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November 8, 1997

The Honorable Madeleine K. Albright
Secretary of State
U.S. Department of State
2201 C Street, NW
Washington, DC 20520

Dear Secretary Albright:

As you know, on October 29, 1997 House Speaker Newt Gingrich appointed me to lead the Bipartisan House Observer Delegation to the Third Session of the Conference of the Parties to the United Nations Framework Convention on Climate Change (COP-3) beginning December 1 in Kyoto, Japan. In making this announcement, the Speaker said:

"There are three key issues of concern that must be resolved before America commits to signing onto any specific action coming out of Kyoto. First, is the science sound? Second, will the proposed solution work? And third, is the treaty fair to the United States? There are a tremendous number of questions on all three issues that have yet to be resolved."

I share the Speaker's concerns, and to better understand some of these substantive and procedural matters that directly relate to these issues, I would appreciate your reply to the enclosed questions by November 24, 1997. I also request that you please provide a copy of your response to each Member of the Bipartisan House Observer Delegation.

Thank you for your assistance.

Sincerely,


F. JAMES SENSENBRENNER, JR.
Chairman

Enclosure

Enclosure: Questions Submitted by Science Committee Chairman F. James Sensenbrenner, Jr.
November 8, 1997

Uncertainties in Emissions Estimates

1. Appendix C of the October 1997 Energy Information Administration (EIA) publication *Emissions of Greenhouse Gases in the United States 1996* addresses uncertainties in emissions estimates. For example, page 105 of the document states the following:

"In general, estimates of carbon dioxide emissions are more reliable than estimates for other gases. Although this report does not explicitly calculate uncertainty ranges, it is likely that the estimate of carbon dioxide emissions is accurate to within 10 percent. . ."

"Estimates of methane emissions are much more uncertain. The level of precision is probably on the order of 30 to 50 percent."

"Nitrous oxide emissions estimates are by far the most unreliable."

- 1.1 What are the implications of such large uncertainties in emissions estimates for legally-binding quantified emissions limitation and reduction objectives (QELROs), and specifically for President Clinton's proposal to return U.S. emissions to 1990 levels between 2008 and 2012?
- 1.2 How are such emissions uncertainties to be addressed by the proposed Kyoto Protocol?

Greenhouse Gas Sinks

2. Greenhouse gas sinks are referenced in subparagraph II.2(a) of the Berlin Mandate in regards to QELROs. In addition, the October 22, 1997 White House "Background Information" document concerning President Clinton's climate change proposal states that "Emissions accounting will include all greenhouse gas sources and sinks (including reforestation)." It is my understanding, however, that the October *Ad Hoc* Group on the Berlin Mandate (AGBM) session in Bonn did not begin consideration of this important issue until the very end, and that the AGBM will further address the issue in Kyoto on November 30 and December 1 just prior to the start of COP-3.
 - 2.1. Please explain the importance of sinks to President Clinton's greenhouse gas emission targets for the period 2008-2012 and the period thereafter.
 - 2.2. Please also explain why consideration of sinks was not raised by the U.S. and other Parties until this late stage.
3. It is my understanding that the Group of 77 (G-77) and China, opposes the accounting for sinks in setting and achieving any proposed flat rate or differentiated emissions target.
 - 3.1. Is my understanding correct, and if so, what is the basis of this opposition?
 - 3.2. Please explain the importance of sinks to President Clinton's greenhouse gas emission targets for the period 2008-2012 and the period thereafter.

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- 3.3. What Annex I countries, if any, also oppose such accounting for sinks, and what is the basis for their opposition?
4. At the October AGBM meeting in Bonn, I understand that a questionnaire regarding sinks was distributed to the Parties for early reply this month. Please provide a copy of the U.S. response to that questionnaire.

Meaningful Participation by Key Developing Nations

5. I understand that on two occasions at the October AGBM meeting in Bonn, the U.S. delegation sought to include in the AGBM Chairman's text the "fundamental provision" proposed last January by the U.S. (but omitted by the AGBM Chairman) on future commitments by developing countries, and that the AGBM Chairman reiterated his opposition to the U.S. proposal both times. The AGBM Chairman's revised protocol draft (document FCCC/AGBM/1997/CRP.1/REV.1) of Articles 5 (Emissions Trading), 6 (Joint Implementation), and 10 ("Opt-In") contains footnotes calling for the deletion of these Articles. In addition, the G-77 and China, in regards to proposals to advance implementation of Article 4.1 of the Convention by all Parties (not just developing countries) continues to resist, through brackets contained in document FCCC/AGBM/CRP.1/REV.1, any proposals aimed at advancing commitments under the Convention for developing countries. The G-77 and China also seek provisions requiring new and additional financial contributions from Annex I Parties to developing countries.
 - 5.1. In light of these AGBM process results to date, what evidence exists going into Kyoto that "key developing nations" will meet President Clinton's October 22, 1997 requirement that "key developing nations meaningfully participate in this effort"?
 - 5.2. What "key developing nations" must "meaningful participate" to meet President Clinton's requirement?
 - 5.3. What is President Clinton's definition of "meaningful" participation?
 - 5.4. By what date must "key developing nations meaningfully participate in this effort" to meet President Clinton's requirement?
6. On October 22, 1997 President said that "The United States will not assume binding obligations unless key developing nations meaningfully participate in this effort." Will that judgment be made: (1) by the President refusing to agree to the adoption of a protocol in Kyoto; (2) by the President refusing to sign or initial such a document at some future date in his Presidency; (3) by the President refusing to submit such a document to the Senate for ratification; or (4) will it be deferred for a future President to decide?

