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UNITED KINGDOM MISSION
TO THE UNITED NATIONS

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23 March 1989

✓ CSP 08/2/4

2. Prime Minister (2)

A useful note by Aislinn Nicholls

Dear Duncan,

not done

CLIMATE CHANGE: INSTITUTIONAL ASPECTS

In my despatch of 24 February, I referred to current work on the institutional problems raised by likely climatic change, and offered to contribute some ideas on the subject.

2. Since then things have moved on. First there was the conference on Saving the Ozone Layer in London from 5-7 March. In her concluding speech, the Prime Minister underlined her view that the institutions to enable countries to work together on environmental issues already existed, and that building new ones would only distract from the real tasks. Secondly there was the meeting of 24 governments at The Hague on 11 March, which produced The Hague Declaration. As you know, this called for a new approach and for acceptance of "the principles of developing, within the framework of the United Nations, new institutional authority, either by strengthening existing institutions, or by creating a new institution ..." to cope with the problems of any further global warming of the atmosphere. Thirdly there was a meeting of legal and policy experts in Ottawa at the end of February to consider the legal problems attendant upon a possible global convention to set the framework for coping with the problems of climatic change.

3. For a long time this subject was on no-one's agenda. Now it seems to be on everyone's. There is a succession of meetings, seminars and conferences of which perhaps the most important in the future are a political conference on Climate Change in the Netherlands this autumn, the World Energy Conference in Canada also this year, the Second World Climate Conference in Geneva in June 1990, and the proposed Conference on the Environment in 1992. The subject remains on the agenda of the UN General Assembly, and will of course be discussed in detail at the Council meeting of the UN Environment Programme (UNEP) in Nairobi in June. It will also come up at the Second Session of the Economic and Social Council in Geneva in July. In all this welter of debate, two distinct issues arise: that of institutions and that of an eventual convention.

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4. On institutions we may have a little but not much breathing space. At present UNEP is unquestionably the main institution concerned. It is responsible for the World Climate Programme with its four specialized areas of activity, and has formal, if not very active, responsibility for co-ordination of all UN work on environmental problems. With the World Meteorological Organization (WMO), UNEP runs the Intergovernmental Panel on Climate Change (IPCC) to establish the scientific base for work on climate. The Panel's report will go to the Second World Climate Conference in June 1990. Until this happens, thereby - as we hope - clearing up some of the scientific uncertainties, there is a good case for holding back from any institutional changes. But we must be ready to think about them, the more so as we will soon come under pressure from the signatories of The Hague Declaration to move ahead before the Intergovernmental Panel completes its work. We may also expect eventual initiatives from the Bush Administration and the Soviet Government.

5. Whatever our attachment to existing institutions, we would have difficulty in arguing that in its present form UNEP does the job for which it was designed. It is chronically under-funded, its site at Nairobi keeps it isolated from other UN institutions, it has failed to co-ordinate international work on environmental matters, and - perhaps worst of all - it is not taken very seriously. Whether it could be adapted fully to respond to increased international concern about environmental problems is open to doubt. In particular it seems unlikely to be able to give high level political direction, or to co-ordinate the environmental aspects of the work of other UN agencies and bodies, including the World Bank and regional development banks. If it is our aim to retain UNEP in the role originally cast for it, we shall have to work out ways of strengthening it, and consider how to secure greater international support for its activities. It is significant that when we recently raised our annual contribution to 3 million, we thereby made ourselves the second largest contributor. This well illustrates the low esteem in which UNEP is held by others.

6. The Russians have been foremost in thinking about new institutions, although they have yet to be specific. They still seem to be at the stage of casting around for ideas. In his speech to the UN General Assembly on 27 September 1988, Mr Shevardnadze proposed "a discussion on how to turn UNEP into an Environmental Council capable of taking effective decisions to ensure ecological security". He went on to propose a series of meetings under UN auspices to co-ordinate efforts in this field. Subsequently the Russians have told us privately that they now exclude the idea of converting the virtually moribund Trusteeship Council into a Trusteeship Council for the Environment, and were wondering whether some sort of Council, with the same membership as the Security Council, might be devised to



co-ordinate UN activities across the whole environmental field. Other ideas for creating something new, in the sense first discussed by the sponsors of The Hague conference, have been sparse and unspecific. In the months ahead we may expect more work to be done on them. Now therefore is the time to advance our own thinking, and seek to influence the current debate.

7. My own view is that, short of a transformation of UNEP, we should seek to adapt some existing - and central - UN institution for our purposes. The creation of something entirely new would cause major problems. We saw some of them in microcosm when we tried to reform ECOSOC last year. They are the familiar problems of what powers to give such an institution; what membership it should have; and what weight the different members should enjoy. In addition, there would be the complexities of the relationship between this institution and other UN bodies with environmental responsibilities. If we want to find means to give high level political direction of environmental, including climatic, issues, we need to work through an institution which will include at least the Soviet Union, China and the United States as three of the largest land-owning and populous countries, and we need to ensure that all geographical regions have their representatives, not least so that the United Kingdom with other European countries can play an effective role.

