

## **Congressional Climate Change Hearings: Comedy or Tragedy?<sup>1</sup>**

### *A Primer for Aliens*

Benito Müller

In putting together a summary of the US climate change policy scene for a report on The Kyoto Protocol and its Impact on Global Oil Markets, I used the following quotation from a testimony by Representative Joe Knollenberg (Republican, Michigan) before the House of Representatives *Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs* ('Subcommittee') as an illustration of Congressional feelings towards the Kyoto Protocol:

'This fatally-flawed agreement [the Kyoto Protocol] is blatantly unfair because it exempts developing nations from making any commitment to reduce their emissions of greenhouse gases. As a result, nations like China, India, Mexico, and Brazil, [...] will be given a free pass while the United States is forced to struggle with the Kyoto treaty's stringent mandates.

Make no mistake: If implemented, the Kyoto treaty will result in American jobs flowing overseas. Every credible economic study on this treaty paints a dark picture for the American people. According to the Wharton Econometric Forecasting Associates (WEFA), the Kyoto treaty would cause energy prices to soar and the standard of living in our country to plummet. In a well-respected study, WEFA found that the Kyoto treaty would result in the elimination of over 2.4 million American jobs by the year 2010 and cost the average American family over \$2,700 a year.

Given the lack of sound science on global climate change, there is absolutely no justification for the United States to move forward with an agreement that would place our economy at a competitive disadvantage with our foreign competitors and erode the standard of living currently enjoyed by the American people.' [20 May 99]

At the final presentation of our report, an American friend and colleague implied in conversation that this statement should be disregarded as being unrepresentatively extreme. As a European foreign to the US legislative process, I felt obliged in all fairness to have a somewhat closer look at the Congressional climate change discussions. However, I did not intend to carry out a full-fledged scientific study, which is why I decided for ease of access to focus on the relevant hearings of the Subcommittee (as reported on <http://www.house.gov/reform/neg/hearings/>). Unfortunately, what I found only served to confirm my initial view. Indeed, some of the things I read practically reduced me to tears, although it was not quite clear whether it was tears of laughter or tears of frustration. Yet it was undoubtedly a salutary eye-opener which may be valuable to some people in the climate change community who are alien to the workings of the US Congress. To give an idea of what I am referring to, let me begin with some of the 'gems' I found in the testimonies to the Subcommittee. (My comments may at times be somewhat on the cynical side, but there are occasions when cynicism remains the only response to shattered illusions.

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## **A Handful of Rhinestones**

For one, there is the ubiquitous question of unfairness. The Chairman of the Subcommittee, Representative David M. McIntosh (Republican, Indiana), for example, categorically states that

‘The Treaty is also patently unfair because it exempts 77 percent of all countries from any obligations. China, India, Mexico, and Brazil, just to name a few, are completely unfettered by the Treaty - these countries already have the competitive advantages of cheap labor, lower production costs, and lower environmental, health, and safety standards. If President Clinton has his way, now these countries will be free to develop and pollute all they want, while the U.S. economy goes into a deep freeze. [...]

But these economic realities have not deterred Clinton-Gore and their radical environmentalist cronies within Administration. They seem to be willing to sacrifice the American economy to an ideology and sell out our national prosperity, and even our national security, regardless of the wishes of American people and their elected representatives.’[20/5/98]

And State Representative Scott Orr (Republican, Montana) warns the American people that ‘as a nation, we must resist the siren’s song of those who would help the people of the Third World by punishing the world’s strongest economies.’[20/5/98] Indeed, fairness complaints are not exclusively against unfair competitive advantages of the third-world, as witnessed by Chris Farrand (Executive Vice President of the Peabody Holding Company, the world largest coal company): ‘To put the U.S. emission reduction obligations in an international context, the 552 million annual tonnes of carbon reductions the United States will achieve in 2010 compares very unfavorably and unfairly with the 366 million tonnes of annual reductions to be achieved by the other OECD countries combined.’[24/6/98] (One shudders to think about the enormity of injustice done when compared to the carbon reduction tonnage of Liechtenstein.)

