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FOREWORD

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1. INTRODUCTION

I am very pleased to have been asked to contribute a foreword to the University of Pennsylvania Journal of International Economic Law's symposium regarding the role of private parties in international environmental protection. Such issues are central to how we proceed on the daunting international environmental agenda before us, as well as to our domestic work.

Assessing and responding to health and environmental risks in the United States and internationally is essential to the U.S. Environmental Protection Agency's ("EPA") efforts to protect public health. The agency is committed to achieving these goals by reducing risks to human health and the environment, preventing pollution, and fostering environmentally sound and sustainable economic activity in a cost-effective and efficient manner. International cooperation is a key element in EPA's ability to achieve this mission. Since pollution does not honor national

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boundaries, overcoming this challenge requires the cooperation of other countries. Examples of issues where EPA's efforts to protect health and the environment require that we work internationally include:

- Cross-border air, water, and waste pollution from Mexico and Canada affect the health, environment, and well-being of U.S. citizens, particularly those living near the borders.
- Improper use of chemicals abroad can affect the safety of food and other products imported into the United States.
- Health and environmental benefits resulting from our substantial investments to reduce emissions of stratospheric, ozone-depleting compounds could be undermined by failure to control production or use of these chemicals in other countries, such as China, India, or Russia.
- Pollution of oceans and irreversible loss of species and habitat worldwide damage natural systems critical to our well-being and quality of life, and deprive us of commercially valuable and potentially life-saving genetic materials.

These examples demonstrate clearly that EPA's work to protect human health and the environment in the United States has an essential international component. EPA's international programs protect health and the environment along our borders, reduce global and regional environmental risks, and elevate the quality and reduce the cost of environmental protection in the United States.

EPA's efforts to protect health and the environment are undergoing a process of reinvention. Protecting public health continues to be our top priority. At the same time, we are striving to learn to operate in more flexible, common-sense, comprehensive, and less burdensome ways.

The new generation of environmental protection means reinventing the process and the system of regulations so that we can provide better health protection than ever before, in common-sense, effective ways. We have elevated this process within EPA by creating an Office of Reinvention, which will have the mission of coordinating, enhancing and expanding our efforts to reinvent

environmental regulation.

These new approaches require a greater degree of input and participation from a variety of partners and stakeholders, including private business, nongovernmental organizations, government authorities at the state, local, and tribal levels, and ordinary citizens. Internationally as well as domestically, environmental protection efforts are relying less on prescriptive direction from federal governments and more on greater participation and responsibility by stakeholders and citizens.

2. PARTNERSHIPS WITH INDUSTRY

As part of our reinvention efforts, we recognize that we must reward good faith efforts by business to prevent environmental problems — or to find and fix them. The system must do more than just seek the minimum — it must demand the best health and environmental protection. The system must reward those who are willing to do more than just an adequate job, to go further, to push the envelope, to provide the strongest possible protection, to prevent pollution.

With this in mind, we initiated at EPA a cutting-edge program called Project XL — for excellence and leadership. Businesses, cities, states, environmentalists, and community activists are working in partnership, designing ways not just to meet environmental requirements, not just to comply with environmental standards, but to exceed the minimum. The idea behind this program is simple: if a company has an idea that promises superior environmental performance to what could be achieved under the current regulatory system, and if that company uses a meaningful stakeholder involvement process, then we will work with that company to exercise the flexibility needed to put the idea to the test.

Another reinvention initiative is our Common Sense Initiative, which is an approach to environmental protection that is firmly committed to environmental goals, while incorporating flexibility, innovation, and creativity in how we would achieve those goals. This approach recognizes that merely regulating on a pollutant-by-pollutant basis was not enough, and that involving all who must live with the decisions we make is the most effective way to proceed. This approach emphasizes bringing together a diverse set of interests, to reach consensus-based decisions, emphasizing pollution prevention rather than cleanup, tailored to a specific

industry rather than one-size-fits-all, that are flexible in achieving tough environmental standards.

At the heart of these actions is the principle that environmental protection and economic progress go hand in hand. As the nations of the world recognized in elaborating on the concept of sustainable development at the United Nations Conference on Environmental Development in 1992, we do not have to choose between health and jobs. In fact, the two are inextricably linked.

EPA is working with many countries in sharing environmental management expertise on new, nonregulatory mechanisms for protecting the environment. Other countries are very interested in our experience with voluntary, nonregulatory programs like Project XL and the Common Sense Initiative. In addition, as EPA moves away from the medium-by-medium approach of the past toward a more integrated view of the environment, EPA can learn much from the experience of other countries that have already applied such techniques.

This increased emphasis on partnerships with the private sector has many international applications. For example, within the Asia-Pacific Economic Cooperation ("APEC"), EPA has successfully negotiated the "APEC Cleaner Production Strategy," an initiative endorsed by leaders from the eighteen APEC member economies involving promotion of cleaner production policies, practices, and technologies in various industry sectors throughout the Asia-Pacific region. This initiative is designed to spur widespread application of technologies, policies, and practices that are both environmentally and economically efficient. The initiative relies on partnerships among and between governments, industry, and public and private institutions to achieve environmentally and economically sound solutions.

Other new partnerships with industry include the EPA-launched Regional Environment Center in Budapest, which operates a business information center to help firms better understand the region's environmental markets. EPA and several other agencies jointly funded energy efficiency centers in the Czech Republic, Poland, Ukraine, Russia, and China. Once they saw the benefits of U.S. energy efficiency technologies, a number of foreign countries purchased significant quantities of U.S.-produced environmental goods and services which can help conserve resources and protect the environment.

