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3 December 1997

To: Please see attached listing

From: USDEL, Kyoto - Mark G. Hambley ~~WVA~~

Subject: Third Conference of the Parties to the Climate Convention, Update No. 4:  
Report on Activities/Meetings on December 2/3, 1997

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This unofficial and unclassified report covers various activities and meetings at the Third Conference of the Parties (COP-3) which is being held in Kyoto between November 30 and December 11, 1997. This edition covers events from the afternoon of December 2<sup>nd</sup> through the evening of December 3<sup>rd</sup>. Although it is not classified, this report is intended for the use or distribution outside of the U.S. Government.

This report also contains details about the meetings held by the Committee of the Whole on QELROS during the closed sessions on December 2<sup>nd</sup> prepared by EPA's Sharon Saile. In addition, I am forwarding a copy of the language being discussed in the corridors on a draft national security provision which had been promised in Update No. 3 but which was not included. Also noteworthy is a report on CODEL Hagel's meeting with Chinese representatives on December 2 which was prepared by Embassy Beijing Emboff Robert Boynton. The ECO for December 3<sup>rd</sup> is being sent as part of a supplement to this update, although I am including a copy of the more respected EARTH NEGOTIATIONS BULLETIN for Dec 2.

The final paragraphs of this report may be used as a summary as appropriate or desired.

**COP-3 Update No. 4 (Dec 2/3): Canada and New Zealand Announce Their "Reduction" Targets; Six Gas Basket Endangered**

**"Love Thy Neighbor": Canada Displays its Green Target; the Kiwis also Propose to Reduce**

An important highlight of Dec 2<sup>nd</sup> was the announcement of a target by both Canada and New Zealand. Canada indicated its support for a reduction of three percent by 2010, with an additional five percent cut by 2015. In JUSCANZ on Dec 2, the Canadians indicated that these reductions would take place in budget periods corresponding to the U.S. formulations. The Canadians also endorsed joint implementation with credit and our other flexibility mechanisms and came out in favor of developing country commitments. Still, we were somewhat perplexed by the Canadian announcement. After asserting strongly to the Canadians the importance of marching in lock step with regard to a target, this announcement appears to us merely a reflection of the sometimes "knee-jerk" reaction of the Canadians to putting some distance between themselves and the U.S. on many multilateral issues. In this case, Prime Minister Chretien's desire to have a "greener target" than us.

REVIEW AUTHORITY: Alan Flanigan, Senior Reviewer

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New Zealand's announcement of a five percent reduction by 2010 should have been accorded greater accolades than it received. Instead, because of the small print which outlined the conditions for this reduction, the announcement was savaged in ECO and by the usual gaggle of pro-European NGOs generally. Indeed, Simon Upton, the Kiwi Environment Minister, indicated that this proposal was conditioned on the inclusion of at least three greenhouse gases (GHG); provision for international emissions trading (no mention of Joint Implementation (JI)); the appropriate inclusion of carbon sinks; flexibility with regard to the choice of policies and measures; and provision for developing countries to accept emission reduction commitments in the future.

#### **Much Activity in the Negotiating Bodies and Contact Groups**

Throughout Dec 2<sup>nd</sup> and 3<sup>rd</sup>, there was much activity and possible movement in a number of areas. In addition to a COP plenary meeting on Dec 3<sup>rd</sup>, the negotiating body chaired by Ambassador Estrada met three times, while the groups on Article 4.1 (dealing with Article 12 and 13 of the text) and the one on institutions met twice. Moreover, various contact groups met on national security exemption (a JUSCANZ group), emissions trading, JI, and sinks. The developments in each of these groups or by topics of interest are as follows:

**COP Plenary:** Both the EU amendment on changing the rules for approval of protocols by a three quarters vote and a Kuwaiti proposal to expand Annex I financial obligations under the Convention were discussed at the plenary on Dec 3<sup>rd</sup>. Informal consultations on both items are to be held by Hungary and Senegal, respectively. In addition, proposals to change or alter the status of the Czech and Slovak Republics, plus Turkey were also debated. We were something of the skunks at the party concerning Turkey's application to be removed from the lists of Parties in Annex I and Annex II (essentially making Turkey an OECD member). We suggested that the matter be postponed for additional consideration, the question being one (in our view) of ensuring that Turkey opt to join Article 10 (for countries which would voluntarily take on an emissions cap) prior to being excused from the obligations of Annex I should Turkey decide to ratify the protocol.

Another plenary issue which we spoke rather vehemently about was the seating of the Federal Republic of Yugoslavia. As FRY does not qualify for membership in the Convention because it is not a member of the UN, one of its affiliated bodies, or a signatory on the International Court of Justice, FRY should not have been accredited to the Convention. We are soliciting additional advice from L as to how to proceed. Meanwhile, the Secretariat is seeking guidance from the Legal Advisor at the United Nations prior to the next COP Plenary on Dec 5.

**Budget Issue:** The budget concept, while still opposed by some countries, appeared to gain ground on Dec 2. It appears that the G-77's opposition is based largely on tactical considerations. In any case, the term has come to be identified too closely with the U.S. Accordingly, Estrada asked the Brazilian delegate, Gylvan Meira, to propose a new name for this concept, which Gylvan undertook to do.

**Differentiation:** In the first discussion of this topic since the U.S. statement on Dec 1<sup>st</sup>, most proponents merely restated their well-known positions. The U.S. offered that it was not bringing forth a specific proposal at this time. We said that in our view, a differentiated outcome needed to principles to work: it would have to have set limits and the targets would have to be decided at Kyoto. No loopholes! In addition, we wanted to listen to the views of other Parties and to solicit some suggestions from them. Switzerland's Romera was given the task of consulting with other Parties on this topic, and Romera circulated a questionnaire which has now been collected, with the various answers being collated.

