

as of June 1, 1997

U.S. DRAFT PROTOCOL FRAMEWORK
(submitted without prejudice to ultimate form of agreement)

The Parties to this Protocol,

Have agreed as follows:

Article 1
Definitions

For purposes of this Protocol:

1. "The Convention" means the United Nations Framework Convention on Climate Change done at New York on 9 May 1992.
2. "Party" means Party to this Protocol.
3. "Greenhouse gas" means any greenhouse gas covered in Annex C of this Protocol.
4. "Tonne of carbon equivalent" means one metric tonne of carbon, or a quantity of one or more other greenhouse gases equivalent to one metric tonne based on the global warming potentials decided by the Parties in accordance with Annex C of this Protocol.
5. "Net anthropogenic emissions" of greenhouse gases is the calculated difference between emissions by sources and removals by sinks.
6. [other definitions to be developed or cross-referenced to the Convention as necessary]

Article 2
Emissions Budgets

1. Each Annex A and Annex B Party shall ensure that its net anthropogenic emissions of greenhouse gases do not exceed its emissions budget for any applicable budget period, as specified in this Article.
2. For each Annex A and Annex B Party, its emissions budget shall be denominated in tonnes of carbon equivalent emissions allowed and shall equal:
 - (a) the tonnes of carbon equivalent emissions it is allowed under paragraph 3 or 4 below, plus

- (b) any tonnes of carbon equivalent emissions allowed that are carried over from a prior budget period under paragraph 5 below, plus
 - (c) up to [__ percent] of the tonnes of carbon equivalent emissions allowed under paragraph 3 or 4 below, such as may be borrowed from the subsequent budget period under paragraph 6 below, plus
 - (d) any tonnes of carbon equivalent emissions allowed that are acquired from another Party under Article 6 (International Emissions Trading) or Article 7 (Joint Implementation), minus
 - (e) any tonnes of carbon equivalent emissions allowed that are transferred to another Party under Article 6 (International Emissions Trading).
3. (a) For the first budget period, [20__ through 20__], each Annex A Party shall have a number of tonnes of carbon equivalent allowed equal to [a percentage of] its net anthropogenic emissions of tonnes of carbon equivalent in 1990, multiplied by [the number of years in this budget period].
- (b) For the second budget period, [20__ through 20__], each Annex A Party shall have a number of tonnes of carbon equivalent emissions allowed equal to [a percentage equal to or less than the percentage in subparagraph 3(a)] of its net anthropogenic emissions of tonnes of carbon equivalent in 1990, multiplied by [the number of years in this budget period].
- (c) [possible subsequent budget period(s)]
4. For the budget period [20__ through 20__], each Annex B Party (see Annex B for States included) shall have a number of tonnes of carbon equivalent emissions allowed equal to [options for Annex B Parties include: budget periods, baseyears, and/or percentages different from those applicable to Annex A Parties].
5. At the end of a budget period applicable to a Party, any amount by which the Party's emissions of tonnes of carbon equivalent is under its emissions budget for that period may be carried over and added to its emissions budget for the next budget period.
6. At the end of a budget period applicable to a Party, any amount of tonnes of carbon equivalent emissions allowed that is borrowed from the subsequent budget period shall be subtracted at a rate of [1.2:1] from the subsequent budget period.

- 6bis. At the end of a budget period applicable to a Party, any amount of tonnes of carbon equivalent emissions over its emissions budget shall be subtracted at a rate of [rate greater than that in paragraph 6] from the subsequent budget period.
7. Any State not listed in Annex A may, in its instrument of ratification, acceptance, approval or accession, or at any time thereafter, notify the Depositary that it intends to be bound by obligations of Annex A Parties. It will then be an Annex A Party. The Depositary shall inform the other signatories and Parties of any such notification.
8. Any State not listed in Annex A may, in its instrument of ratification, acceptance, approval, or accession, or at any time thereafter, notify the Depositary that it intends to be bound by obligations of Annex B Parties. It will then be an Annex B Party. The Depositary shall inform the other signatories and Parties of any such notification.

Article 3
Measurement and Reporting

1. Each Annex A and Annex B Party shall have in place by [the first year of its first budget period] a national system for the accurate measurement of anthropogenic emissions by sources, and removals by sinks, of greenhouse gases.
2. For the purposes of implementing paragraph 1 and promoting comparability, consistency, and transparency, the Parties shall, not later than their first Meeting, decide on agreed best available methods for the measurement by Parties of anthropogenic emissions by sources, and removals by sinks, of greenhouse gases, taking into account the best available methods determined by the IPCC and other expert bodies. They shall also decide on appropriate adjustments to measurements of emissions and removals where agreed best available methods have not been used. The Parties shall periodically update agreed best available methods and adjustments based on evolving scientific knowledge, including advice from the Subsidiary Body for Scientific and Technological Advice referred to in Article 12.
3. Each Annex A and Annex B Party shall put in place, if it has not already done so, national compliance and enforcement programs relevant to its implementation of the obligations under this Protocol.

