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UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE

Ad Hoc Group on the Berlin Mandate  
Fifth session  
Geneva, 9-13 December 1996

**IMPLEMENTATION OF THE BERLIN MANDATE**

**Proposals from Parties**

**Note by the secretariat**

**Addendum**

In addition to the proposals already received (see FCCC/AGBM/1996/MISC.2 and Add.1, 2 and 3) further submissions have been received from Japan, New Zealand, the Russian Federation and the United States of America.

In accordance with the procedure for miscellaneous documents, these submissions are attached and are reproduced in the language in which they were received and without formal editing.

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Proposals on the elements to be included in the Draft Protocol to the United Nations Framework Convention on Climate Change

PREAMBLE

The Parties to this Protocol to the United Nations Framework Convention on Climate Change,

Recognizing the necessity of urgently limiting their anthropogenic emissions of greenhouse gases and of protecting and enhancing their greenhouse gas sinks and reservoirs in order to mitigate the adverse effects of climate change,

Noting that the Second Assessment Report of the Intergovernmental Panel on Climate Change (hereinafter referred to as IPCC) approved at the eleventh session of the IPCC on 15 December 1995, which is recognized, at the present moment, as the most comprehensive and authoritative assessment of the science of climate change, its impacts and response options now available, states that stabilisation of atmospheric concentrations of carbon dioxide, which is one of the major greenhouse gases, at 550ppmv will eventually require global emissions to be less than 50 per cent of current levels,

Taking note that many of the Parties included in annex I to the Convention need to make additional efforts to overcome difficulties that they face in achieving the return of their emissions of greenhouse gases to 1990 levels by 2000, and recognizing the necessity for emission limitations and significant overall reductions within specified time-frames with respect to their anthropogenic emissions by sources and removals by sinks of greenhouse gases not controlled by the Montreal Protocol on Substances that Deplete the Ozone layer, 1987, as adjusted and amended on 29 June 1990, adjusted and amended on 25 November 1992, and adjusted on 7 December 1995 (hereinafter referred to as the Montreal Protocol),

Have agreed as follows:

## ARTICLE 1

### DEFINITIONS

For the purposes of this Protocol:

1. "The Convention" means the United Nations Framework Convention on Climate Change done at New York on 9 May 1992.
2. "Party" means, unless otherwise stipulated, a party to this Protocol.
3. "The Secretariat" means the Secretariat of the Convention.
4. "Indicator" means ... (to be drafted)
5. "Voluntary goal" means ... (to be drafted)

## ARTICLE 2

### OBJECTIVE OF THE PROTOCOL

The objective of this Protocol is to contribute to achieving the ultimate objective provided for in Article 2 of the Convention, by incurring, to the maximum extent possible, new obligations as fairly and effectively as possible on the Parties included in annex I to the Convention, and also by voluntary measures to be taken by all Parties including the Parties not included in annex I to the Convention, in due consideration of Decision 1 of the first session of the

Conference of the Parties to the Convention on 7 April 1995, and with due regard to the varied circumstances faced by the Parties, and of policies and measures so far implemented by them for the purpose of limiting their anthropogenic emissions of greenhouse gases and protecting and enhancing their greenhouse gas sinks and reservoirs.

### ARTICLE 3

#### LIMITATION AND REDUCTION OF ANTHROPOGENIC GREENHOUSE GAS EMISSIONS BY SOURCES <sup>(\*)</sup>

1. Each Party included in Annex I to the Convention shall select one of the following two quantified limitation and reduction objectives for its anthropogenic carbon dioxide emission by sources within the specified time-frames set out below:

(a) To maintain its anthropogenic emissions of carbon dioxide over the period from  $[2000+x]$  to  $[2000+x+5]$  at an average yearly level not more than  $p$  tonnes of carbon per capita, or

(b) To reduce its anthropogenic emissions of carbon dioxide over the period from  $[2000+x]$  to  $[2000+x+5]$  at an average yearly level of not less than  $q$  per cent below the level of the year 1990.

2. The Meeting of the Parties entrusts a study on anthropogenic emissions of greenhouse gases, other than carbon dioxide, not controlled by the Montreal Protocol, to the Subsidiary Body for Scientific and Technological Advice provided for in Article 9 of the Convention. Until such time as appropriate measures to limit and reduce emissions of such greenhouse gases are decided upon by the Meeting of the Parties on the basis of the study, each Party included in

annex I to the Convention shall make as much effort as possible not to increase its emissions of such greenhouse gases.

## ARTICLE 4

### POLICIES AND MEASURES

1. Each Party included in annex I to the Convention, in order to achieve the quantified objective referred to in Article 3, paragraph 1 and to implement Article 3, paragraph 2, shall adopt appropriate policies and take corresponding measures in each of the following areas;

(a) efficient use of energy;

(b) introduction of carbon free or low-carbon energy;

(c) innovative technological development;

(d) international technical cooperation and transfer of technologies; and

(e) protection and enhancement of sinks and reservoirs of greenhouse gases not controlled by the Montreal Protocol.

2. The policies and measures in each area referred to in paragraph 1 above shall be listed in an annex to this Protocol.

3. The Meeting of the Parties shall, at its first session, decide on indicators regarding the policies and measures referred to in paragraph 1 above, in order to achieve the quantified objective referred to in Article 3, paragraph 1 and to implement Article 3, paragraph 2. Each Party included in annex I to the Convention shall establish voluntary goals measured in these indicators.

