

July 11, 1996

CANADIAN INTERVENTION

POSSIBLE FEATURES OF A PROTOCOL OF OTHER LEGAL INSTRUMENT

Mr. Chairman,

We would like to thank the Secretariat for its substantial work on the document AGBM/1996/6 of May 21 1996. This is a comprehensive overview of how other legal instruments have dealt with the types of provisions that could be developed for a protocol or other legal instrument. It has assisted us in identifying our drafting options and it will provide us with further assistance when we reach the stage of crafting an instrument.

In our view, two conclusions can be drawn from this document. The first is that, given the numerous examples of obligations tailored to different conditions, it is possible to draft obligations with sufficient flexibility to reflect differing national circumstances. The second conclusion is that a wide range of options are available to negotiators.

On the issue of the nature of the legal instrument, we note the importance of seeking agreement on the Rules of Procedure so that the choice of legal instrument might proceed with a greater degree of certainty.

We stress the need to seek institutional economies when implementing the results of the Berlin Mandate. Thus, whether the commitments are contained in an amendment or a protocol, Canada strongly believes that a new legal instrument should use the existing Subsidiary Bodies and the Secretariat.

Finally, should a protocol be agreed upon as the form of the legal instrument, Article 17.2 of the Convention, which requires that the text of any proposed protocol is to be communicated at least six months before the session at which a Protocol is adopted, may become an issue. We have not yet considered the implications of this provision for the AGBM process. We have received a copy of the legal opinion from the office of the U.N. Office of Legal Affairs and will take it back to Canada for consideration. However, we are of the preliminary view that this Article should not be interpreted in a way that would impede the will of the Parties with respect to a future legal instrument.

Thank you, Mr. Chairman.