



THE WHITE HOUSE  
WASHINGTON

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MEMORANDUM FOR THE PRESIDENT

FROM:

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SUBJECT: Signing Kyoto Protocol -- Timing

This memo addresses the question of when to sign the Kyoto Protocol, which will be open for signature for one year, beginning March 16. Though we have already indicated that we expect to sign, we have not said *when* we plan to do so. The Secretary of State is scheduled to testify before Congress February 10 and Stu Eizenstat is testifying February 11. They are likely to be asked about our signing plans so **we need a decision on this by Monday, February 9.**

Conceptually, there are three options: (1) sign in March when the Protocol opens for signature; (2) announce that we will not sign until after the Buenos Aires meeting in November, at which time we hope to have made progress on open points concerning certain key issues, such as emissions trading; or (3) make clear that we are going to sign, but defer signature for the time being, retaining the flexibility to sign at any time that developments suggest this would be the best course. For reasons set forth below, your advisors favor Option 3.

**Background**

The Kyoto Protocol was an historic step and a substantial achievement for the United States. In key respects -- including targets and timetables for industrialized nations, the market mechanisms of emissions trading and joint implementation (JI now goes under the new rubric of the "Clean Development Mechanism"), the coverage of all six gases, the inclusion of carbon absorbing "sinks", such as forests, and the treatment of military emissions -- the Protocol reflects proposals advanced by the United States. (We have attached a fact sheet should you wish to review the specifics in more detail.) At the same time, critical details of emissions trading and the new Clean Development Mechanism (CDM) remain to be worked out. And a great deal of work needs to be done to secure the meaningful participation of key developing countries.

The Protocol is generally regarded by its domestic supporters as an important step forward, but still a work in progress. The critics -- there are a sizable number both on the Hill and among business, labor and farm groups -- see it as a fatally flawed accord in which the United States

accepted too stringent a target and got too little in return, especially with regard to developing countries. They believe the U.S. should have made good on its claim that it would walk away from a bad agreement.

## **Analysis**

As noted, the Protocol will be open for signature from March 1998 to March 1999, so, from a purely substantive viewpoint, a signature at any time within that period would be fine. In deciding when to sign, four key variables need to be considered: (1) diplomatic leverage; (2) international signing politics; (3) the Hill; (4) the reaction of environmental groups and business.

Diplomatic leverage. Some on the Hill and in the business community argue that we should withhold our signature until after the Buenos Aires meeting in order to gain more leverage in the difficult upcoming negotiations over the rules for emissions trading and the CDM. Their argument is that countries ought to be worried that if they undermine those market measures through unhelpful rules, they could lose U.S. support for the whole Protocol. They contend that if the United States signs before it knows the critical details of these measures, it will lose its leverage.

The counter argument is that appearing to make our signature conditional on Buenos Aires will anger our negotiating partners and be counterproductive; that we may undercut our leverage with developing countries if they can hold over us the fact that we haven't even signed the Protocol; and that we retain all the leverage we need by making clear that, unless requisite progress is made on the rules and on developing countries, we won't submit the Protocol for ratification.

International signing politics. Given the strong U.S. leadership role in getting Kyoto done, we do not want to find ourselves as an outlier on signing. As things stand, it does not appear that there is going to be a U.N. signing ceremony, though that hasn't yet been ruled out. The U.K., Italy, Japan and Canada, among others, will likely sign early. Several European nations, including the EU Commission, may delay until June, when new EU burden-sharing arrangements are negotiated. Russia, Australia and New Zealand reportedly may wait until rules for international emissions trading are better defined, in November at Buenos Aires.

In general, State does not believe that other countries expect us to sign early or that we will face international pressure if we hold off until after Buenos Aires -- provided that we don't make our signing explicitly conditional on achieving certain results there. *However, decisions about signing are still fluid, and we could end up more isolated than we think by the spring or summer.*

The Hill. Congressional views vary on when we should sign. Two key Democratic Senators, Byrd and Daschle, are urging us to wait. In a floor statement last week, Byrd endorsed many of the Kyoto accomplishments, but noted that the Kyoto Protocol fails to include the "specific,

scheduled commitments” for developing countries identified as a condition to signing in last year’s 95-0 Byrd-Hagel Resolution. He urged you to “wait and see what the next November meeting will produce and what can be accomplished in the meantime” and said that signing early “will compromise [the President’s] flexibility in dealing with the developing countries over the next year.” Byrd also urged you not to sign in an otherwise quite positive letter he sent shortly after Kyoto. Byrd’s view is important, because as long as he is relatively satisfied with the way we are proceeding, he will probably refuse to join any hostile resolution that Sen. Hagel might wish to offer, and, without Byrd, Hagel is unlikely act. As things stand now, Hagel and Byrd have agreed not to do any new resolution, and that approach might hold even if we were to sign early; still, an early signing would rock the boat and might well prompt more aggressive steps by Hagel and his allies. At the least, signing will lead Hagel to demand that we submit the Protocol right away for the Senate’s advice and consent, and our failure to do so may provoke a premature Senate debate on Kyoto.

