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REVIEW AUTHORITY:
Alan Flanigan, Senior
ReviewerApproach to Estrada

(aka "Estrategy")

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- During the Bonn AGBM session in March, Estrada took a line that fully protected U.S. interests – he did not take sides among OECD countries, despite his strong ties to the Germans; he avoided a North-South showdown, and he deleted no texts.
- Nevertheless, March was the last session where he can preserve all options – as Chair, he must deliver most of an agreement by Kyoto, and he has only two shots left, August and October.
- **We should first thank Estrada for his deft handling of the March session – things could have turned out far differently for us.**
- **We should then acknowledge the difficult task he now faces** (Note: In Estrada's mind, he has bent over backward to accommodate the United States throughout, starting with his acceptance of our two-phased approach with analysis/assessment first, negotiations later; as a result, he acquiesced in reducing the time he has available to produce an agreement; he will be looking to us to return his favor).

Estrada's Views on the U.S. Proposal

- In his first e-mail reaction to the U.S. protocol framework, Estrada identified two key problems: Annex B and joint implementation for credit; he said that, if we could help him with these, he would seek to help us on the rest; **we should take him up on this, first explaining our game plan for helping him on Annex B and joint implementation for credit** (as well as "evolution", which he did not raise, but which he feels is far beyond the Berlin Mandate), **and then asking his help on our other issues, including emissions budgets/periods, emissions trading, policies and measures, Article 4.1 and compliance.**

Game Plan for Annex B

- Estrada met with us, Korea, Mexico and the E.U. during the Bonn session to urge that we work something out on Annex B (and the E.U.'s Annex X); we agreed to do so.
- As a first step, we should schedule bilateral visits in Seoul and Mexico City in early April to follow-up and explore possibilities.

- Thereafter, we should host a meeting in Washington with Korea, Mexico and possibly a few others (e.g., perhaps Turkey, two or three other Annex B candidates, and possibly the E.U.) to see what kinds of approaches might work.
- **We could mention to Estrada that we have concrete plans to follow-up intersessionally, as he requested, and that we understand the need to bring something to the August meeting, particularly with some buy-in from Korea and Mexico, if not others.**
- Estrada believes that the Annex B/Annex X issue is one to be dealt with among the proposers and the intended, and not an issue to waste much AGBM time on; if we are successful, presumably he would be content to have it brought into the negotiations as a pre-cooked item; if we are not successful, he has given every indication that it will be set aside; thus, much hinges on what we are able to work out with Korea, Mexico and any others we can engage in this discussion.
- Going beyond Korea and Mexico with respect to Annex B will likely raise strong objections from the G-77/China; at Estrada's informal dinner in Bonn, he argued publicly that Korea and Mexico are no longer part of the developing world – they are in the OECD – and said that, for this reason, Annex B and Annex X should be of no concern to developing countries; he urged that we and the E.U. be left alone to work something out with Korea and Mexico, and that this was not part of the AGBM effort; he knows that we want to open Annex B to others; his problems would be fewer (and his rationale stronger) if we were to confine Annex B to Korea and Mexico; in any event, we will first need to see what the options are with them.
- One point Estrada has made repeatedly with respect to Annex B should be borne in mind – that is, **1990 cannot be any kind of base year for developing countries**; he has been emphatic about this (revealing a certain passion in his view); we are not necessarily pushing a 1990 base year, but **we should be careful to tread sensitively in this area.**

Joint Implementation for Credit

- On JI for credit, Estrada does not believe this to be includable in the Kyoto protocol; he points to the decision in Berlin and the need to let the AIJ pilot phase run its course; he also knows that only a handful of countries (the U.S., Norway, Canada) are prepared to push it, and that the Europeans have already cut it loose; he may understand the political imperative we face, but he seems not overly concerned.
- Again, unless we are able to win the hearts and minds of a broader nucleus of countries, particularly developing countries, between now and August, JI for credit faces very tough sledding; on the other hand, DOE is prepared to push hard on this through workshops and visits and its track record in changing minds is not bad; we

should let DOE and EPA try to work this between now and August, and clearly we should not write it off this early.

