

DTSS note to JS 11/22

Climate Treaty - National Security Exemption

Question 1: Do we propose a national security exemption, in any form, at Kyoto?

State Dept. is resisting this strongly. Stu appears to believe that the risk of failure is too high, and that the domestic political cost of trying and failing exceeds the cost of not having tried. Todd and Katie appear to share this view.

State Dept. staff have recommended ways of proceeding at Kyoto that would improve chances of success. Specifically, they recommend seeking a Decision of the Parties or statement by the Chair (rather than a protocol provision) that countries would not be deemed in non-compliance due to certain categories of emissions related to national security (see discussion of scope, below). Either a Decision or statement could be taken up in a lower-profile way than a protocol provision; either could be pushed toward the end of the Kyoto meeting, enhancing prospects for success. However, there is a risk of failure even for these approaches.

Question 2: Can we provide the assurances DoD seeks to avoid appeal?

At the DC, DoD sought a blanket exemption under the treaty for all military operations and training. No other agency or WH office supported this position.

In lieu of appeal, DoD indicated it would work with agencies on a package of substitute measures to accomplish its goals. In meetings Friday with staff, and conversations last night with Walt Slocombe, DoD appears to be seeking:

A. Exemption for military bunker fuels under the treaty.

Bunker fuels are not currently covered by the climate treaty and will not be addressed at Kyoto. However, they are a growing source of greenhouse gas emissions and will likely be on the agenda in technical discussions under the treaty during the next few years.

B. Attribution of emissions from overseas U.S. military facilities to the U.S.

Neither the current climate treaty nor draft Kyoto text address this issue. The draft text may leave room for the U.S. to assert, as a matter of interpretation, that such emissions should be included within our national totals. A provision along these lines might be well-received at Kyoto (by countries who would see this as the U.S. accepting responsibility for its emissions), although opposition might develop if it became clear that such a proposal would make it easier for the U.S. to meet its emissions goals (due to downsizing and reductions in forward-deployed troops).

C. Some agreement at Kyoto (a Decision of the Parties or statement by the Chair would be fine) exempting emissions related to "multilateral operations conducted by militaries for collective self-defense, peacekeeping, peace enforcement, and humanitarian assistance purposes, including operations under United Nations mandates."

In DoD's view, this would include all overseas training and all multilateral operations. DoD specifically rejects limiting this to surge ops or national security emergencies. Other agencies would support such a narrowing construction, if there is a decision to try to address this issue at Kyoto.

D. Assurance that the administration supports an exemption for operations and training under any domestic implementation program

Obviously, not current administration policy. Several agencies and WH offices would oppose, both on substantive grounds and due to timing (i.e., premature before other details of implementation scheme addressed).