.2 Does not Article 26 of the Kyoto Protocol remove the Senate's rights to express its views on all provisions of the Protocol to impose conditions, consistent with the U.S. Constitution, in connection with Executive Branch ratification of the Protocol, and if not, why not?
- Q27.3 Why did you not object to Article 26?
- Q27.4 If Article 26 of the Kyoto Protocol removes the Senate's rights to express its views on all provisions of the Protocol to impose conditions, consistent with the U.S. Constitution, in connection with Executive Branch ratification of the Protocol, how can the U.S. possibly ratify the Protocol?

Implications of the Kyoto Protocol for U.S. National Security and the Ability of the U.S. Military to Meet Its Worldwide Responsibilities

Q28. On pages 8 and 9 of your written testimony you address the implications of the Kyoto Protocol for U.S. National Security and the ability of the U.S. military to meet its worldwide responsibilities. You said that it "is not true" that "the Kyoto Protocol will damage our national security or imperil the ability of our military to meet its worldwide responsibilities." And you cite the provisions of Decision 2/CP.3 that state that "emissions based upon fuel sold to ships or aircraft engaged in international transport should not be included in national totals, but reported separately," and "that emissions resulting from multilateral operations pursuant to the Charter of the United Nations shall not be included in national totals, but reported separately; other emissions related to operations shall be included in the national emissions totals of one or more Parties involved."

Q28.1 It is my understanding that the decisions of the Conference of the Parties are not legally binding. Is my understanding correct; and if not, why not?

Q28.2 It is also my understanding that none of the legally binding provisions of the Kyoto Protocol do not include any such exemptions. Is my understanding correct, and if not, why not?

Q28.3 It is also my understanding that the U.S. would be legally bound under Article 2.2 of the Kyoto Protocol to "pursue limitation or reduction of emissions of greenhouse gases not controlled by the Montreal Protocol from aviation and marine bunker fuels, working through the International Civil Aviation Organization and the International Maritime Organization, respectively." Is my understanding correct, and if not, why not?

Q28.4 On page 9 of your written testimony, you state that "If any other measures to preserve our national security interests are required, and there do not appear to be any, they can be addressed through future implementing legislation." Since you agreed to Article 26, which states that "No reservations may be made to this Protocol," how can such legislation have any meaning or force?

Q28.5 Given the above, why is it not accurate to say that the Kyoto Protocol has "the potential to damage our national security or imperil the ability of our military to meet its worldwide responsibilities"?

Implementing Legislation or Appropriations Needed to Carry Out the Terms of the Kyoto Protocol

Q29. What implementing legislation or appropriations are needed to carry out the terms of the Kyoto Protocol? Please provide an article-by-article analysis explaining why implementing legislation and/or appropriations are either needed or not needed.

March 4, 1998, Testimony of Dr. Janet Yellen, Chair, Council of Economic Advisors (CEA), before the House Commerce Subcommittee on Energy and Power on the Economics of the Kyoto Protocol

Q30. In your testimony, you made references—in your responses to Representatives Jackson-Lee, Morella, English and Ewing—to the testimony of Dr. Janet Yellen, Chair, Council of Economic Advisors (CEA), regarding her estimates of the cost of the Kyoto Protocol. However, I understand that her March 4, 1998, testimony before the House Commerce Subcommittee on Energy and Power is a series of conclusions and that she has not produced an economic analysis for our consideration and review. Also, I understand that her conclusions are based on a number of

assumptions about the adoption and success of the Administration's policies and achieving Protocol commitments by 2012. You also said these modest costs will be mitigated by these policies "not even including the \$20 billion in savings" from electricity restructuring.

Q30.1 Is my understanding as stated above correct, and if not, what is the correct information?

Q30.2 Please identify all of the assumptions relied upon by Dr. Yellen and indicate which require further action by the Conference of the Parties and the Congress before they are implemented.

Q30.3 What is the basis for the \$20 billion figure cited by you and Dr. Yellen regarding electricity restructuring and does it take into account the EPA proposals cited in Question 19 above on regulating carbon dioxide and other greenhouse gases?

Claimed Savings in Carbon Permit Fee Costs Based on CEA Assumptions About Energy Efficiency

Q31. What are the "claimed savings" in carbon permit fee costs based on the CEA assumptions about energy efficiency? Please give the range that corresponds to the range covered by Dr. Yellen in her testimony.

Q31.1 What is the basis for the CEA assumed energy efficiency?

Q31.2 How does the CEA assumed energy efficiency differ from the current Department of Energy (DOE) Energy Information Administration forecast? If there is a difference between the assumption and the forecast, please document the rationale for the change, including assumptions about price signals required to reach the level.

Claimed Savings in Carbon Permit Fee Costs Based on CEA Assumptions About Trading Among Annex I Countries

Q32. What are the "claimed savings" in carbon permit fee costs based on the CEA assumptions about trading among Annex I countries?