8. In these circumstances, I wonder whether the best arrangement from our point of view would be first to adapt and strengthen UNEP operating at the technical level, and secondly to extend the Security Council - perhaps as the Security Council in special session - to operate at the top political level. The case for UNEP needs no re-statement. The case for using the Security Council is based on its intrinsic political weight, the breadth of representation on it, and our own Permanent Membership. As stated in the Charter, the role of the Security Council is "the maintenance of international peace and security". Perhaps this would be an occasion for taking a leaf out of the Soviet book, and to use "security" in its wider sense. We are having a more detailed look at this idea, in particular its Charter aspects, and will let you have any further thoughts about it in due course.

9. Next I turn to the question of a possible convention. In its resolution 43/53 of last year, the UN General Assembly invited the Secretary-General of the WMO and the Executive Director of UNEP, using the Intergovernmental Panel on Climate Change, to initiate action to identify possible strengthening of relevant international



legal instruments having a bearing on climate; and to consider elements for inclusion in a possible future International Convention on Climate. Work on such a convention has already begun, notably by the Canadians, and it has of course been discussed at successive conferences. A possible model for such a convention was presented by a Canadian official representative to the meeting at Ottawa between 20 to 22 February and is attached to this letter. It envisages protocols dealing among other things with the problems of increased carbon dioxide, methane, chlorofluorocarbons and halons, stratospheric ozone, and deforestation/reforestation. The existing Montreal Protocol on Ozone would be a precedent for use in approaching other specific problems. Work on each might be advanced separately, but all should if possible, be kept together within a single framework.

10. Dr Tolba (the Executive Director of UNEP) and other members of the scientific community agree with this step by step approach. At the Ottawa meeting of legal experts, Dr Tolba said that a Law of Atmosphere, on the model of the Law of the Sea, should not be the aim. Any one involved in those protracted, painful and flawed negotiations cannot but agree. It would be futile and counterproductive now to try to dragoon governments into accepting legal commitments for which they were not ready, or might later repudiate or ignore.

11. It seems to me that the best approach would be to work in the first instance for agreements on specific issues as they arise, and in the second to complement such arrangements with a code or guidelines of good climatic behaviour. As knowledge increases, the dangers become more evident and public opinion evolves, items in the code could become the subject of more binding instruments. Such an approach would stand a reasonable chance of winning international acceptance after the report of the Inter Governmental Panel. By leaving open the possibility of entering into more binding commitments in due course, it might also satisfy at least in part the signatories of the Hague Declaration, and appeal to those who want concerted international action. It would have the benefit of flexibility and provide a means to make early progress on otherwise intractable questions. Experience of the ozone layer agreements suggests that pressure to move items from the code to a commitment would be likely to accelerate. But an attempt to force the pace now would alarm many countries and slow down progress.



13. Those measures which might be the subject of early international agreement and those which might be assigned to a code of good climatic behaviour would require careful examination. The recent Ottawa meeting identified some possible elements of a framework agreement on which international consensus might soon be possible. These are:

- a) the obligation of states to protect and preserve the atmosphere;
- b) a general obligation to co-operate to protect the environment;
- c) agreement to exchange relevant information;
- d) agreement to promote research and systematic observations;
- e) agreement to co-operate in promoting the development of relevant technologies and the provision of technical assistance to those who need it;
- f) provision for consultation at an early stage between states and with the competent international organization, when the activities of a state, advertently or inadvertently, are likely to test or change the global, regional or local climates;
- g) provision for emergency situations (a point dear to the Russians); and
- h) a disputes mechanism. ? ~~to~~

14. The Ottawa experts envisaged several protocols to a Climate Change Convention. But, with the exception of chlorofluorocarbons, it might be more realistic to incorporate most of the issues assigned by the Ottawa experts to the code of good climatic behaviour. This code might cover the following points:

- a) guidelines for environmentally sound energy policies, the overall aim of which would be to stabilise atmospheric carbon dioxide concentrations. This part of the code could cover such matters as energy efficiency, conservation, supply and pricing. It might also cover research and collaboration on new and renewable sources of energy;



b) guidelines on all major experiments by governments intended to test the behaviour of the climate or which might inadvertently do so. Examples are experiments in rainmaking and control of hail storms over a defined area; attempts to disperse hurricanes and typhoons; systematic towing of icebergs away from polar waters to arid regions, and the placing of certain objects in space; and

c) guidelines on actions by governments which might have a major impact on global, regional or local climates. Examples include the permanent diversion of major rivers; the construction of river dams and irrigation systems likely to affect an area of given size; the diversion of ocean currents; efforts to melt part of the polar icecaps; oil drilling in areas where major spills would have incalculable and, possibly, irreversible effects; and changes in the character of the earth's surface in an area of given size (as in the current deforestation of Brazil).

