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**A PROMPT START:  
IMPLEMENTING THE FRAMEWORK  
CONVENTION  
ON CLIMATE CHANGE**

**A Report from the Bellagio Conference**

**on**

**Institutional Aspects of International  
Cooperation  
on Climate Change**

**28-30 January 1992**

*Abram Chayes and Eugene B. Skolnikoff  
with David G. Victor*

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*A Framework Convention on Climate Change is under active negotiation in the United Nations with the expectation it will be ready for signature at the Rio Conference this June. Under the most optimistic projections, a Convention will not come into force and be an effective instrument for months, probably years. In recognition of the importance of enabling an immediate start on several institutional tasks that will be of crucial importance whatever the detailed content of the Convention, a small group of high officials from governments and international organizations involved in the negotiations was convened at the Rockefeller Foundation's Conference Center at Bellagio in January. The meeting was organized and led by Professors Abram Chayes of Harvard Law School and Eugene Skolnikoff of MIT with the assistance of Mr. David G. Victor of MIT. This report is exclusively their conclusions from the discussions and does not necessarily represent the views of other participants.*

*The discussions at Bellagio on the need for a "Prompt Start" on these institutional tasks benefitted from earlier meetings at Harvard in March and at Bermuda in May, 1991, that the co-organizers convened to discuss these and related aspects of the negotiations on a Climate Convention. Those meetings were attended by members of the academic community, officials from the United Nations, and representatives of governments involved in the negotiations.*

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**MASTER**

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## **I. Introduction**

The community of nations is embarked on an extraordinary venture -- to anticipate global change and to act in advance -- before a potential crisis situation develops. The aim is to build a regime to safeguard the environment of the planet against the adverse effects of global climate change. Enormous uncertainties and difficulties attend this effort, which may ultimately entail far-reaching modifications in large-scale ecosystems and socioeconomic processes.

To meet this challenge, the international community has launched an impressive set of negotiations designed to produce a draft Framework Convention on Climate Change for signature at the UN Conference on Environment and Development (UNCED) in Rio de Janeiro in

June 1992. Major issues of policy and principle remain to be resolved, and the commitments as to limitation of greenhouse gas emissions and transfer of resources and technology have not yet been agreed. Nevertheless, the negotiations have made significant progress and the broad outlines of the Framework Convention are now apparent.

The basic institution -- the motor that drives the effort under the Convention to slow the pace of climate change -- will be the Conference of the Parties. It will be assisted by an Executive Committee, to act in the interval between meetings of the Conference, and a Secretariat. Other organs might include a scientific advisory committee and an entity to ensure the implementation of the commitments of the parties with respect to emissions of

greenhouse gases and transfer of financial resources and technology. A mechanism to administer financial resources that are transferred pursuant to the convention will also be necessary.

But what will happen after UNCED is over and the delegates have all gone home? If, as expected, the Framework Convention on Climate Change is signed this June in Brazil, it may be several years until the Convention enters into force, the first meeting of the Conference of the Parties takes place and the necessary subsidiary organs are established and organized. This interval should not be wasted. It is crucial to the success of the Convention to make a prompt start towards preparing for its implementation.

It is possible to identify a number of tasks that must be accomplished before the regime contemplated by the Convention can begin to function effectively. Work on these tasks should begin in June 1992 and should be carried forward expeditiously, for they are likely to be the pacing element in any global climate change regime.

## **II. Elements of a Prompt Start**

The regime contemplated by the Convention will contain two central features for implementing the commitments that have been made: first, a system of reports by the parties on the strategies, policies and activities they have adopted to fulfill treaty commitments, to be reviewed internationally; and second, transfer to the developing countries of resources and



technology necessary to enable them to do their share. These processes cannot go forward without a considerable base of scientific data and technological and economic information as well as sophisticated ability to prepare and analyze national reports on climate change policies and activities. These capabilities are not now in place, especially in the developing countries. Thus the interim period before the Convention comes into force must be devoted to efforts to realize these prerequisites. Several of the most important tasks can be identified:

1. Continued assessment of scientific, socioeconomic and technological aspects of climate change -- Review and assessment of scientific and other relevant data will be a necessary initial and continuing function. The

state of scientific knowledge and the economic and technological situation will be continuously evolving in ways that may significantly affect national policies and overall strategies for implementing the Convention.