## ARTICLE 5

### PLAN

Each Party included in annex I to the Convention shall make its national plan of the limitations and reductions of anthropogenic emissions by sources and the increments of removals by sinks of greenhouse gases not controlled by the Montreal Protocol, in order to achieve the quantified objective referred to in Article 3, paragraph 1 and to implement Article 3, paragraph 2.

## ARTICLE 6

### SUBMISSION AND REVIEW OF INFORMATION

1. Each Party included in annex I to the Convention shall submit, to the Secretariat, its initial information including the following elements within six months from the closure of the first session of the Meeting of the Parties, or within six months of the entry into force of the Protocol for the Party if the Protocol enters into force for that Party after the first session of the Meeting of the Parties. The frequency of subsequent submissions by all Parties shall be determined by the Meeting of the Parties, taking into account the differentiated timetable for the initial submission set by this paragraph:

- (a) its quantified objective selected under Article 3;
- (b) its national plan made under Article 5;
- (c) its policies adopted and its measures taken under Article 4;
- (d) its voluntary goals established by the use of the indicators referred

to in Article 4, paragraph 3 if the policies and measures referred to in subparagraph (c) above are planned or are under implementation, and assessment carried out by the use of the indicators referred to in Article 4, paragraph 3 if the policies and measures referred to in subparagraph (c) above have been completed; and

(e) a projection until around the mid 21st century on anthropogenic emissions by sources and removals by sinks of carbon dioxide.

2. A team of experts commissioned by the Secretariat shall review the information of each Party submitted in accordance with paragraph 1 above. The team of experts shall report the results of the review to the Meeting of the Parties.

3. If the Meeting of the Parties, on receipt of the reports referred to in paragraph 2 above, concludes that a Party is under difficulty in achieving the quantified objective referred to in Article 3, paragraph 1, the Meeting shall make recommendations to the Party. The Party which received such recommendations shall review its policies and the measures, and submit the results of its review to the Meeting of the Parties within 1 year of making of such recommendations.

## ARTICLE 7

### VOLUNTARY MEASURES BY PARTIES NOT INCLUDED IN ANNEX I TO THE CONVENTION <sup>(\*\*)</sup>

1. *The Parties not included in Annex I to the Convention are encouraged to voluntarily submit information including the elements referred to in Article 6, paragraph 1.*



2. *If the Party not included in Annex I to the Convention draws up a concrete inventory of technologies which it hopes to introduce and a concrete programme of countermeasures against global warming through introduction of such technologies, the Meeting of the Parties may request the entity entrusted with the operation of the financial mechanism referred to in Article 11 of the Convention to give priority to providing any financial assistance necessary for such a voluntary programme.*

## ARTICLE 8

### DEVELOPMENT AND TRANSFER OF TECHNOLOGY (\*\*)

*The Parties fully recognize the important role that the development and transfer of technology should perform for the mitigation of climate change, and will make every effort to ensure that this role is fulfilled.*

### SOME CONSIDERATIONS ON FINAL CLAUSES

#### 1. REVIEW OF THE PROTOCOL (\*\*)

*In order to reflect in policies the latest scientific information such as IPCC Assessment Reports, a mechanism to regularly review this Protocol should be included. The Annex should be revised more flexibly than the Protocol itself.*

#### 2. ENTRY INTO FORCE (\*\*)

*The conclusion of this Protocol by a certain number of Parties included in annex I to the Convention should be required in order to ensure the effectiveness of this Protocol.*

## ANNEX

*Annex provides for the policies and measures in each field referred to in Article 4, paragraph 1.*

(\* ) The concrete figures of x, p, q should be developed.

(\*\* ) Words and phrases in italics shows preliminary ideas.

Round Table Statement by the Government of Japan regarding the proposals on the elements to be included in the Draft Protocol to the United Nations Framework Convention on Climate Change

1. The Government of Japan submits the concrete proposal on the features of a protocol or another legal instrument in accordance with the conclusions reached at the Fourth Session of AGBM.
2. The main purpose of submitting the proposal is to stimulate discussions on the points which the Government of Japan considers should be included in the protocol which is expected to be adopted at COP3 in Kyoto, Japan. This proposal is neither comprehensive nor final. The Government of Japan recognizes that other elements would also be necessary for inclusion in the protocol. In light of examination of other elements, review of the current proposal and deliberation at AGBM, the Government of Japan is planning to submit further ideas in due course.
3. The Government of Japan expects that the following proposals will stimulate further discussions on crucial issues so that the final form of the protocol will be substantially effective in preventing the global warming as well as highly feasible to implement.
4. The major items of Japanese proposal are QELROs, policies and measures, and a review mechanism.
5. As for QELROs, the Government of Japan is proposing that each Party included in Annex I to the Convention shall select either the objective based upon the total emission or the objective based upon the emission per capita.

6. The Government of Japan considers that if a flat target based upon total emission from a certain fixed base year is the only option in the protocol, it will be difficult to achieve equity in the efforts of the Parties which are necessary for the achievement of their QELROs since there remain significant differences in their individual circumstances, such as past efforts toward energy saving and emission limitation and reduction.

7. Emission per capita is an equitable objective on the premise of equity on the emission of carbon dioxide among all human beings. In light of the profiles of atmospheric concentration of carbon dioxide leading to stabilization calculated by the Intergovernmental Panel on Climate Change and of projection on the world population, this objective can also be a reference to the emission per capita on the global scale, which would make it possible to stabilize the atmospheric concentrations at a level that prevent dangerous anthropogenic interference with the climate system. Thus, this objective could be instrumental in strengthening long-term global efforts to protect the climate system.