- **Our message to Estrada on JI for credit should be: 1) we understand the hesitation of many countries and the difficulties involved in producing critical mass for its inclusion in the protocol; 2) we plan to work intensively intersessionally on this issue and have been heartened by the recent support of certain new proponents (e.g., Peru); and 3) JI for credit is quite important to us politically and may be a crucial element in winning Congressional support for the protocol; and 4) we should be given time to see what we can do (i.e., at least until the August meeting, and perhaps until October).**

Evolution

- On “evolution,” Estrada did not criticize our proposal in his initial e-mail, probably because he believes he need not waste ammunition on a target so clearly beyond the Berlin Mandate; on the other hand, he understands that this issue is political and will not be resolved by officials in the AGBM; what he wants is some way of segregating “evolution” from the other issues he must deal with in AGBM (partly out of concern that pushing it in the protocol will lead to North/South meltdown); the Europeans are helping him with their view that “evolution” should be the subject of a separate Kyoto Mandate; however, their tactics are questionable (they could lose the issue unless they push it harder at the outset) and it is not clear, whether they will be willing to walk away from the table in Kyoto without it.
- Tactically, we need to decide quickly whether (as a procedural or legal matter) we should circulate a draft COP decision by June 1 outlining our thinking on the terms of a “Kyoto Mandate”; advantages of doing so include the signal to domestic constituents that this item isn’t likely to remain in the protocol itself after August, and the fallback we will then have that will be unassailable procedurally; such a draft need not be submitted by April 1, particularly if we translated it ourselves into all U.N. languages, and there might be advantages in waiting until shortly before June 1 (to ensure that others do not make their own proposals in response to ours).
- Were we to table a draft COP decision on “evolution”, it is not clear what the Convention’s secretariat would do with it, and how it would be treated procedurally; for example, it might then become an issue for the (sleepy) Subsidiary Body on Implementation, definitely waking up the participants but probably to little avail; ultimately, it will have to dealt with by ministers as part of the Kyoto package.
- We would also need to consider whether to share our ideas ahead of time with those who have also made “evolution” proposals (New Zealand, Russia), those that have

promised to do so by April 1 (Canada) and those whose support we will need ultimately (the E.U.).

- **Our message to Estrada on “evolution” should be a “meta-message”; we should not say outright that we are prepared to see this in a COP decision (as opposed to the protocol) which would be a sine qua non of proceeding with the protocol in Kyoto; we should, however, intimate that such an approach is within the realm of the imaginable; Estrada will understand; the risk in saying it outright is that Estrada will consider it a thing decided and feel free to remove it from the table in August; it would be preferable to force him to reach his own conclusion in that regard; if we do, he may be willing to remove “compensation” as a quid pro quo.**

Numbers/Differentiation

- Estrada said clearly in Bonn that, while numbers need not be in the June 1 document, this is an issue that must be dealt with squarely and well before Kyoto; he spoke publicly, but was clearly talking to us.
- It is not clear that much would be gained by narrowing the range (+40 percent in the case of Portugal to -30 percent in the case of Luxembourg); were we to do this, all would assume that the mid-point of any range we identified would be our number; in addition, any tabling of an increase above 1990 would suffer a withering attack from the environmental NGOs.
- One way to approach the numbers issue is through a different tact on differentiation; Reifsnnyder already mentioned privately to Estrada at the end of the session that the Russian proposal (all Annex I meet a certain level; Annex II then negotiates further reductions among themselves) seemed interesting.
- **At this time, the best approach to Estrada may be to acknowledge that the problem of differentiation is one that must be addressed, and that the Russian proposal is interesting in that regard.**
- There is some risk in leaving Estrada in the dark as to the numbers we may be prepared to see in the protocol; he is likely to press hard on this, at least in private, and will not be amused if we are coy with him; on the other hand, the limitations we face in being forthcoming (i.e., we simply don't yet know) are real.
- Another possible approach to Estrada on numbers would be to explain the process we are going through: a small change in GDP will have disproportionate effects throughout the economy; we need to identify who would be hurt, assess the political significance of that, and devise ways in which to ameliorate the impacts on those most significantly affected before we can go public even with a narrower range; anything that helps persuade him that we are not stalling on purpose or being coy would help.

Emissions Budgets/Budget Periods

- At the close of the March session, Estrada asked Reifsnnyder whether it wouldn't be possible to marry the European and U.S. approaches, i.e., letting the Europeans express what they will do in terms of a target and timetable, and letting the U.S. express what it will do in terms of an emissions budget and budget period; he seemed to believe that the two are really only different ways of expressing a similar thing.
- Emissions budgets, if the budget periods are not too long, appeal to the Europeans for the same reasons they appeal to us; if we continue to press, we are likely to bring the Europeans around on this point, and it would be vastly preferable in a protocol to use the same terminology and theoretical constructs for everyone with similar commitments.
- **Our message to Estrada on emissions budgets should be one of optimism that we will be able to persuade our European friends of the approach we have suggested; we should not be too ready at this point to accept different ways of saying similar things.**
- **On budget periods, we should indicate that we are studying the possibilities for periods as short as three years and as long as ten years, but that we have as yet made no decision.**