Another issue which aliens (foreigners to the USA) such as I have clearly not been giving sufficient consideration is the impact of this ‘fatally-flawed agreement’ on the security of the realm. Not so Melvin Brekhus (Executive Vice President and Chief Operating Officer, Cement, Aggregates, and Concrete Texas Industries, Inc.) in his testimony on behalf of the American Portland Cement Alliance, and Robert Johnson (senior citizen from Maryland):

‘Our future growth as a nation, not to mention our national security, demands that the US not surrender its domestic production of vital products such as cement and steel.’[Brekhus, 16/9/98]

‘Our military preparedness will suffer because of cuts in fuel usage for all vehicles: land, sea and air. The current problems in our once proud military would be greatly exacerbated. And this would come at a time when non-participating countries such as China, North Korea, Iraq, Iran and others are building their military forces. [...] Much more than global warming is *at stake*. What’s really at stake here is the possible loss of our sovereignty to the United Nations – May God forbid.’[Johnson, 23/4/98]

Nor did I fully grasp the devastating consequences of the Kyoto Protocol on the Internet, as explained by Fredrick D. Palmer (President of Greening Earth Society and General Manager & Chief Executive Officer, Western Fuels Association, Inc.):

‘To wire the world, we must electrify the world. To electrify the world, most of the world’s people will turn to their most abundant domestic resource: coal. That’s because coal is electricity and electricity is the Internet. The Kyoto Protocol and the Rio Treaty (Framework Convention on Climate Change) itself doom all that.’[15/7/99]

In reading through the testimonies, I found quite a number of other, similarly intriguing statements, but – in the spirit of ‘too much of a good thing’ – let me just add as *pièce de résistance* two quotations from the testimony of Jack Kemp – former member of the House of Representatives (Republican, New York), cabinet secretary of the Bush administration, vice-presidential running-mate of Robert Dole in the 1996 presidential elections, and former captain of the Buffalo Bills – on the question ‘Credit for Early Action: Win-Win or Kyoto Through the Front Door?’ (15 July 99):

‘These credits are touted by some as offering a “market approach” enabling us to regulate the future climate of the Earth. As I hope to demonstrate, they are nothing of the kind: instead, they are truly market socialism, an artificial device attempting to mimic market activity that really conceals a concerted campaign by international bureaucrats to seize control of the world’s energy supply and indeed of every facet of our economic life.’

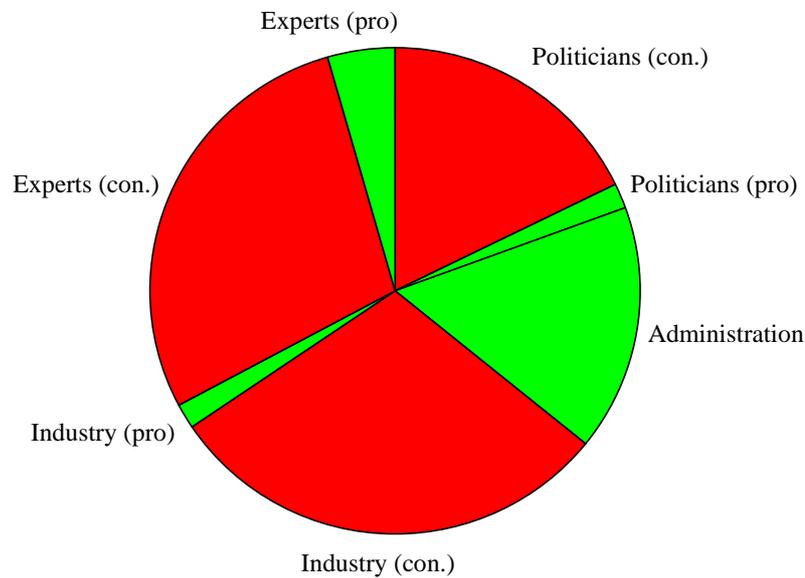
‘Kyoto and its proponents are the leading edge of the greatest non-military power play in history, a play for command-and-control authority over economic life by a coterie of international bureaucrats whose names, titles, and functions are known to at most a tiny fraction of a percent of American voters. But these are not the ‘faceless bureaucrats’ we all like to complain about. Their faces, names, functions and extremist ideology are all too well known to their well-placed allies in think-tanks, foundations, and ‘civic organizations’ (i.e. non-governmental organizations, or NGOs) who work tirelessly to spread the Malthusian message of limits to growth, ‘green’ controls on job creation and advanced technology, and strict controls on population. Together with government officials, these organizations (with selective support from elements of the corporate community that have a particular interest to pursue) form a kind of “global iron triangle” that secures power to advance an elitist and radical agenda at the expense of the average citizen, and secures it in a manner that contradicts the fundamental principles of a free society: open exchange of ideas, popular sovereignty, a constitutional government of limited powers, and full accountability to the electorate for actions taken by government officials.’