**Military Exemption Provision:** As indicated in Update No. 3, our two DOD reps have carefully orchestrated this issue which, in any case, looks very problematic. We are currently seeking views on some proposed language which would treat this potentially volatile issue as a methodologies question.

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**Greenhouse Gas Coverage:** It looked like we would lose our proposal for a GHG based on six gases at the QELROS discussion last night. So strenuous were the voices in favor of a three basket approach (especially from the EU and Japan) against only two in favor of a six gas basket (the U.S. and Norway) that Estrada indicated that the tendency had now shifted strongly in favor of three gases for this protocol. On Dec 3<sup>rd</sup>, following a pilot but stern appeal from Dr. Pershing before JUSCANZ, the issue was kept alive for additional discussion on the following day. And it was. All of JUSCANZ with the exception of Japan and Switzerland (the Queen of the EU "wannabees") spoke up in favor of 6 GHG coverage when the matter resumed for discussion on Dec 3<sup>rd</sup>.

**Sinks:** In what has been, to date, the most intensively discussed issue (it was, after all, the reason why the AGBM was suspended on October ), there were potentially significant developments on Dec 3<sup>rd</sup>. A report is due to be issued tonight with the apparent recommendation to the chair endorsing a concept which we had decided not to pursue earlier because of the bad message it would send. According to a key USDEL member attending the talks, if the recommendation is endorsed by the Chair and then by the COP, the U.S. could have a reduction of over two percent. It is the fact that this would be a reduction which is apparently keeping AOSIS supporting this concept in contrast to its earlier opposition (or perhaps it was the lunch we hosted for six leading AOSIS members today!)

**Compensation:** The Saudi/OPEC poison pill called compensation was addressed at the night meeting on Dec 2 with the expected countries both for and against. The most compelling argument made against this proposal came from Poland. The Polish delegate indicated that his parliament would not approve an agreement that contained a provision in which Poland might have to compensate Saudi Arabia -- a country with five times the per capita income of Poland.

**Clean Development Fund and Joint Implementation:** The biggest surprise of Tuesday night was the discussion involved in taking up what the G-77 called its own idea called the clean development fund, although the idea actually comes from the Brazilian proposal. The G-77 extolled its virtues, while the U.S. indicated we could not accept this fund in the context of the G-77 proposal. Then Brazil got up and stated that the concept could be adjusted and might be better-suited as an incentive mechanism rather than one drawing funds from non-compliance. Brazil conducted consultations on this matter on Dec 3<sup>rd</sup>. Although Brazil has changed some of its initial views, progress was made in working this concept into the article on JI. Among the loudest critics among Annex I are Germany and Japan, while India and China are among those non-Annex I countries who find aspects of the concept troubling.

**Institutional Issues:** The G-77 and China continue to try to insert the Berlin Mandate mantra into whatever places they can in the various articles being discussed in this negotiating group under the Chair of Takao Shibata. Among the issues tackled on Dec 2/3 was that dealing with entry into force provision. At the moment, the debate is over the number of countries which might be required and the percentage of emissions which should be required for the protocol to come into force. The numbers 50 and three gigatons are the proposals that are currently tabled.

**Article 4.1:** Although a few minor paragraphs were approved, this remains an heatedly debated issue. We are working on the paragraphs on technological transfer and may find an early fix. The G-77 still wants all references to policies removed.

**Policies and Measures (PAMs):** No formal group has addressed this issue, although in two bilaterals with the EU troika, its pit ball (Bert Metz of the Netherlands) has not budged an inch. Although he continues to assert that we (the U.S. and the EU) do not fall apart on this issue, we have clarified that there are serious differences on this question which remain to be settled.

**Emissions Trading:** A USDEL team met with the Germans on Dec 3<sup>rd</sup> to try to soften their criticism of this important flexibility instrument. However, at a long meeting on this topic, both France and Japan

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attempted to introduce proposals for a rigorous and bureaucratic system of investigation, monitoring, and compliance into the discussion. In addition, both countries appeared to favor trading based only on an auction basis.

**Base Year:** In part because they are now feeling pressure on their target, the Japanese asked for our views on changing the base year from 1990 to 1995. This would give them more flexibility to meet their target. We indicated that the only possible flexibility in this regard that we are considering is with a multiyear context (such as 1990-95). We had not addressed the issue of actually changing the baseline at the present time.

**Developing Country Issues (Evolution):** The Japanese tell us that Minister Ohki's consultations with several developing countries leaves him with the distinct impression that evolution even if encapsulated in a Mandate formulation is impossible with most developing countries. This view comes from his discussions with China, India, Indonesia, and Malaysia on Dec 3<sup>rd</sup>. Of these countries, the hardest line was taken by China and Malaysia, with Indonesia actually speaking out in favor of some kind of review mechanism. We will try to meet with both India and Indonesia tomorrow, Dec 4<sup>th</sup>.

#### Comment

It is clear that Japan is feeling pressure from its weak target which, if all six principal greenhouse gases are used, would by our calculations result in a growth target, rather than the current 2.5 percent reduction effort. The Japanese asked us to reconsider their proposal for handling the three additional gases with specialized criteria. We had looked at this idea briefly and were not impressed. However, we have established a contact group between our two delegations to examine the issue more carefully. Similarly, we have established contact groups with Japan to discuss both our differing views on emissions carrots and one on the Japanese proposal to offer some incentives or carrots to developing countries in an effort to buy their acceptance of other aspects of the agreement.

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