In the preparations for climate change negotiations and in the actual work of the Intergovernmental Negotiating Committee (INC), review and assessment of scientific and other relevant data was performed by the Intergovernmental Panel on Climate Change (IPCC) established in 1988 by the United Nations Environmental Program (UNEP) and the World Meteorological Organization (WMO). IPCC relied heavily on the cooperation of the International Council of Scientific Unions and other public and private international

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organizations, and through them performed an informal coordination function in ensuring that necessary research tasks were being carried out. These same kinds of activities will also be important once the Convention has been adopted.

The importance of continuing international scientific assessment is vividly illustrated in the evolution of the ozone regime. Two global assessments sponsored by UNEP and WMO lent a powerful stimulus to the movement from the Vienna Convention of 1985, containing only a general undertaking for cooperation in the protection of the ozone layer, to the London Amendments of the Montreal Protocol in 1990, calling for rapid phaseout of ozone-depleting substances. Indeed, the Montreal Protocol contains an express provision requiring periodic

assessments of relevant science, technology and economics. The most recent scientific analysis has again shown ozone depletion disturbingly in excess of the predicted rate and extending beyond the expected geographical areas, sparking demands for still earlier phase-outs.

The assessment function during the period before the Climate Convention comes into force could be conducted by the IPCC in its present or a reorganized form or by some group especially constituted for the purpose. In any event, it would rely heavily on contributions of national and regional scientific establishments as well as private universities and institutes.

2. Constructing data bases and harmonizing methodologies -- An essential component of any effective effort to manage

climate change will be a reliable data base of sources and sinks of greenhouse gases. Information about the volume of emissions is inadequate (with the possible exception of CO<sub>2</sub> from the combustion of fossil fuels) and knowledge about the absorptive capacity of forests, oceans and other sinks is rudimentary.

An important impediment to the construction of such a data base is that measurements of critical variables are often made pursuant to different techniques and methodologies in different countries. Even for fossil fuel emissions of CO<sub>2</sub> there is need for agreement on emission factors. For other sources and all sinks, some ground level measurements are needed. Appropriate research and harmonized methodologies will ensure broadly

acceptable databases. At best, they will require a considerable period to develop, so that a prompt beginning is necessary if the data are to be available to inform the negotiation of any necessary substantive protocols.

The problem is relevant to industrialized as well as developing countries. Persuasive evidence of the connection between acid rain and forest dieback in Western Europe did not come until a unified method for measuring SO<sub>2</sub> emissions was agreed cooperatively by the parties to the treaty on Long Range Transboundary Air Pollution.

3. Country studies -- Country studies are necessary to develop agreed estimates of the incremental costs of measures to comply with both the reporting and substantive provisions of

the Convention. Again, the experience under the ozone treaties is instructive. It was only after specific studies in several developing countries of incremental costs involved in complying with the Montreal Protocol that agreement could be reached on an initial funding level for the multilateral ozone fund. Similarly, in the climate case little is known about the actual costs of limiting emissions and enhancing sinks of greenhouse gases -- or even of fulfilling the reporting requirements likely to be included in the Framework Convention. Until such knowledge is at hand, it will be difficult if not impossible to administer contributions of financial resources made under the Convention. Individual countries could volunteer to be the subject of such studies, thus putting them at the head of the

line for assistance when the Convention comes into force. The studies would be carried out with the full cooperation and participation of the scientific, economic and administrative personnel of the subject country.

4. **Capacity building** -- Considerations of equity and democracy require the full participation of the developing countries in all aspects of the implementation of the Convention. Yet it is recognized that many developing countries have limited technical and administrative resources. In fact, these limitations have imposed constraints on the activities of both the IPCC and the INC.

Past experience with international environmental agreements dictates a prompt start in addressing this situation. Progress in



implementing the Mediterranean Action Plan, for example, depended on the enhancement of the scientific competence and contribution of the North African states.

Under the Climate Change Convention, it will be necessary to make it possible for the developing countries, once the Convention comes into force, to participate fully in the work of the Conference of the Parties and its organs, to take part in the ongoing assessments and reviews and to formulate and implement appropriate domestic policies for fulfilling Convention commitments compatible with development goals. Most of the other start-up tasks -- the country studies, harmonization of methodologies, scientific assessment -- can be implemented in ways that contribute to this end.