4. Each Annex A and Annex B Party shall submit to the Secretariat, as part of its communication under Article 12 of the Convention, information on its implementation of this Protocol, including policies and measures it is taking to meet its obligations in Article 2. Such submission shall be in accordance with guidelines which the Parties adopt at their first Meeting, taking into account any relevant guidelines adopted by the Parties to the Convention. Such submission shall also contain the following information:
 - (a) once the obligation in paragraph 1 above becomes effective, a description of the national measurement system that it has in place;
 - (b) once the obligation in paragraph 1 above becomes effective, the results of its national measurement system;
 - (c) a quantitative projection of its net anthropogenic emissions of greenhouse gases through the budget periods; and
 - (d) a description of relevant national compliance and enforcement programs it has in place pursuant to paragraph 3 above, as well as a description of their effectiveness, including actions taken in cases of non-compliance with national law.
5. In addition to the information required to be submitted under paragraph 4, each Annex A and Annex B Party shall submit to the Secretariat, on an annual basis and in accordance with the guidelines referred to in paragraph 4, its current calculation corresponding to each of the subparagraphs in Article 2.2 and its remaining emissions budget for that budget period. With respect to any tonnes of carbon equivalent emissions allowed that are acquired or transferred under Articles 6 or 7, the Party shall specify the quantity, Party of origin or destination, and the relevant budget period.
6. The first of the submissions referred to in paragraph 5 shall be part of a Party's first communication that is due after the Protocol has been in force for that Party for two years. The frequency of subsequent submissions shall be determined by the Parties.
7. Information communicated by Parties under this Article shall be transmitted by the secretariat as soon as possible to the Parties and to any subsidiary bodies concerned.

8. Without prejudice to the ability of any Party to make public its communication at any time, the secretariat shall make information communicated by Parties under this Article publicly available at the time it is submitted to the Parties.

Article 4
Review and Compliance Process

1. In addition to the review of communications conducted under Article 10.2(b) of the Convention, the Meeting of the Parties shall consider the information submitted by Annex A and Annex B Parties under Article 3 in order to assess those Parties' implementation of their obligations.
2. Reviews will be conducted by expert review teams, which will be coordinated by the secretariat and composed of experts selected from those nominated by Parties and, as appropriate, by intergovernmental organizations.
3. Reviews will be in connection with the review of communications conducted under Article 10.2(b) of the Convention and will be in accordance with guidelines to be adopted by the Parties at a meeting. These guidelines shall, inter alia, provide for how information will be made available to the public and define mechanisms by which observers and the public may provide comments, supplemental data or other information to facilitate and improve reviews. The guidelines shall be periodically reviewed by the Parties for appropriate revision.
4. Review teams will review all aspects of a Party's implementation of this Protocol, including the likelihood that a Party will achieve its emissions budgets obligations. They will be authorized, inter alia, to review pertinent information and consult with the Party in question and others as necessary. They will prepare a report assessing a Party's implementation of its obligations, identifying any areas of apparent non-compliance, as well as potential problems in achieving obligations.
5. Such reports will be circulated by the Secretariat to all Parties. In addition, the Secretariat will identify for further consideration any report indicating a question of implementation.

Article 5
Advancement of the Implementation of
Article 4.1 of the Convention

Recognizing the progress that has been made to date in implementing commitments under Article 4.1 of the Convention:

1. The Parties reaffirm their commitments under Article 4.1 of the Convention and the need to continue to advance the implementation of such commitments.
2. Each Party shall strengthen its legal and institutional framework to advance the implementation of its commitments under Article 4.1 of the Convention.
3. Each Party shall take measures to facilitate investment in climate-friendly technologies.
4. Each Party shall report, as part of its communication under the Convention, on how it is promoting public education and participation in the development of climate change policy.
5. Each Party that is neither in Annex A nor Annex B shall identify and implement "no-regrets" measures for mitigating net anthropogenic emissions of greenhouse gases, including any identified through the review process under paragraph 7 below. In this regard, each such Party shall also:
 - (a) quantify the effects of the measures it implements;
 - (b) evaluate barriers to the adoption of potential measures; and
 - (c) report to the Secretariat, as part of its communication under the Convention, on the measures it has implemented, plans to implement, and barriers to the adoption of potential measures.
6. Each Party that is neither in Annex A nor Annex B shall submit to the Secretariat, on an annual basis, its inventory of greenhouse gas emissions. Such inventory shall be consistent with any guidelines adopted by the Parties.
7. The Parties shall establish a process for reviewing communications received under the Convention from the Parties identified in paragraphs 5 and 6. The process shall be designed to:
 - (a) enable the review of the effects of individual measures described in paragraph 5;

- (b) assist such Parties in identifying and implementing "no-regrets" measures for mitigating net anthropogenic emissions of greenhouse gases;
- (c) seek to identify key sectors and technological options within them;
- (d) consider possibilities for promoting voluntary arrangements with industry aimed at identifying and encouraging implementation of "no regrets" measures; and
- (e) explore various means through which such Parties could obtain both the know-how and the technology needed to implement options identified.