15. If we see merit in the approach suggested above, then we should explain our thinking to other interested governments soon. There is a risk that the Americans, the Russians, the Signatories of The Hague Declaration and others, will come forward with ideas we may find less palatable. If we are to maintain leadership in the field and pre-empt other initiatives, we must be prepared to take our own initiatives and promote them at the numerous conferences and meetings which lie ahead, including the next UN General Assembly, and perhaps within the Intergovernmental Panel on Climate Change. I would value the opportunity to discuss all this with you when I am in London at the end of April; but I hope that in the meantime work can proceed both here and in London to look in more detail at these ideas and see if anything can be made of them.

16. I leave it to you to add the distribution of this letter as you think best.

Tommaso
Crispin

Crispin Tickell

cc: Private Secretary
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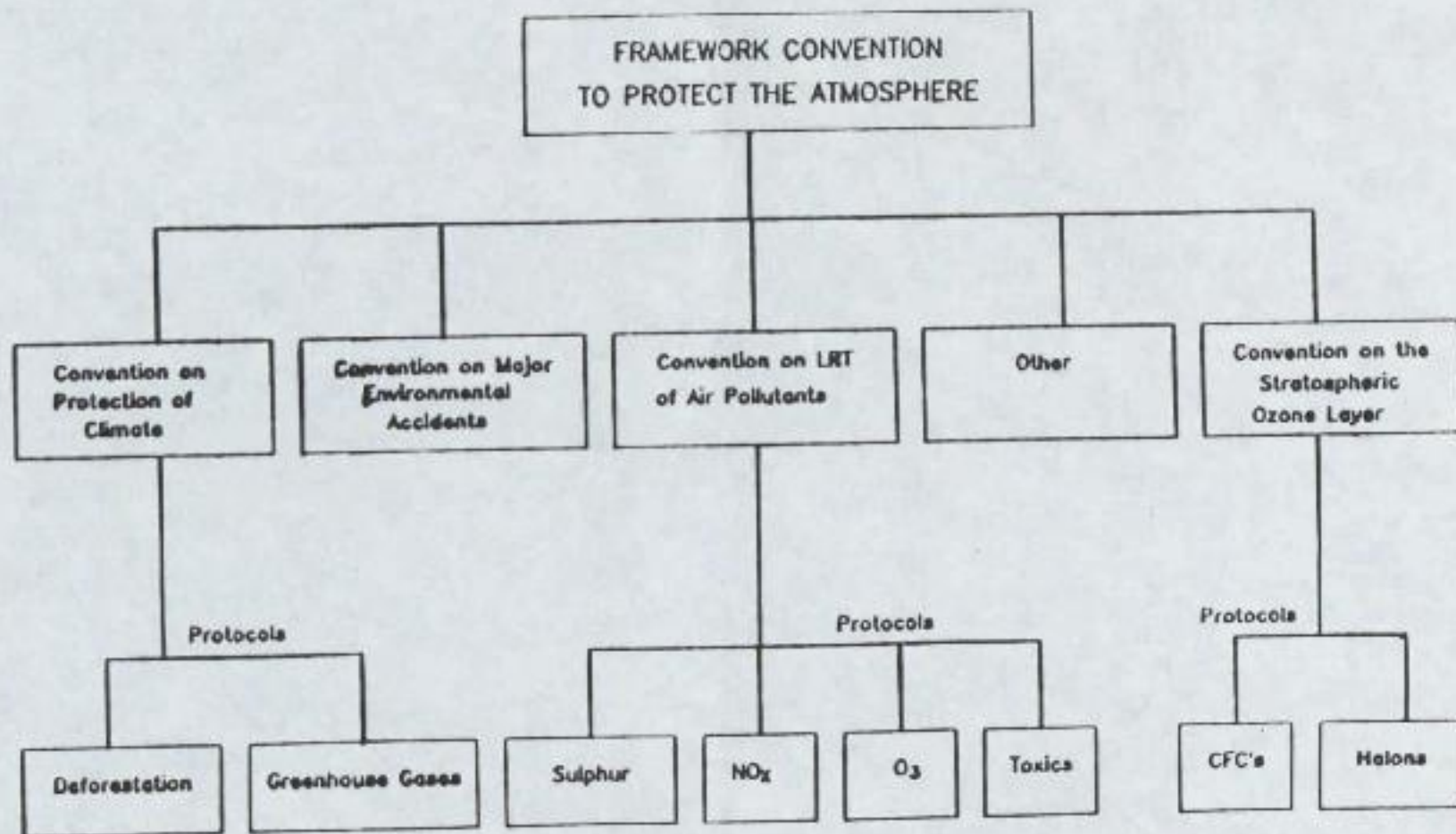


Figure 3