EPA's international technology programs are enlisting greater

participation by the U.S. private sector on behalf of U.S. environmental objectives overseas. These programs use technical assistance and training, information exchange, and technology demonstrations to match pressing environmental problems overseas with U.S. suppliers of proven and cost-effective technologies and expertise.

For example, Mexico, like many countries, is concerned with ensuring the safety of its drinking water. Polluted drinking water can lead to outbreaks of diarrhea, cholera, and other water-borne intestinal diseases. The U.S. environmental industry is a leading provider of drinking water treatment technologies, including the small community systems of particular interest to Mexico. Under the Mexico drinking water demonstration project begun in 1994, EPA is working with the United States Department of Agriculture, American vendors and universities, and Mexican officials to demonstrate the performance of low-cost, reliable, and easy-to-operate package plants for three small Mexican communities.

As reflected in Paula Murray's article,¹ the development of the ISO 14000 Environmental Management Standards is indicative of private industry's voluntary efforts to use a systems approach for improving their environmental performance. Such efforts offer significant progress in environmental protection, because they can supplement, but do not replace the need for, strong governmental standards with comprehensive enforcement programs.

EPA is engaged in a number of ISO 14000 pilot partnership efforts with industry, especially with small and medium sized organizations. These pilots encourage businesses to integrate economic goals with pollution prevention and compliance goals through effective use of a management system which includes broad stakeholder involvement.

At the end of the day we must recognize that while we must increase flexibility, operate in a less burdensome, more common-sense manner, and work in greater partnership with industry and other sectors, stronger environmental enforcement remains vital to all nations. The public has every right to demand that their government take swift, aggressive enforcement action against intransigent polluters who carelessly disregard their responsibility

¹ See Paula Murray, *The International Environmental Management Standard, ISO 14000: A Non-Tariff Barrier or a Step to an Emerging Global Environmental Policy?*, 18 U. PA. J. INT'L ECON. L. 577 (1997).

to protect our air and water. Moreover, those in the private sector who do take the time and make the investment necessary to meet public health and environmental standards have every right to demand that they not find themselves subject to unfair competition from a competitor who disregards environmental laws and pollutes the environment.

3. PARTNERSHIPS WITH THE PUBLIC

Let me stress the critical role of increased public involvement to reinvention of environmental regulation. All of those who must live with the consequences of environmental decisions — communities, industries, and people — must be active participants in making those decisions. They must be informed, and they must be involved.

When a community or a neighborhood comes to understand what their river once was, sees the pollution choking it today, knows what it could be in the future, and knows what it will be in the future without aggressive action, there is no doubt in my mind that they will be willing to make far tougher choices and far better decisions than a distant bureaucracy. Our responsibility as government is to ensure public access to information as well as public input into decisions.

We have put new tools in the hands of communities. For example, we are greatly expanding the public's right to know about toxic pollution in their neighborhoods, nearly doubling the number of chemicals that must be reported, and expanding the types of facilities that must be reported to the public. We must continue to expand the right to know, including international cooperative efforts to expand the right to know.

The increasing role of the public in international environmental efforts is reflected in the Great Lakes Water Quality Initiative, which will restore the health and the economy of the Great Lakes by removing toxic chemicals from the lakes, protecting a drinking water supply that serves more than twenty-five million people in the United States and Canada, and protecting wildlife, fish, and people who eat fish, under the latest and soundest scientific findings. All this was made possible because the people of both nations joined together, with the help of the federal government, to protect their health, their environment, and their economy. Because of the Initiative and other cooperative efforts, mercury levels in fish in Lakes Michigan, Huron and Erie have dropped by

more than seventy-five percent since 1970. Phosphorous loadings into Lake Erie decreased by more than fifty percent over the same time period, improving water quality and raising fish stocks. EPA and Environment Canada are working closely with public and private interests on both sides of the border to eliminate health and environmental risks from persistent organic pollutants in the Great Lakes.

Regional cooperation with substantial public involvement is also reflected in the Commission for Environmental Cooperation ("CEC") established by the North American Agreement on Environmental Cooperation under NAFTA. I represent the United States on the CEC Council. Through the CEC, Canada, Mexico, and the United States are developing regional action plans for DDT, mercury, PCBs, and chlordane, and are negotiating recommended procedures (which could later form the basis for binding obligations among the parties) to provide notice of, and mitigate, transboundary environmental impacts. The CEC has facilitated cooperation among the North American nations on such other issues as environmental enforcement, development of a North American pollutant release inventory (a reflection of the importance of expanding the right to know, discussed earlier), joint implementation projects to reduce greenhouse gas emissions, and regional implementation of global environmental agreements.

We are taking steps to ensure that our efforts to reduce pollution do not fail to take account of the youngest members of our society. An awareness of children's unique sensitivity to environmental hazards — from toxic chemicals to dirty air — will now guide every action we take to protect public health and our environment. A growing body of scientific knowledge demonstrates that children may be particularly at risk of incurring adverse effects from environmental pollutants.

From now on, when we set public health and environmental standards, EPA will take into account the unique vulnerabilities of children, to ensure that all standards protect children first. In addition, we are preparing to review our most significant existing standards to ensure that they protect the most sensitive populations. EPA's new Office of Children's Health and Protection will carry out that review, as well as further our understanding of children's environmental health and ensure that an awareness of their unique sensitivity to environmental threats will guide every action EPA takes to protect public health and our environment.

In these and many other areas, EPA's domestic work to protect the health and environment of United States citizens and our international work are closely linked. In both the domestic and international sphere, we are developing new approaches which emphasize increasingly flexible, cost-efficient, and common-sense solutions, expansion of information available to, and opportunities for participation by, the public, and partnerships with citizens, the private sector, and other stakeholders. These new approaches will complement the steps we have already taken to protect health and the environment both domestically and internationally, and allow us to meet the impressive challenges we face.