Article 6
International Emissions Trading

1. Except as otherwise provided below, any Annex A or Annex B Party may transfer to, or acquire from, any Annex A or Annex B Party, any of its tonnes of carbon equivalent emissions allowed for a budget period, for the purpose of meeting its obligations under Article 2.
2. An Annex A or Annex B Party may not transfer or acquire any of its tonnes of carbon equivalent emissions allowed if it is not in compliance with its obligations under Article 3 (Measurement and Reporting) or if it does not have in place a national mechanism for certification and verification of trades.
3. An Annex A or Annex B Party may not transfer in a given budget period any of its tonnes of carbon equivalent emissions allowed if it has exceeded its emissions budget for that period.
4. If a question of a Party's implementation of the requirements referred to in paragraph 2 or 3 above is identified by either the review process under Article 4.5 or by the Secretariat under Article 11.2(b):
 - transfers and acquisitions of tonnes allowed (in the case of paragraph 2) and transfers of tonnes allowed (in the case of paragraph 3) may continue to be made after the question has been identified, provided that any such tonnes may not be used by any Party to meet its obligations under Article 2 until any issue of compliance is resolved. Issues of compliance shall be resolved as expeditiously as possible.

5. A Party may authorize any domestic entity (e.g., government agencies, private firms, non-governmental organizations, individuals) to participate in actions leading to transfer and acquisition under paragraph 1 of tonnes of carbon equivalent emissions allowed.
6. The Parties, at a meeting, may further elaborate guidelines to facilitate the reporting of emissions trading information.

Article 7
Joint Implementation

1. Any Party that is neither in Annex A nor B may generate tonnes of carbon equivalent emissions allowed through projects that meet the criteria set forth in paragraph 2.
2. In addition to any criteria adopted by the Parties to this Protocol, the following criteria shall apply to projects:
 - (a) Projects must be compatible with and supportive of national environment and development priorities and strategies, as well as contribute to cost-effectiveness in achieving global benefits;
 - (b) Projects must provide a reduction in emissions that is additional to any that would otherwise occur.
3. [Additional provisions to be added on calculation, measurement, monitoring, verification, review, reporting]
4. Any Party that generates tonnes of carbon equivalent emissions allowed consistent with this Article may:
 - (a) hold such tonnes of carbon equivalent emissions allowed; or
 - (b) transfer any portion thereof to any Party.
5. An Annex A or Annex B Party may acquire tonnes of carbon equivalent emissions allowed under this Article for the purpose of meeting its obligations under Article 2, provided it is in compliance with its obligations under Article 3 (Measurement and Reporting).

6. Any Party that is neither in Annex A nor Annex B that generates or acquires tonnes of carbon equivalent emissions allowed under this Article shall notify the Secretariat annually of the quantity, origin, and destination of such tonnes.

Article 8
Science

The Parties shall periodically review this Protocol, and guidelines established thereunder, in light of evolving scientific knowledge related to climate change.

Article 9
Progress Toward Long-Term Goal

The Parties shall cooperate in the establishment of a long-term goal with respect to atmospheric concentrations of greenhouse gases.

Article 10
Meetings of the Parties

1. The Parties shall hold meetings at regular intervals. The secretariat shall convene the first meeting of the Parties not later than one year after the date of the entry into force of this Protocol and in conjunction with a meeting of the Conference of the Parties to the Convention.
2. Subsequent meetings of the Parties shall be held, unless the Parties decide otherwise, in conjunction with meetings of the Conference of the Parties to the Convention. Extraordinary meetings of the Parties shall be held at such other times as may be deemed necessary by a meeting of the Parties, or at the written request of a Party, provided that within six months of such a request being communicated to them by the secretariat, it is supported by at least one third of the Parties.
3. The Parties, at their first meeting, shall:
 - (a) adopt, by consensus, rules of procedure for their meetings;
 - (b) [other].