5. Preparing for the negotiation of additional protocols elaborating the Convention, as needed -- Since complex environmental problems cannot be solved by a single agreement, recent environmental treaties have contemplated the addition of protocols dealing with particular subjects or elaborating and refining commitments and obligations that were originally set out in more general terms. No doubt the same process will be provided for in the Climate Convention. But there is no need to wait for the Convention to come into force to prepare for the negotiation of such protocols, if conditions indicate that it would be desirable. The Montreal Protocol on Substances that Deplete the Ozone Layer, which significantly increased the obligations of the parties, was negotiated and adopted before the

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Vienna Convention on Protection of the Ozone Layer had come into force. In the same way, in the interim period after Brazil it would be possible to enter into negotiations on additional protocols needed to implement the Climate Convention.

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These start-up tasks could be carried out under the aegis of an ad hoc working group of the signers of the Convention. The working group could be open ended and could be supported by a small but effective interim secretariat. In addition, these bodies could be assigned responsibility for overseeing the whole process of entry into force of the Convention to ensure a smooth and effective transition. The expenses of these bodies and of any of the

interim activities that are not funded from national, bilateral or other existing sources, should be provided according to an agreed schedule of voluntary contributions from the signatories.

### **III. Essential Characteristics of the Interim Activity**

Actions taken during the interim period after Brazil will establish precedents and set the tone for the implementation of the Convention once it comes into force. Experience with previous environmental regimes points to a number of important characteristics and attributes for successful performance of the tasks described above as well as, more generally, for effective operation of international environmental arrangements.

1. **Transparency** -- The crucial dynamic for inducing cooperation under the climate change regime will be the process of national reporting and international review and assessment of strategies, policies and activities for consistency with the objectives of the Convention. International regimes -- often even without binding substantive commitments -- can develop consensus on norms simply by opening up policies and actions to examination and analysis. Transparency itself is to a considerable extent a function of the ability of the countries involved and international organizations, as well as NGOs where appropriate, to participate in this reporting, review and assessment process. The central position given above to the interim tasks of scientific assessment, harmonization of

methodologies, country studies, and especially capacity-building all reflect the overriding importance of transparency in international environmental regimes.

2. **Flexibility** -- Every enduring international regime must be able to maintain itself in the face of continuing, sometimes radical changes in the political, economic, technological and scientific context. In the case of climate change, the complex nature of the problem, the growth in scientific understanding, the unprecedented scope of the potential economic and social effects all imply that initial commitments and undertakings under the regime will be subject to significant modification over time. The drastic changes in treaty obligations to protect the ozone layer since the Vienna

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Convention was adopted in 1985 dramatically illustrate this point. From the very beginning, institutional arrangements must allow for modification of practices and norms as experience is accumulated and new scientific, technical and economic information and processes become available and as the scope of consensus on necessary action expands. Flexibility in these arrangements may itself contribute to the prompt diffusion of new knowledge and technological innovations relevant to climate change.

3. **Decentralization** -- Significant national and private resources for data collection, monitoring and scientific research on climate change are already in existence and must be put to maximum use. Locally situated organizations can best identify and observe the conditions that

are both cause and consequence of global climate change. One of the notable lessons of the IPCC has been that involving experts from all countries in the assessment process enhances the credibility of the results. Decentralization of the assessment functions may be the only way to ensure wide involvement in carrying them out. At the same time, the ad hoc working group and interim secretariat should have the responsibility of ensuring overall coherence.

Effective decentralization requires the provision of technical and scientific assistance necessary to assure participation of countries that do not have adequate scientific resources in place. A prompt start on capacity building in developing countries is thus a requirement from this angle as well.



4. **Universality** -- Climate change is a global phenomenon and a global problem. Even though current sources of greenhouse gases may be concentrated among a relatively few countries, broad participation in the climate change regime will be necessary not only to build a useful data-base but to ensure that over time the efforts of some are not nullified by others. Moreover, broad participation will be essential to legitimacy of the whole effort. The interim activities should therefore seek to involve countries of varying geographical, economic and social circumstances, with the ultimate objective of universal participation. At the same time, it is not excluded that more limited groupings of states, based on regional or other affinities, may be

formed in the post-Brazil period to work on particular tasks or problems.