8. The Government of Japan does not believe that the options on the QELROs should be limited to the proposed ones. Appropriate consideration should be given to any proposals on other options for QELROs. If the protocol includes more options, this will facilitate participation to the protocol.

9. As for policies and measures, the Government of Japan is proposing that in order to achieve its selected QELROs for carbon dioxide and make as much effort as possible not to increase its emissions of other greenhouse gases, each Annex I Party shall adopt policies and take measures which are appropriate for their own circumstances in each of five areas, namely, efficient use of energy, introduction of carbon free or low-carbon energy, innovative technological development, international technological cooperation and technology transfer, and protection and enhancement of sinks and reservoirs. Each Annex I Party shall select appropriate

policies and measures from Annex to the protocol in which specific policies and measures in the above areas are listed. The Meeting of the Parties shall decide on indicators regarding the policies and measures. Each Annex I Party shall set voluntary goals measured in these indicators.

10. The Government of Japan considers that given wide differences which each Party faces in limitation and reduction of emissions of greenhouse gases, it is not appropriate to make it mandatory for every Party to take any specific policies and measures, and this approach will not lead to an international consensus. The provision on policies and measures in the protocol should be flexible so that the Parties will be able to select appropriate policies and measures in accordance with their individual circumstances. The Government of Japan considers, however, that the following is beneficial for achieving QELROs for carbon dioxide and making as much effort as possible not to increase emission of other greenhouse gases: (1) specifying the areas in which the Parties shall adopt appropriate policies and measures, (2) making an Annex from which the Parties shall select appropriate policies and measures and (3) requiring the Parties to set voluntary goals measured in the above mentioned indicators. The Government of Japan thinks that it is possible to make an international consensus on this point.

11. As for a review mechanism, the Government of Japan is proposing that each Annex I Party shall submit to the secretariat of the protocol the latest information which includes its selected QELROs, its national plan of anthropogenic emissions by sources and removals by sinks of greenhouse gases, policies and measures, voluntary goals and assessment as to policies and measures, a projection of carbon dioxide emissions and removals until around the mid 21st century. A team of experts shall review the information of each Party. If the Meeting of the Parties, on receipt of the reports of the results of the reviews, concludes that the Party concerned will not be able to achieve the QELROs, the Meeting of the Parties shall make recommendations to that Party. The Party which received such

recommendations shall then reexamine its policies and measures, and submit results to the Meeting of the Parties within one year. In order to make the protocol to be substantially effective in preventing the global warming, it is necessary to introduce the mechanism to encourage the achievement of the QELROs. The Government of Japan considers recommendations are most appropriate mechanism for the achievement of the QELROs.

## NEW ZEALAND DELEGATION

### GREENHOUSE GAS STABILISATION: PRINCIPLES TO GUIDE THE FORMULATION OF POSSIBLE TARGETS & POLICIES AND MEASURES

November 1996

The Ad Hoc Group on the Berlin Mandate at its fourth session requested the Secretariat to compile proposals relating to the treatment of quantified emission limitation and reduction objectives (QELROs) and policies and measures. This paper focuses on the principles for the development of new commitments. The paper does not attempt to cover all relevant issues and is not intended to be exclusive of other ideas.

#### Summary

A key element of the New Zealand position is that emissions reductions should be achieved at global least cost. A least cost approach does not neglect equity; rather, a least cost approach improves the prospects of finding an equitable outcome acceptable to all.

#### *Targets*

- in setting targets, Parties should focus on the primary objective of the Convention which is to stabilise the atmospheric concentration of greenhouse gases, rather than setting potentially unachievable near-term targets as endpoints in themselves
- in order to achieve genuine flexibility over when abatement occurs consideration needs to be given to commitments developed in cumulative terms in relation to a time-frame sufficient to capture changes in technology and turnover of the capital stock
- the tension between full flexibility over when abatement occurs, and the need to have milestones to lend credibility to any agreement, should be recognised and addressed transparently
- one approach to addressing the tension between credibility and flexibility would be to specify an emissions envelope which became more stringent over time and allow any over-achievement in terms of emissions reductions to be carried forward or banked for future use

#### *Least cost policy*

- where practical and cost effective, action should be taken to address all sources and sinks of greenhouse gases
- contributions should be welcomed from developing countries as to how a transition to effective global action might best be achieved in the longer term
- equating the marginal costs of abatement across opportunities minimises overall costs, and economic instruments including emissions trading and carbon charges are effective ways to achieve this
- mandatory harmonised policies and measures are unlikely to prove least cost due to variations in individual countries' circumstances; however, areas where common action may be appropriate include removal of fossil fuel subsidies, the treatment of international aviation and marine bunker fuels, and protocols for emissions trading systems

## **Adopting a global least cost approach**

New Zealand supports as a guiding principle the achievement of the objectives of the Convention at global least cost. The rationale for this principle should be clear - a least cost approach allows reductions in emissions to be achieved with least disruption and hence offers the greatest scope for durable actions to stabilise greenhouse gas concentrations over time. It also reduces the potential tension between the objectives of stabilising greenhouse gas concentrations, sustainable economic development, and equity concerns.