4. The Parties:
- (a) shall periodically review the adequacy of this Protocol;
 - (b) shall review the implementation of this Protocol, including the information submitted in accordance with Articles 3 and 5, reports received from the review teams referred to in Article 4, and any other reports and recommendations received from processes under this Protocol;
 - (c) shall implement an appropriate regime to address cases of non-compliance with obligations under this Protocol, including through the development of an indicative list of consequences, taking into account the type, degree, and frequency of non-compliance;
 - (d) may establish an implementation committee consisting of a subset of Parties to assist them, including by making recommendations, in carrying out functions referred to in subparagraphs (b) and (c) above.
5. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not party to this Protocol, may be represented at meetings of the Parties as observers. Any body or agency, whether national or international, governmental or non-governmental, qualified in fields relating to climate change which has informed the secretariat of its wish to be represented at a meeting of the Parties as an observer may be admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Parties.

Article 11
Secretariat

1. In accordance with Article 8.2(g) of the Convention, the secretariat of this Protocol shall be the secretariat of the Convention.

2. The functions of the secretariat shall be:
 - (a) to maintain and administer records relating to the accounting of the emissions budgets of Annex A and Annex B Parties, including initial budget allocations, adjustments to budgets consistent with Articles 2, 6, and 7, annual emissions, and remaining budgets in a given budget period;
 - (b) to facilitate the review of implementation of this Protocol through, inter alia, coordinating the review of Annex A and Annex B implementation; coordinating the reviews under Article 5; identifying for the Parties questions of implementation, including whether individual reports are consistent with reporting criteria; and preparing an annual compilation and synthesis report that contains inventory and budget information, and notes any discrepancies in accounting.
 - (c) [other].

Article 12

Subsidiary Body for Scientific and Technological Advice

1. The Subsidiary Body for Scientific and Technological Advice of the Convention shall serve as the Subsidiary Body for Scientific and Technological Advice of the Protocol.
2. When the Subsidiary Body for Scientific and Technological Advice exercises its functions with regard to matters concerning the Protocol, decisions shall be taken only by those of its members that are, at the same time, Parties to the Protocol.
3. When the Subsidiary Body for Scientific and Technological Advice exercises its functions with regard to matters concerning the Protocol, any member of the bureau of the Subsidiary Body for Scientific and Technological Advice representing a Party to the Convention, but, at the same time, not a Party to the Protocol, shall be substituted by an additional member to be elected by and from the Parties to the Protocol.

Article 13
Subsidiary Body for Implementation

1. The Subsidiary Body for Implementation of the Convention shall serve as the Subsidiary Body for Implementation of the Protocol.
2. When the Subsidiary Body for Implementation exercises its functions with regard to matters concerning the Protocol, decisions shall be taken only by those of its members that are, at the same time, Parties to the Protocol.
3. When the Subsidiary Body for Implementation exercises its functions with regard to matters concerning the Protocol, any member of the bureau of the Subsidiary Body for Implementation representing a Party to the Convention, but, at the same time, not a Party to the Protocol, shall be substituted by an additional member to be elected by and from the Parties to the Protocol.

Article 14
Multilateral Consultative Process

[The Parties, at their first Meeting or as soon as practicable thereafter, shall consider the establishment of a multilateral consultative process to promote effective implementation of the Convention.]

Article 15
Dispute Settlement

[silence, with the result that Article 14 of the Convention would apply to this Protocol.]

[in addition, mandatory, binding dispute settlement [with specific consequences flowing from a violation] among Annex A and Annex B Parties, as well as against other Parties as appropriate (e.g., host countries under Article 7)]

Note: this process would be without prejudice to the review and compliance process under Article 4

Article 16
Evolution

The Parties shall adopt, by [2005], binding provisions so that all Parties have quantitative greenhouse gas emissions obligations and so that there is a mechanism for automatic application of progressive greenhouse gas emissions obligations to Parties, based upon agreed criteria.

Views on Certain Final Clauses

Adoption and Amendments of Annexes

Depending upon what type of material is eventually included in annexes, it may not be appropriate to restrict the content of all annexes to "lists, forms and any other material of a descriptive nature that is of a scientific, technical, procedural or administrative character." For any substantive annex, it may not be appropriate to provide for tacit adoption/amendment.

Signature

This provision should state that only Parties to the Convention may be Parties to the Protocol.

Entry into Force

To ensure effective implementation, as well as to minimize the potential "free rider" problem, this provision may need to stipulate an entry into force trigger that requires ratification by States that account for a particular percentage of global emissions of greenhouse gases.

Annex A

This Annex would include the same States as those listed in Annex I of the Convention, plus those that join subsequently pursuant to Article 2.

Annex B

This Annex would include those States not listed in Annex A that indicate before adoption of the protocol that they want to be included in this Annex, plus those that join subsequently pursuant to Article 2.

Annex C

All greenhouse gases, their sources and sinks, with global warming potentials as decided by the Parties at their first meeting (taking into account the IPCC's global warming potentials for 100-year time horizons) and as subsequently updated by the Parties to reflect evolving scientific knowledge.