5. **A significant role for NGOs** -- As in the field of human rights, so in the area of the international environment, non-governmental organizations have played a major part in the formation of policy by identifying priority subjects for international action, producing innovative approaches to public policy, analyzing environmental trends and data and raising public and political consciousness. The reporting, review and assessment process under the human rights covenants, the International Labor Organization and elsewhere rely to a considerable degree on the activities of NGOs in public discussion and evaluation of official reports and responses. It seems likely that the

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institutional arrangements for a climate regime, which is also concerned ultimately with behavior within states, would also benefit from the involvement of NGOs and should therefore provide opportunities for them to contribute. Therefore, in accomplishing the start-up tasks, systematic involvement by NGOs should be encouraged. At the same time, since NGOs may sometimes be unrepresentative or wedded to particular policy solutions, the intergovernmental organizations must maintain their independent operational and decision-making capability.

6. **A cooperative approach** -- The tasks assigned above will have to be carried out in the absence of binding legal commitments by the signatories to the Convention, since the Convention will not yet have come into force. As

a result, the activities of the ad hoc working group and the interim secretariat will depend on the voluntary cooperation of the signatories. Although the successful completion of the start-up tasks can help ensure an effective compliance system for the eventual regime under the Convention, the necessary cooperation in the period before entry into force will be forthcoming only if the performance of the start-up tasks is animated by the spirit of the consultant and facilitator rather than of judge or critic.

#### **IV. Modalities**

The sine qua non of success for a climate regime is a prompt start. The international community cannot afford to fritter away the two or three year interval between the signature of

the Convention and its entry into force. Arrangements for carrying out the tasks described in this paper should be put in place at the UNCED conference and begin operation immediately afterward in order not to dissipate the momentum generated by the successful negotiation and adoption of the Convention.

As presently envisioned, the draft Framework Convention on Climate Change will be completed and presented for signature at the UNCED Conference in June 1992. In consequence, UNCED will not only be an international forum for general consideration of the issues of environment and development, but pro tanto a diplomatic conference for the adoption of the Framework Convention. At such a conference, the signatories have the power to

provide for any necessary activities and arrangements pending the entry into force of the treaty that is adopted.

Provisions for a prompt start toward the implementation of the Framework Convention can therefore be made by a resolution of the signatories of the Convention, adopted at Rio in the context of a Final Act or otherwise. Such a resolution might include:

1. Establishment of an ad hoc open-ended working group of the signatories to supervise the interim activities.
2. Designation of an interim secretariat
3. Authorization for the accomplishment of the interim tasks outlined above, including
  - continuing assessment of scientific, socioeconomic and technological aspects of climate change through

the IPCC or as may otherwise be decided;

- building data bases and harmonizing methodologies for monitoring and measuring sources and sinks of greenhouse gases;
- preparation of country studies on a voluntary basis to determine the incremental cost to the country of complying with the reporting obligations and substantive commitments under the Convention;
- building the capacity of developing countries, through cooperation in these tasks and otherwise, to participate fully in the work of the Conference of the Parties and its organs, to take part in the ongoing assessments and reviews and to formulate and implement appropriate domestic policies for fulfilling Convention commitments in a manner that is compatible with development goals;
- initiating, in the light of evolving knowledge and understanding of the processes of climate change, the negotiation of any protocols necessary to the achieve the

objectives and goals of the Convention;

-- any other tasks that may seem appropriate to the signatories.

4. Provision for an agreed schedule of voluntary contributions by the signatories to support the activities of the ad hoc working group and the interim secretariat.

### Conclusion

The tasks discussed in this paper -- scientific assessment, building data bases, harmonizing methodologies, country studies, capacity building, the initiation of implementing protocols -- are familiar from experience under other environmental agreements and should not be controversial. What is crucial is to begin to address these tasks in the immediate aftermath of



Brazil, without waiting for the inevitably lengthy period until the Convention comes into force. The adoption of the Framework Convention on Climate Change will be a remarkable achievement in international environmental law-making. A prompt start on the tasks identified in this paper will launch the climate change regime as a practical reality as well. □

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