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December 13, 2011

MEMORANDUM FOR THE SECRETARY

FROM: Todd Stern

SUBJECT: Durban Wrap-up

This memo summarizes the results of the Durban climate conference (COP 17), which ended early Sunday morning. In a word, Durban was a significant success for the United States and an important step forward for international climate action.

We went into the conference with two key objectives:

- First, to make good on the key elements of the Cancun agreements by (a) writing the guidelines needed to establish a transparency system for both developed and developing countries, as agreed to in Copenhagen; (b) preserving the parallel structure of mitigation commitments for both developed and developing countries; and (c) fixing a number of problems in the draft of the Green Climate Fund instrument; and
- Second, to make sure that any language about a new agreement on a future regime from 2020 (after the Cancun and Kyoto targets/actions expire) would apply fully to all major players, whether the form of such a post-2020 accord was defined as a legal instrument or not. Recall that our consistent strategic objective since early 2009 has been to change the paradigm of climate negotiations by gradually dismantling the firewall between developed and developing countries, under which all real obligations were seen to accrue only to developed countries.

In the end, we achieved these objectives and have now laid the foundation for an important evolution from the old climate paradigm. The headline element of Durban was that an agreement was reached to negotiate a new legal instrument and that the instrument was to be applicable to all countries, including China and the other emerging economies.

Cancun

Transparency. All year, there was considerable foot-dragging and resistance with respect to writing the various guidelines needed to make the transparency (or "MRV") system operational. Even at Durban, Parties including China and India were suggesting that MRV would be too difficult to complete and should be put off until next year. I delivered a very firm message both at the November MEF meeting in Washington and then again in Durban to key Parties and to the South African leadership that we would not go forward with any other Cancun elements, including the Green Climate Fund, if MRV were left out. In addition, on Sunday between the two weeks, our team took the overly long and complicated text and did a streamlined, simplified version that we started shopping around Monday and Tuesday, gaining considerable support. The final language is largely what we sought.

Mitigation. The main action here was to beat back efforts to undermine the parallel structure of mitigation commitments for developed and developing countries that we negotiated in Copenhagen.

Green Climate Fund. We arrived in Durban with a joint Treasury-State list of proposals to address problems in the draft of the GCF instrument. Most of these concerned efforts by G77 countries to imply that the COP would have authority over the Fund rather than just providing guidance, its appropriate role. This matters, because the GCF can only succeed if run in a professional manner, not by a group of climate negotiators. The vehicle for fixing problems with the draft instrument was the COP's covering Decision. We left Durban with virtually everything we sought.

Kyoto Protocol/Future Regime

The developing countries insisted on another Kyoto "commitment period," largely because Kyoto embodies the firewall. The EU was the only major player willing to consider that, but insisted that the *quid pro quo* had to be assurance from other major emitters that they would commit to negotiate a legal agreement to follow the second Kyoto period. For our part, we said that we could not do that unless China and other majors also agreed, but prior to Durban they had never indicated any willingness to do so. So there appeared to be a stalemate.

The open questions for us going into Durban were (1) whether the EU would stick to its guns in demanding a future legal agreement in exchange for a second Kyoto period, and (2) what the "BASIC" group of China, India, Brazil and South Africa would do if the EU did hold firm. As it happened, the EU hung tough, while the BASICS, evidently influenced by the intense push for a legal agreement from the poorest and most vulnerable countries, especially the small island states, showed unexpected flexibility. Brazil led the way on this issue for the BASICS, and we engaged intensively with them. Two long trilateral meetings (EU-US-BASIC) were held in the middle of the second week, which pushed the ball forward.

The final two-page agreement, dubbed the Durban Platform by the South Africans, was negotiated over many hours Friday and Saturday in a group of around 35 countries, with the EU and the island states pushing hardest for strong language and the earliest possible start. The new agreement is to be completed by the end of 2015 and start to be implemented from 2020 onward. The key points for us, each of which we insisted upon, are:

- *"Applicable to all Parties."* This language is a singular breakthrough – the first time China and other emerging economies have agreed that they too would be bound by legal obligations.
- *The Bali Roadmap.* The agreement sunsets the 2007 Bali mandate at the end of next year's COP. This is important because Bali is consistently read as enshrining the firewall and we thus could not allow it to become the basis for negotiating the new legal instrument.
- *"Common but differentiated responsibilities."* This phrase is read (not by us, but by most developing countries) to denote the firewall, but the phrase is conspicuously absent from the Durban agreement.
- *2020 implementation date.* The 2020 date is also important. The EU and its small island allies pushed very hard to have the agreement take effect as early as possible. But this didn't work for

the BASICs, who are determined to keep their Kyoto protection all the way to 2020; and it couldn't work for us to start earlier than 2020 if the BASICs did not, since such asymmetry would be lethal to developing political support in the U.S.

Taking all these points together, I think Durban amounts to a significant achievement. It starts making our Copenhagen/Cancun achievements operational, while it also signals the most important move yet past the old firewall. Going forward, and soon, we will need to

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[Redacted] The coming year will be a time for creative thinking and active diplomacy.

Finally, a word about climate finance. In the coming year, we need to

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