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7. In the section of the October 22, 1997 White House "Background Information" document concerning President Clinton's climate change proposal titled "THE PRESIDENT'S THREE-STAGE PLAN ON CLIMATE CHANGE", it is stated: "By insisting that the United States will not adopt binding obligations without developing country participation and by emphasizing the importance of an international trading system and joint implementation, we take advantage of low-cost reduction possibilities wherever they occur — either here or abroad."
- 7.1 If any one or two or all of the factors (i.e, developing country participation, international trading system, joint implementation) cited in the above quote fail to materialize in any Kyoto Protocol or other legal instrument, or are curtailed significantly to Annex I countries only, do you agree that these "advantages" would be lost or, at best, minimized?
- 7.2 Does the word "international" in the above quote include both Annex I and developing countries, or only Annex I countries?

Kyoto Protocol/Amendment

8. It is my understanding that on October 31 in Bonn, AGBM Chairman Ambassador Raúl Estrada-Oyuela said that he will prepare both a protocol text and an amendment (to the UN United Nations Framework Convention on Climate Change) text for Kyoto. Article 17 of the Convention, regarding protocols, is silent on the procedures for the adoption of a protocol, and the first two meetings of the Conference of the Parties have not been able to adopt Rules of Procedure that address this issue. On the other hand, Article 15.3 of the Convention provides that "[t]he Parties shall make every effort to reach agreement on any proposed amendment to the Convention by consensus," but allows "as a last resort" the adoption of an amendment "by a three-fourths majority vote of the Parties present and voting at the meeting."
- 8.1 If COP-3 at Kyoto fails to agree on Rules of Procedure that include procedures for the adoption of a protocol, must a protocol be adopted by consensus?
- 8.2 It is also my understanding that on October 30, AGBM Chairman Estrada made a ruling that he, as Chairman, could unilaterally decide what constitutes a "consensus" on an issue even if a number of countries disagree on that issue. What constitutes "consensus" in UN practice, and does the U.S. believe that the Chair of any such UN body has the unilateral right to determine if consensus exists?
- 8.3 Does the U.S. favor or at least not object to the use of the Convention amendment process to forge an agreement at Kyoto even if the result might be an agreement that the U.S. could not support, and if so, what is the rationale?

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Military Operations

9. It is my understanding that on October 31, 1997 in Bonn, the U.S. raised for the first time the need to examine and discuss in Kyoto the important issue of “how” the Parties “can protect world peace while preserving our planet through” the addition to the agreement of “some kind of national security or national emergency provision.” Page 117 of the October 1997 Energy Information Administration publication *Emissions of Greenhouse Gases in the United States 1996* states that “Domestic military energy consumption is incorporated into U.S. energy statistics; however, energy consumption for overseas operations is a more complex issue.”
- 9.1. Please explain the U.S. objective with respect to emissions from military operations. Is it (a) to exclude from the Protocol’s coverage emissions from all military operations, whether domestic or overseas; or (b) to include all such emissions for inventory purposes and then seek a waiver for all or part of them?
- 9.2. In the case of a waiver for all or part of military operations’ emissions that might cause the U.S. to exceed a specific emissions target, would the U.S. be excused from meeting that specific emissions target or would the U.S. be required to offset such military operations’ emissions through additional reductions to domestic emissions?

Consistency of the U.S. Position

10. The U.S. Submission of October 21, 1996 and its Non-Paper of December 1996 opposed differentiation among Annex I Parties, supported banking and borrowing, and opposed inflexible, internationally harmonized, mandated, or coordinated policies and measures. I understand that the U.S. has also opposed the European Union “bubble” approach to meeting emission obligations. While President Clinton’s October 22 remarks did not specifically mention these past positions, it is also my understanding that the U.S. delegation has continued to advocate them in Bonn. Can we assume that the U.S. will not change or modify its position on each of these in Kyoto, including in any closed door meetings with some or all of the Parties, and if not, why not?