A least cost approach is not just about efficiency since, by minimising overall costs, the scope to agree on effective action is maximised. Least cost is about achieving a given level of emission reductions at the lowest total cost to society; it does not mean 'no-cost', or taking no action, to reduce emissions.

A global least-cost approach is both more efficient and equitable than action behind national borders to meet uniform emission targets. Uniform targets can impose very high costs on some parties, and low costs on others. A global least cost approach does not neglect equity, rather it would both reduce cost disparities and the potential concern over absolute costs to individual Parties. A least cost approach therefore provides the best hope of achieving a durable outcome acceptable to the widest range of parties, thereby minimising environmental and economic uncertainty. In New Zealand's view, the proposed principle of global least cost could assist the negotiating process towards an agreed outcome.

## **Clarity about the objective**

Article 2 of the Convention states that stabilisation of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system is the ultimate objective of the convention. This objective supports an approach which seeks to include the following elements:

- action, where practicable and cost effective, to address all sources and sinks of greenhouse gases
- basing targets and actions over time on a long term perspective focused on the atmospheric concentration of greenhouse gases
- recognition of the growing proportion and importance of developing country emissions

While the primary focus has been on emissions of CO<sub>2</sub> globally, other greenhouse gases and sinks of CO<sub>2</sub> provide significant cost effective opportunities to stabilise overall greenhouse gas concentrations. Where practicable and cost effective it makes sense to address such opportunities. However, concern has been expressed by some about the certainty with which reductions in other greenhouse gases and absorption by sinks of CO<sub>2</sub> can be verified and sustained. Rather than neglecting such opportunities, work is needed to develop practical protocols for the inclusion of the widest possible range of sources and sinks of greenhouse gases within the scope of verifiable policy actions.

In setting targets for the post-2000 period, Parties should focus on the primary objective of the Convention which is to stabilise the atmospheric concentration of greenhouse gases,



rather than setting potentially unachievable near-term targets as endpoints themselves. This does not imply no action now to address emissions. However, it does imply a shift in the emphasis of negotiations to achieve a sustainable and cost effective outcome over time. While it is important to have flexibility, it is also important to establish periodic emissions targets as milestones to lend credibility to any agreement.

A focus on the atmospheric concentration of greenhouse gases points to a need to find ways to address developing country emissions post the Conference of Parties in Kyoto. While Annex I countries are committed to take the lead, their actions in isolation would be likely to prove increasingly ineffective at addressing the objectives of the Convention. Developed country parties to the Convention should welcome contributions from developing countries on how a transition to effective global action might best be achieved in the longer run. Taking a longer term view, and moving to a least cost approach which accommodates flexibility over where and when abatement occurs, is an important contribution Annex I countries can make towards leadership on this issue.

### **Flexibility and credibility: focus on long term concentrations, not short run emissions**

The approach taken on targets and policies and measures are necessarily related. Insufficient flexibility in the formulation of targets could limit the scope for least cost abatement because of a lack of flexibility over where and when abatement occurs.

Flexibility over where abatement occurs can be achieved by emissions trading between parties who meet agreed requirements. Emissions trading allows an efficient outcome to be achieved independent of the allocation of total cost among Parties. Differentiated commitments are therefore not essential to achieving a global least cost outcome. The complexity of differentiated commitments, and the fact that they necessarily involve relative winners and losers, make movement on this front difficult. If differentiated commitments are considered it is important that this is on the basis of a simple principle that reduces the disparity between Parties in terms of the abatement costs implied by uniform targets. One possible option would be to aim to share commitments in a manner consistent with the outcome expected if marginal abatement costs were equalised. Clearly there are a range of options which could reduce cost disparities.

Trading can also deliver flexibility over when abatement occurs. However, to achieve significant gains from flexibility over when abatement occurs commitments need to be developed in cumulative terms (consistent with the concentration objective of the Convention), over a time-frame sufficient to capture changes in technology and turnover of the capital stock. Structural rigidities, including existing capital and technology, imply that, consistent with a least cost approach over time, relatively small initial reductions in emissions may be consistent with meeting a longer term objective. This is not an argument for delaying action; rather it is an acknowledgement that the initial response may be small, but would increase as new capital investment and technology is stimulated by any increase in the relative price of greenhouse gas emissions.