One more point on Sen. Byrd. Although there is a good argument for trying not to antagonize him now by an early signing, we should also understand that waiting postpones but probably does not avoid conflict with him. Even if we wait until after Buenos Aires, we will still end up signing before a critical mass of key developing countries is on board (since it is very unlikely that they will be on board before the signing period ends) and Senator Byrd won’t like that.

Senator Chafee, one of our few Republican supporters, agrees with Byrd’s view that we should not sign right away. Senator Daschle believes that signing now would be divisive within the Democratic caucus. Other Democratic Senators -- including Lieberman, Baucus and Bob Kerrey -- believe we should sign soon (although Kerrey’s views may be affected by local Nebraska politics) to underscore our success at Kyoto.

Environmental community/business/labor. At this time, the environmental community is inclined to leave the signing issue to our discretion rather than making it a major cause. A number of them believe that keeping Sen. Byrd in a moderate stance is quite important, and see the virtue of not taking a step that could antagonize him. Should signing become a high-profile issue however, the community would surely press for an early signing. On the business side, the most significant constructive coalition, the International Climate Change Partnership (including, BP, Enron, DuPont, GE and a number of other Fortune 500 companies), favors waiting until after Buenos Aires because they believe that would strengthen our leverage in negotiating the rules of trading and the CDM. Labor doesn’t think we should sign at all until we get developing countries on board, so waiting to sign would at least defer a negative reaction from them.

## **Options**

**1. Sign in March, when Protocol opens for signature.** Signing immediately would send a strong signal that you consider the Kyoto Protocol to be an important success; would avoid any

risk of international isolation; and would prevent an anti-signing campaign from revving up -- particularly if we signed without a great deal of advance notice. The risks are that we would make Sen. Byrd unhappy and could provoke a premature fight in the Senate, once Senator Hagel demands that we immediately submit the Protocol for ratification. Protracted division in the Senate over Kyoto could complicate efforts to advance our domestic climate change agenda. And sharp debate on this issue during 1998 would likely be unwelcome among some number of House and Senate Democrats. Labor is also likely to react badly.

**2. Announce that we expect to sign the Protocol after Buenos Aires.** This approach would be generally popular on the Hill and would minimize the chance of divisive congressional resolutions. It would also be popular among business. But there are substantial downsides. First, this announcement would inevitably put intensified focus on the issue of signing and raise the bar for Buenos Aires, suggesting that unless we got what we wanted in certain key respects, we might not sign. Second, we could find ourselves isolated internationally if the other major players sign the Protocol relatively early. Third, we could find ourselves criticized by the environmental community, if signing becomes an issue and they decide to press for early action.

**3. State clearly that we intend to sign, but remain flexible on the timing.** The object of this approach would be to defer signing initially, while recognizing that circumstances might lead us to want to sign well in advance of Buenos Aires. The reason for deferring signature at the outset would be to avoid crossing swords with Senator Byrd and provoking an unwelcome debate on the Hill or an early attack from business or labor. At the same time, we might conclude over time that our failure to sign was threatening to become counterproductive -- by diminishing our leverage with the EU or developing countries, or by provoking unwelcome international or domestic pressure. For example, if the other G-8 countries end up signing early and it appears that our failure to sign would be problematic in the context of the G-8 in Birmingham, you might decide that we should sign promptly, notwithstanding difficulties that might cause on the Hill. *At the least, this approach would give us a few more months to try to build support for our policy before a debate is launched. At most, this approach could lead us to sign after the Buenos Aires meeting, at a point when Congress would have adjourned.*

Senator Daschle would see the approach as reasonable. Senator Byrd, while preferring no signature until we get developing countries on board, would definitely prefer this approach to an immediate signing and would not criticize us -- at least until we signed. Nor would this approach be likely to provoke hostile action from Sen. Hagel.

Our talking point for Administration officials would be:

*Like other countries, we will be signing the Kyoto Protocol within the one-year signing period provided for in the agreement. We haven't made any determination yet as to the precise time of signing.*

This approach would carry some risk, though not as great as Option 2. Holding off on signing, even in an unspecified way that retains flexibility, would, again, raise the question of what progress is enough (either at Buenos Aires or before) to warrant signing. But the premise of this option is that if the downsides of not signing came to appear significant, we could always decide to pull the trigger and sign. Jim Steinberg, Katie McGinty, Gene Sperling and Todd Stern favor this approach, as does State.

Option 1 \_\_\_

Option 2 \_\_\_

Option 3 \_\_\_

Discuss \_\_\_