Q32.1 Please provide the Administration projection of carbon emission reduction requirements for all Annex I countries for the years 2000-2020 by year.

Q32.2 What contingencies have been assumed about changes in economic forecasts beginning in 2008 that could affect the availability of emissions credits?

Q32.3 What is the assumed price for the emissions permit fees for each year beginning in 2000 through 2020?

Q32.4 What is the impact of possible limits to available emissions credits if the limit is set at 50%? What is the impact if the limit is set at 25%?

Q32.5 Are European Union countries allowed to buy credits from countries outside the "bubble" for the first budget period (2008-2012)? Are they allowed to buy credits outside the bubble for subsequent budget periods?

Claimed Savings in Carbon Permit Fee Costs Based on CEA Assumptions About Trading with Non-Annex I Countries through the Clean Development Mechanism

Q33. What are the "claimed savings" in carbon permit fee costs based on the CEA assumptions about trading with non-Annex I countries through the Clean Development Mechanism (CDM)?

Q33.1 What is the assumed cost in \$/metric ton carbon for the secretariat fee for the CDM?

Q33.2 What is the range of possible charges for payments to non-Annex I countries for impact on their economies?

Q33.3 What is the range of possible fees to be paid to non-Annex I countries through the CDM?

Q33.4 What contingencies are there for changed economic circumstances in non-Annex I countries that could restrict access to emissions credits beginning in 2000?

Administration Assumptions About Future Emissions Reductions Beyond 2012

Q34. It is my understanding that Dr. Yellen has testified that knowing the range of future reductions is important to any analysis since it will influence trading.

Q34.1 What assumptions have been made by the Administration about further reductions beyond 2012 as suggested by the President in his October 1997 policy announcement?

Q34.2 Have these further reductions been factored into the CEA evaluation, and if not, why not?

Use of Treasury Department Economic Model in Kyoto Negotiations

Q35. I understand that when you testified before the Senate Foreign Relations Committee on February 11 you stated that the Administration "didn't even sneeze" in Kyoto without consulting an economic model prepared by the Treasury Department.

Q35.1 Is my understanding as stated above correct, and if not, what is the correct information?

Q35.2 What was this model?

Q35.3 What specifically were/are the results of this model with regard to the commitments you made in Kyoto?

Next Intergovernmental Panel on Climate Change (IPCC) Plenary and List(s) of Key Policy-Relevant Questions and Key Policy-Relevant Scientific Questions

Q36. It is my understanding that at the last Plenary meeting of the Intergovernmental Panel on Climate Change (IPCC), the Parties agreed that: (1) the next Assessment Report would once again include a Synthesis Report (Report) for policy makers; (2) the Report will be prepared by a country team composed by the IPCC Bureau; (3) the Report is not a scientific document, but a governmental document; (4) the Report "will address a broad range of key policy-relevant questions"; and (5) the IPCC Chairman and the Working Group Chairs will develop a list of "key policy-relevant scientific questions" that is to be circulated to governments for comment and for IPCC approval at its next plenary.

- Q36.1 Is my understanding as stated above correct, and if not, what is the correct information?
- Q36.2 What is the schedule for the next IPCC plenary?
- Q36.3 Is the list of the "broad range of key policy-relevant questions" to be addressed by the Report and the list of "key policy-relevant scientific questions" to be developed by the IPCC Chairman and the Working Group Chairs the same list or are they separate lists?
- Q36.4 What is the status of the list(s)?
- Q36.5 Please provide a copy of (1) the list(s) and (2) your comments thereon.

Changes to Intergovernmental Panel on Climate Change (IPCC) Procedural Rules

- Q37. I also understand that IPCC has agreed that the Synthesis Report should consist of a short Summary For Policy Makers (SPM) and a longer report, but that, due to opposition by China, Kenya, the Russian Federation and others—but not the U.S.—over proposals to limit the line-by-line approval to the short SPM only, no decision has been made on the issue of line-by-line approval by the IPCC even though the IPCC procedural rules require such line-by-line approval.
- Q37.1 Is my understanding as stated above correct, and if not, what is the correct information?
- Q37.2 Please explain the reasons why the U.S. delegation did not apparently support fully the views of these other governments that the entire Synthesis Report, which is a governmental document with political overtones, be subject to line-by-line approval.
- Q37.3 Will the U.S. revisit this issue and join with these countries in continuing the current requirements of the IPCC rules and applying them fully to the Synthesis Report (i.e., line-by-line approval of the entire Synthesis Report), and if not, why not?
- Q37.4 Does the U.S. support or oppose any changes to the IPCC rules?
- Q37.5 If the U.S. supports or opposes any changes to the IPCC rules, please identify which changes you support or oppose and why.