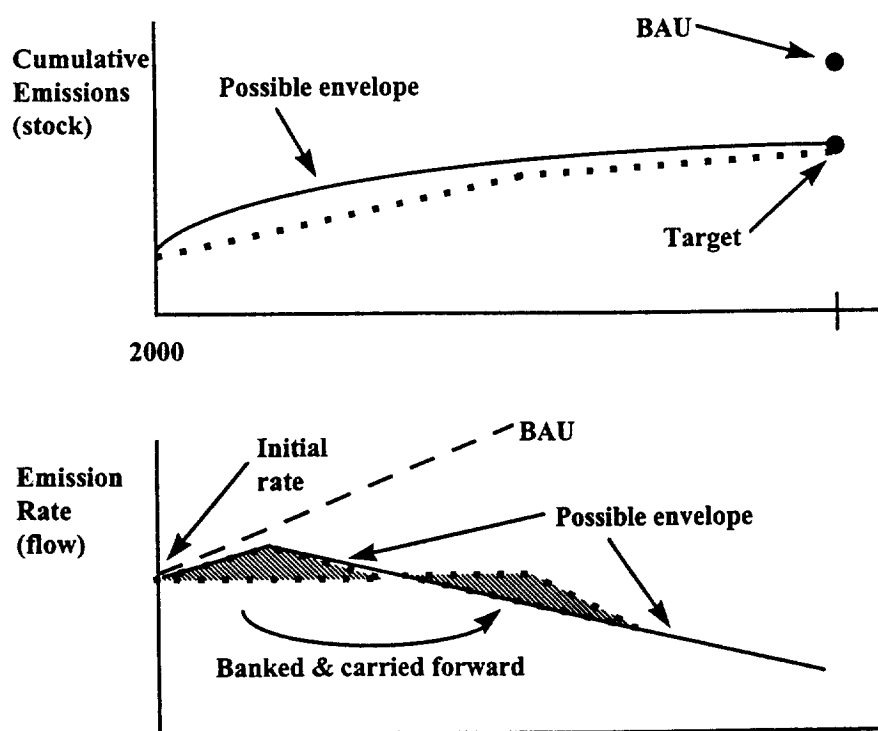
An approach based solely around a longer term concentration target would in principle provide full flexibility over when abatement occurs. We recognise, however, that there may be tension between the objectives of flexibility and credibility. Including intermediate milestones of progress can ensure that parties are committed to achieving their agreed

cumulative target, but such milestones would need to be set carefully to ensure they did not unduly limit flexibility.<sup>1</sup> This tension is best addressed in a transparent manner.

One approach to the tension between flexibility and commitment would be to have an emissions envelope which became progressively more stringent over time. Figure 1 shows both cumulative emissions (the top figure), and the rate of emissions (the bottom figure). The figures show an emissions envelope, which could be specified, equivalently, in terms of either cumulative emissions or the emissions rate. The concept is relevant at both the global and national levels, with trading allowing flexibility over where and when abatement occurs under the global envelope.

National envelopes could be combined with the ability to bank over-achievement relative to the envelope, in order to emit more in the future (banking is represented in the lower figure by the hashed areas). The envelope for cumulative emissions would never be exceeded at the global level (at the national level emissions trading could allow unders and overs relative to the envelope). It is such flexibility over where and when that provides for global least cost abatement. We do not support allowing the ability to borrow against future commitments as this introduces the scope for deferring any action.

Figure 1: Indicative cumulative and emissions rate profiles showing a cumulative emissions target, emissions envelope, and possible banking (lower figure)



Note: While at the national level emissions could exceed the envelope provided there is emissions trading between nations, at the global level the cumulative envelope is a binding constraint.

<sup>1</sup> In the absence of intermediate milestones Parties to the Convention, or individual emitters, may delay action, and then legitimately claim that meeting the agreed concentration target is likely to be very costly given the remaining time available for action. Such strategic behaviour could occur if re-negotiation of commitments were anticipated based on the current costs and benefits of action.

## **Achieving the objective at least cost**

Solutions should be sought that lead to the convergence rather than divergence over time of marginal abatement costs between countries. To do otherwise would place disproportionate burdens on some countries and increase the overall global cost. There is a risk that this could ultimately jeopardise the sustainability of the Convention.

The source and nature of CO<sub>2</sub> emissions suggest that economic instruments are most likely to be cost effective in this area. These views are consistent with the IPCC Working Group III report which stated that 'At both the national and international levels, market-based approaches are likely to be more cost effective than other instruments'. However, durable policy solutions require the careful selection of approaches which suit the circumstances in question, for example, further work is needed on the scope for applying economic instruments to other greenhouse gases and sinks of CO<sub>2</sub>.

New Zealand has consistently advocated the implementation over time of economic instruments internationally. While we consider that economic instruments are likely to offer the most cost effective approach to reducing CO<sub>2</sub> emissions in a wide range of circumstances, international agreement over a given policy approach may neither be appropriate or necessary. Provided commitments can be agreed, individual parties should be free to respond according to their own assessment of what is least cost in accord with individual circumstances. Variations in factors such as the state of development, local energy resource costs etc make it unlikely that mandatory harmonised policies and measures would be cost effective for all parties. However, we recognise some broad exceptions to this general position, in particular, consistency of approach in respect of the following is desirable

- fossil fuel energy subsidies which are inconsistent with both the intent of the Convention, and with maximising economic welfare including the prospects for sustainable development - phasing these out should be a high priority and deserves consideration as a compulsory measure
- the treatment of international aviation and marine bunker fuels may require internationally agreed, and probably harmonised action to be taken
- protocols for emissions trading which would need to be agreed between parties who wished to participate in trading (the right to trade would provide an incentive to comply with any such protocol)

In terms of emissions trading a key feature of a credible approach in the longer term is for trade to be against agreed emissions envelopes which ensure that reductions are genuine. Unless emissions envelopes apply to all parties participating in trade there may be an incentive for trading between parties with and without fixed envelopes to occur which may not involve corresponding real emissions reductions (and indeed undoes the commitments of those with an agreed envelope).

It is important that Parties give consideration to the requirements of a protocol on trading. To encourage such discussion New Zealand puts forward the following two examples for further consideration: mechanisms for tracking and validating trades, and the formulation of clear rules which would govern changes to the overall allocation or target. Tracking and validation

are important in order to reduce the transaction costs of trade, and to ensure that trades are valid. Clear rules governing changes to the overall target would place some constraints on such action, but would facilitate trading and the emergence of market based instruments for risk management. We would welcome contributions from other parties in this area.