Emissions Trading

- **Our message here should be very positive – we see absolutely no reason that emissions trading among Parties with emissions budgets should not be a key feature of the protocol, and we have heard no European opposition to this;** concerns about reporting and domestic implementation can be quieted by Kyoto, and there can be follow-up work under the Convention to deal with issues like reporting, just as we did with the content and format for Annex I national communications.
- **We might also make the point that the European proposal (15 percent reduction in emissions of CO₂, CH₄ and N₂O by 2010, with individual Member State burden sharing that ranges between +40 percent for Portugal and -30 percent for Luxembourg) virtually endorses emissions trading among developed country Parties.**

Policies and Measures

- Estrada has proposed a way of dealing with policies and measures (which he included in the Framework Compilation as a Chairman's proposal – the only such proposal) that would modify the three annexes proposed by the E.U.; under his approach,

various policy objectives and policy mechanisms would be listed in Annex A and B, respectively, and Annex C would contain whatever common measures could be agreed among developed country Parties; he made this proposal as early as December 1996 in an effort to move forward, and in recognition that the Berlin Mandate (and the subsequent Geneva Declaration) calls for an elaboration of policies and measures (in other words, the protocol must have something to say on this); still, Estrada recognized that the number of things likely to be included in his proposed Annex C are very limited – as do the Europeans, in fact.

- We have publicly rejected any effort to adopt harmonized policies and measures, and we have avoided expressing any support for Estrada's proposal (partly because December 1996 would have been entirely too early to do so, given the mischief that might later have been generated in the remaining three negotiating sessions prior to Kyoto).
- Nevertheless, at a dinner Estrada hosted the first evening of the AGBM session for the extended group he will use for informal consultations, Reifsnnyder pointed out that the U.S. Annex C will list only those gases in those sectors which we deem are verifiable and quantifiable, and only these will be included in emissions budgets; he pointed out that the United States does not intend to ignore gases/sectors not listed in Annex C; instead, developed country Parties would adopt other kinds of policies and measures to deal with them; Reifsnnyder's statement (in particular, use of the words "policies and measures" got quite a rise out of some E.U. guests (Cornelia Quennet-Theilen and Bert Metz, in particular).
- **In discussions with Estrada, it may be useful to suggest that his approach ultimately may help us; he knows that no one can have any real problem with his first two annexes (policy objectives, policy mechanisms); we might suggest that the third annex list gases/sectors not included in our Annex C for which developed country Parties would be expected to adopt policies and measures and report on their efforts in their national communications; the choice of which policies and measures, however, would remain entirely within national discretion.**

Article 4.1

- Our proposal on "continuing to advance existing commitments in Article 4.1 has three principle elements: 1) annual emissions inventories; 2) individual review of national communications; and 3) "no regrets measures."
- Our approach, and that of the E.U., are remarkably similar, and we should seek to combine them, perhaps working bilaterally with the U.K., prior to the August session.
- **We should indicate to Estrada that there are many common elements in the U.S. and E.U. proposals on this issue and that we will seek to combine our**

approaches, if possible, prior to the August session; we should also indicate that, notwithstanding our call for “no regrets” measures, we believe all of the principle elements we have proposed are perfectly within the terms of the Berlin Mandate.

- Estrada has not challenged our proposal on 4.1, and probably believes that all of these items are negotiable, despite some gnashing of teeth by the G-77; one concern cited by developing countries is the cost of providing annual emissions inventories; we have indicated that the first inventory is the hard one, after that it is only maintenance; since emissions inventories are a fundamental building block of any global response to climate change, we should be prepared to work with developing countries (and the GEF) to ameliorate any concerns about cost – which is likely to be a pittance in the ultimate scheme of things, anyway.

Compensation

- This issue is a non-starter, and Estrada probably realizes it; on the other hand, OPEC participants made some headway in Bonn in rallying other developing countries to their ideas, and that development is worrisome.
- Estrada may be waiting for an opportunity to sweep “compensation” off the table, but how he will do this isn’t yet clear; an argument can be made that it is not, in fact, beyond the terms of the Berlin Mandate; nevertheless, the easiest course will likely be to declare it “beyond the Berlin Mandate” and remove it from the table; unfortunately, it will be extremely difficult to dump compensation without also dumping something of significance for developed countries at the same time, e.g., “evolution.”
- **We should explore this issue with Estrada and seek to get some better understanding of how he intends to deal with it, making very clear that compensation is a non-starter for developed country Parties, and that we view it as a device conceived by certain countries to derail the negotiations.**

Rules of Procedure

- Mercifully, from Estrada’s perspective, this is one issue that is not on his plate – it is the responsibility of COP Chair Chimutengwende; on the other hand, Estrada’s relationship with Chimutengwende seems rather strained, and Estrada has been quick to dismiss any initiative by Chimutengwende (or the COP Bureau, for that matter) that would appear to intrude on his AGMB turf.
- The key issue here to explore with Estrada is how he sees the Parties being able to adopt a protocol in Kyoto if the rules of procedure remain unresolved and if OPEC mounts a chorus of opposition at the final moment [Estrada’s predecessor Jean Ripert managed to do so in the final minutes in New York in 1992 by declaring the

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consensus process → default 2/3 to adopt
negotiating @ COP
not a good example

Convention adopted (in response to a motion by the United States) and a virtual eruption of applause thereafter, notwithstanding the several plaques that were raised by those intending to object.