ПРЕДЛОЖЕНИЯ ПО ВОЗМОЖНЫМ ЭЛЕМЕНТАМ ПРОТОКОЛА  
ИЛИ ИНОГО ПРАВОВОГО ДОКУМЕНТА К РАМОЧНОЙ  
КОНВЕНЦИИ ООН ОБ ИЗМЕНЕНИИ КЛИМАТА  
(ПОЗИЦИЯ РОССИЙСКОЙ ФЕДЕРАЦИИ)

Общие положения

Только Стороны Конвенции могут быть Сторонами протокола или иного правового документа (Статья 17.4 Конвенции) и только Стороны Конвенции принимают решения в соответствии с протоколом или иным правовым документом;

Протокол или иной правовой документ не изменяет и не заменяет положения Конвенции, в том числе ее принципы;

Протокол или иной правовой документ, включая в сферу своего действия предусмотренные Конвенцией механизмы, содействует достижению ее конечной цели, определенной в Статье 2 Конвенции;

Обязательства по протоколу или иному правовому документу должны быть научно обоснованы и соответствовать конечной цели Конвенции;

Протокол или иной правовой документ сконцентрирован на расширенных, но реально достижимых Сторонами (или группами стран) показателях по ограничению и сокращению эмиссий парниковых газов, построенных на принципе общей, но дифференцированной ответственности Сторон, с учетом обеспечения их стабильного и экологически обоснованного экономического развития.

Российская Федерация под принципом общей ответственности понимает общие обязательства и общую ответственность Сторон Конвенции по защите глобальной климатической системы для достижения конечной цели Конвенции, под принципом дифференцированной ответственности - ответственность каждой из Сторон за выполнение своих обязательств, определяемых в соответствии с их социально--экономическим, техническим и правовым потенциалом (возможностями);

Принимаемые по протоколу или иному правовому документу новые обязательства Сторон не отменяют, не пересматривают и не пролонгируют обязательства, принятые Сторонами Приложения 1 на период до 2000 года (пункты 4.2(а) и 4.2(б) Конвенции);

Протокол или иной правовой документ в максимальной степени учитывает реальный вклад каждой из Сторон в ограничение и снижение эмиссий парниковых газов в атмосферу и увеличение их поглощения с учетом совокупного эффекта достигаемого сокращения антропогенных эмиссий парниковых газов и увеличения стока двуокиси углерода;

Протокол или иной правовой документ предоставляет разумные преимущества и необходимую гибкость Сторонам, вносящим реальный вклад в ограничение и снижение эмиссий парниковых газов в атмосферу и увеличение их поглощения, а также предусматривает механизмы стимулирования передачи технологий и осуществления политики и мер Сторонами Конвенции совместно.

### Сроки

Российская Федерация занимает позицию, согласно которой любые этапы, включаемые в протокол или иной правовой документ, должны быть достаточно длительными, в течение которых могут быть приняты реальные меры по ограничению и снижению эмиссий парниковых газов и увеличению их стоков. В качестве таких этапов предпочтительны десятилетние периоды, с началом отсчета с 2000 года.

Срок, для которого протоколом или иным правовым документом могут быть предусмотрены конкретные количественные цели по ограничению или сокращению эмиссий парниковых газов, Российская Федерация рассматривает предпочтительным 2010 год.

Российская Федерация считает, что протокол или иной правовой документ должен сохранить 1990 год в качестве базового для обязательств на период после 2000 года.

### Политика и меры

Учитывая различный уровень социально-экономического развития и национальных приоритетов Сторон в области политики и мер по осуществлению обязательств по Конвенции, Российская Федерация полагает, что протокол или иной правовой документ должен устанавливать политические цели, а также перечень возможных направлений политики и мер, предоставляя каждой Стороне право самостоятельного выбора конкретных направлений политики, мер и средств достижения этих целей. При этом Стороны могут применять (в том числе группой стран совместно) разрешительные/лицензионные системы, использовать рыночные подходы и применять другие средства для достижения принятых политических целей.

### Вступление в силу

Протокол или иной правовой документ вступает в силу в соответствии с условиями вступления в силу Конвенции, согласно ее Статье 23.

## Органы

Российская Федерация полагает, что протокол или иной правовой документ должен в максимальной степени использовать и базироваться на существующих органах Конвенции. При этом, при возникновении новых задач, связанных с обеспечением осуществления Протокола участвующими в нем Сторонами и решение которых не может быть обеспечено существующими органами Конвенции, представляется возможным определение собственных органов Протокола.

## Элементы протокола или иного правового документа для группы стран с переходной экономикой

В целях обеспечения скорейшего достижения экономической стабилизации и экологически обоснованного экономического развития, основываясь на принципе общей, но дифференцированной ответственности, группе стран с переходной экономикой должна быть предоставлена необходимая гибкость на период до стабилизации их экономических систем и перехода к устойчивому экономическому развитию с учетом их реального вклада в сокращение эмиссий парниковых газов в атмосферу, который имел место с силу экономических причин в период с 1990 года.

Обеспечение интересов группы стран с переходной экономикой могло бы быть оформлено отдельным приложением к протоколу или иному правовому документу специально для этой группы стран.

Видение Российской Федерацией возможных элементов протокола или иного правового документа для группы стран с переходной экономикой представлено ранее в Секретариат Конвенции и содержится в документе FCCC/AGBM/1996/MISC.2 от 17 мая 1996 г.

**PROPOSALS ON POSSIBLE ELEMENTS OF THE PROTOCOL OR ANOTHER LEGAL INSTRUMENT TO THE UN FRAMEWORK CONVENTION ON CLIMATE CHANGE  
(POSITION OF THE RUSSIAN FEDERATION)**

General statements

Only Parties to the Convention may be Parties to the protocol or another legal instrument (Article 17.4 of the Convention) and only Parties to the Convention take decisions related to the protocol or another legal instrument;

The protocol or another legal instrument does not change or replace statements of the Convention, including its principles;

The protocol or another legal instrument, involving mechanisms provided by the Convention, facilitates achievement of its ultimate objective determined in Article 2 of the Convention;

Commitments under the protocol or another legal instrument should be scientifically founded and consistent with the ultimate objective of the Convention;

The protocol or another legal instrument should be focused on extended but really achievable for the Parties (or groups of the Parties) targets in limiting and reducing of greenhouse gases emissions developed on the basis of the principle of common but differentiated responsibility of the Parties, taking into account provision of their sustainable and ecologically sound economic development.

By the principle of common responsibility the Russian Federation considers a common commitments and common responsibility of the Parties for protection of global climate system to achieve the ultimate objective of the Convention; by the principle of differentiated responsibility - the responsibility of each Party for implementation of its commitments determined in accordance with their socio-economic, technological and legal potential (possibilities);

New commitments of the Parties adopted under the protocol or another legal instrument do not cancel, reconsider or prolong commitments adopted by the Annex I Parties for the period before the year 2000 (subparagraphs 4.2(a) and 4.2(b) of the Convention);

The protocol or another legal instrument in a maximum degree takes into account real contribution of each Party in limiting and reducing greenhouse gases emissions and in enhancing their removals, considering total net effect obtained by reduction of anthropogenic emissions of greenhouse gases and enhance removal of carbon dioxide;

The protocol or another legal instrument provides reasonable advantages and a certain flexibility to the Parties contributing real results to limiting and reducing greenhouse gases emissions into the atmosphere and enhance their removals; as well as provides mechanisms to stimulate transfer of technologies and implementation of policies and measures by the Parties to the Convention jointly.

Time frame

According to the position of the Russian Federation, any stages to be included into the protocol or another legal instrument should be enough lengthy to undertake real measures to limit



and reduce greenhouse gases emissions and enhance their removals. The ten-year periods with start at the year 2000 are preferable.

The Russian Federation considers the year 2010 to be preferable for specific quantitative objectives of the protocol or another legal instrument for limiting and reducing emissions of greenhouse gases.

The Russian Federation considers that the protocol or another legal instrument should keep the year 1990 as the base year for obligations for the period after the year 2000.

#### Policies and measures

Taking into account different levels of socio-economic development and national priorities of the Parties in field of policies and measures to fulfil their commitments under the Convention, the Russian Federation considers that the protocol or another legal instrument should establish political objectives and also list of possible directions of policies and measures, leaving selection of specific directions of policies, measures and means to each Party. In this way the Parties (or group of the Parties jointly) can use permission/licence mechanisms, market approaches and other means to achieve political objectives adopted.

#### Entry into force

The protocol or another legal instrument shall enter into force in accordance with rules for the Convention under its Article 23.

#### Bodies of the protocol

The Russian Federation considers that the protocol or another legal instrument should use in a maximum degree, and should be based on the existing bodies of the Convention. In turn, new objectives related to implementation of the protocol by the Parties to the protocol, which can not be provided by existing bodies of the Convention, may lead to establishing of special bodies of the protocol.

#### Elements of the protocol or another legal instrument for the group of countries with the economy in transition

Taking into account principle of common but differentiated responsibility and intention to provide speedy achievement of economy stabilisation and ecologically sound economic development, a certain degree of flexibility shall be allowed to the group of countries with economy in transition for the period of their economy stabilisation, taking into account their real contribution in reduction of greenhouse gases emissions into the atmosphere, which have taken place since 1990 due to economic reasons.

Provision of interests of the group of countries with economy in transition would be drawn as a separate annex to the protocol or another legal instrument especially for this group of countries.

Perception of possible elements of the protocol or another legal instrument for the group of countries with economy in transition by the Russian Federation was submitted earlier to the Secretariat of the Convention and contains in the document FCCC/AGBM/1996/MISC.2 of 17 May, 1996.

Climate Change: U.S. Non-Paper  
December 1996

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**I. Introduction and Background**

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

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

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

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

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

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

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

The Ministerial Declaration in Geneva at the Second Conference of the Parties to the Convention provides climate negotiators with a blueprint for action; we strongly endorse its approach. However, it is now time to develop and agree on concrete proposals.

This paper outlines our view on a number of issues and suggests several other options that merit closer scrutiny.

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We expect to have further views on specific numbers that should be included in targets and timetables in the future as the results of our continuing analysis and assessment emerge. We hope that other Parties will join us in developing new proposals to meet our environmental and economic goals.

## II. Linkages

A number of key variables under consideration are interdependent. This interdependence must be recognized in negotiating our next steps. The United States proposed a three-part framework for the target in Geneva, including that the target be binding, that it focus on the medium term, and that there be national flexibility in implementation. In addition, the United States believes it will be critical to include developing countries in next steps; finding a solution to the climate change problem will require a concerted global effort. In our view, all four of these concepts are linked, and all four must be included in the legal instrument.