- In December 1996, Estrada hinted at how he might handle this when he indicated that, as Chair, he is perfectly prepared to make a ruling and then leave it to the Parties to overrule him by a 2/3 majority vote.
- Above all, Estrada is a showman with a zest for drama, and it is likely he would thrill to such a challenge, were he to chair the final COP session.

Details of the Kyoto COP

- Estrada made clear early on that the AGBM should finish its work and be dissolved at the end of the last negotiating session in October.
- Therefore, when the Parties convene in Kyoto, they will do so as a "Committee of the Whole", and it will be necessary to elect a chair for that committee.
- **Unless we have another candidate in mind, it would be useful to begin exploring with Estrada whether he would be willing to serve in that capacity; and there is no reason to believe that he would not.**
- Still, the COP Bureau met in Bonn in March and rejected Estrada's approach to the Third Session; he had urged that there be only two or three days of meetings at the 'officials' level before the arrival of ministers (believing that officials will simply stall until the arrival of ministers anyway); the COP Bureau decided on a full week of meetings at the officials level, with ministers arriving on Sunday for three days in the second week.
- Consequently, the Japanese Chair of the COP would likely preside over the ministerial segment, and it is not clear whether the final text would be adopted by ministers in that segment or by the Committee of the Whole, which Estrada might chair.
- Again, it would be useful to explore these issues with Estrada; while he himself clearly has the ability to engineer a result in Kyoto, including over the objection of several Parties, the talents in this regard of an, as yet, unnamed Japanese Chair are not so certain.

GEF Replenishment

- This issue is unlikely to be a focus of discussion with Estrada, but it may be useful to have in mind the process now envisioned.

- The first GEF replenishment meeting took place in Paris on March 12; three others are scheduled: May 2 in Washington (at the conclusion of the GEF Council meeting); September 4 (location to be determined, but possibly a developing country); and November 3 in Washington, when the replenishment negotiations are scheduled to conclude.
- The biggest issue is the current U.S. arrears, now at \$132.5 million; fourth tranche amounts are due by November 30, 1997, at which time we will owe an additional \$107.5 million on our pledge of \$430 million.
- Others with arrears as of January 31, 1997, include: Argentina (\$3.25 million); Brazil (\$4.31 million); Egypt (\$4.31 million); Ireland (\$0.64 million); Italy (\$52.19 million); Luxembourg (\$4.31 million); and Spain (\$12.46 million).
- At the Paris meeting, Treasury indicated that it is working on a three-year plan to clear all U.S. arrears to MDBs, and that the first year (1997) would focus on IDA, while the second two years (1998 and 1999) would focus on clearing other arrears, including the GEF; Treasury also made clear, however, that this is subject to approval by Congress.
- First promissory notes under new pledges are contemplated for November 1998 (which led the Austrian delegate to ask privately whether the United States would be in a position to contribute new money then, if our current arrears to the GEF are not cleared until 1999 – and Austria was the first country, other than France, to exercise its ‘pro rata’ right when contributions to the third tranche were due in November 1996 and the United States fell further behind (enabling Austria to reduce its contribution proportionately).
- The first GEF Assembly (all Participants) is currently planned for April 1998 in India; there seems to be widespread agreement among donors that the replenishment should be completed before (or after) that meeting, not in conjunction with it.
- While most countries that participated in the Paris meeting endorsed the schedule for the replenishment (i.e., concluding in November 1997), the United States took a more relaxed approach (and Treasury indicated privately that it is highly unlikely that the replenishment will be completed before early 1998, although Treasury would like it to conclude by about February 1998).
- The issue of U.S. (and to a lesser extent other) arrears is critical because the GEF Secretariat has indicated that, if all outstanding pledges are paid in full before the end of FY 98 (i.e., by June 1998), the remaining GEF commitment authority is expected to be sufficient to fund about a year of commitments at that time.

- There was no discussion publicly in Paris about the replenishment level (and apparently no private discussion of the level issue either), although it is hard to imagine a replenishment larger than the current level (\$2.03 billion), which was to support three to four years of GEF operations.
- Perhaps significantly, Australia pushed to have the issue of burden sharing among donors moved up (from September to May), although its reasons were unclear (other than the stated reason that waiting until September might not provide enough time to deal with this issue adequately and complete the replenishment by November).