## III. Defining the Form of the Target

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

### Multi-year Targets

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

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Second, a multi-year average would give Parties important flexibility to determine the pace at which their emissions budget would be expended over the period (evenly, front-loaded, or back-loaded). This flexibility may be particularly important in helping Parties to reduce their compliance costs in view of differing national circumstances. To provide this flexibility, targets could be set with budgets covering a multi-year period, for example, 2010-2020. Enforceability is a key issue in defining a multi-year period.

#### Banking/Borrowing

The United States strongly urges consideration of banking between multi-year average target periods. Such a process would allow emissions below the target in one period to be used to offset higher than target emissions in later periods. Banking of emissions could reward efforts to make reductions in earlier periods. Similarly, we should explore allowing Parties to borrow against their targets for the next period in order to emit more in a current period. We recognize that borrowing will require that a credible accounting and repayment mechanism be put in place, and that it also could entail additional restrictions (e.g., to limit the proportion of emissions reductions postponed).

#### Differentiation Among Annex I Parties

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

An effort to define an acceptable differentiation scheme in this legal instrument will likely derail the negotiations, by being too divisive and time-consuming, or by disadvantaging a group of countries that might then choose not to sign or ratify. Either outcome could negate the value of the differentiation effort.

Instead we endorse the adoption of a common approach with respect to targets that retains each Party's flexibility with respect to the choice of domestic policies and measures to implement the target. We also support international trading instruments to minimize and equalize Parties' marginal costs of making reductions. Such an approach would enable the completion of the agreement by December 1997.

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## Comprehensive Approach

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

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

### **IV. Emissions trading and Joint Implementation**

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

#### Definitions: Emissions Trading, Joint Implementation, Activities Implemented Jointly

In the U.S. view, some common definitions and distinctions will help clarify discussions in this area. We envision emissions trading as applying between Parties that have assumed a binding target for their greenhouse gas emissions. We

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envison joint implementation as a mechanism to allow credits for emission reductions between Parties with a target and between a Party with a target and a Party without a target. Activities implemented jointly (AIJ) is a pilot program to evaluate the viability of project-based reductions in the absence of targets and without credit. While AIJ will provide valuable insights for JI, we see no role for a continued pilot effort beyond the year 2000.

#### Emissions Trading Among Parties With Targets

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

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

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

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

Emissions trading, as noted, would take place only between Parties that have assumed a binding emissions target. The target will give each such Party an allowable amount of greenhouse gases it can emit during a time period -- in other words, an "emissions budget" for the relevant period, expressed

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in metric tons of carbon equivalent. In its most basic form, the emissions trading regime would allow one Party to transfer (sell or trade) some of its allowable emissions to another Party. The first Party would then be responsible for meeting its emissions target, minus the amount transferred. The second Party would be responsible for meeting its emissions target, plus the amount transferred.

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

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

#### Joint Implementation

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

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



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

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

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

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

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

Two key points emerge from these documents: (1) next steps under the Convention must include all Parties, and (2) actions

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ultimately taken by developed and developing country Parties should be appropriately balanced, recognizing the common but differentiated responsibilities and respective capabilities noted in the Convention and upheld both in the Berlin Mandate and the Geneva Declaration.

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

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

#### National Communications/Policies and Measures

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

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

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

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## Next Steps

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

Another option would be to consider agreeing in the context of the Berlin Mandate negotiations on further negotiations to establish a specified date in the future by which all Parties would be expected to have quantitative commitments with respect to their greenhouse gas emissions. Two variables might also be considered. First, the date need not be the same for all Parties -- we could envision a schedule for phasing in quantitative commitments. Second, the nature of the quantitative commitments need not be the same for all Parties -- we could also envision establishing different levels of commitment based on various factors, including levels of development. It would be important to consider carefully the mandate for these negotiations, including when they could begin, when they would conclude and what results should be anticipated.

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

## VI. Compliance

The U.S. has called for a binding target both to promote a realistic negotiation and to promote compliance with the result. The question is what other elements should be included

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in the compliance regime, recognizing that, on the one hand, effective compliance is important for both environmental and economic competitiveness reasons and, on the other hand, that too stringent a compliance regime could result in vague commitments and/or scare off countries from joining the agreement.

Several categories of elements could promote compliance; they are discussed below.

#### Structure of commitments

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

#### Ascertaining compliance

Ascertaining compliance will involve a combination of: requirements on parties to monitor and report on their emissions; and an international mechanism to verify such monitoring/reporting. The Convention's current obligations regarding national inventories, national communications, and an international in-depth review process are an excellent basis. The new agreement may require strengthened national and/or international mechanisms. (For example, parties bound by the target could be required to have in place a domestic emissions monitoring system, at a minimum for CO<sub>2</sub>, at a minimum for specified sources.) There will also be a need to promote uniformity of measurement.

#### Supporting implementation

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

#### Dispute settlement

The current Convention allows any party to challenge another party's compliance with its obligations before a neutral third party, with a recommendatory result. (Parties

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can opt for a binding result, but it is not required.)<sup>22</sup> Whether this system would suffice for the new agreement, or whether it would need to be enhanced needs to be considered, taking into account, among other things, the extent to which the target is clear and objectively measurable (which is not currently known). Ways to enhance the system include, for example, requiring the issuance of binding judgments or specifying particular consequences flowing from a binding judgment of non-compliance.

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

#### Non-parties

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