### **Back to Earth (with some numbers)**

These quotations are not a representative sample of the testimony level at the hearings. They were specifically chosen for their ‘incredulity value’ to members of Jack’s ‘global iron triangle’, and to demonstrate that Representative Knollenberg’s initially quoted statement is by no means a lone exception. As a matter of fact, there are many more sober and more rational testimonies against US ratification and implementation of the Kyoto Protocol. The choice of quotations is, however, representative in one interesting respect, namely the overwhelmingly negative press for the Kyoto Protocol at these hearings. This is indeed a very important fact, the roots of which deserve some further consideration.

Let me begin with some statistical data. Just over half of the 23 Subcommittee hearings since the Kyoto Conference were concerned with the Kyoto Protocol, or rather with the Administration’s alleged attempts to implement the treaty without Senate ratification, as is witnessed by themes such as ‘Kyoto Protocol: Is the Clinton-Gore Administration Selling Out Americans?’ ‘Will the Administration Implement the Kyoto Protocol Through the Back Door?’, ‘Credit for Early Action: Win-Win or Kyoto Through the Front Door?’. Of the testimonies given before the Subcommittee at these ‘Kyoto hearings’, 67 are available on the World Wide Web and form the basis of these considerations. These testimonies can roughly be divided into four witness categories: *Politicians*: Congressmen (8), and elected local or State officials (6); *Administration Officials*: (11); *Industrial Representations*: fossil fuel production (6),

energy intensive industry (6), transport (5), agriculture (2), utilities (1) and general industrial interests(1); and ‘Expert Witnesses’: Think Tanks/NGOs (14), private individuals (4), and legal experts (3).



**Figure 1**

Figure 1 shows the distribution between proponents and antagonists of the Kyoto Protocol within these categories. A substantial majority of 76 per cent of the testimonies were against a ratification/implementation of the Kyoto Protocol. Indeed, if we subtract the testimonies by Administration officials – who obviously are meant to toe the administrative line – the figure rises to a staggering 93 per cent. Can we deduce from this that the consensus among American politicians, industry and climate change experts is overwhelmingly antagonistic to the Kyoto Protocol? Not quite. There is, after all, the possibility of the result simply reflecting a selective choice of witnesses. It would, of course, be difficult to *prove* that any such choices had taken place. However, it may instructive to consider the background of the witnesses in order to ascertain a prerequisite to this type of choice, namely whether one could have guessed in advance in which direction they would testify.

*Political Interests.* Of the 12 political witnesses, two can be accounted for as probable antagonists to the Kyoto Protocol by virtue of having sponsored either the Senate’s ‘Byrd-Hagel Resolution’<sup>2</sup> or the House’s ‘Knollenberg Amendment’,<sup>3</sup> and one as

<sup>2</sup> A US Senate Resolution (S.R. 98) passed in July 1997 –five months before the Kyoto Conference– stipulating USA should not be a signatory to any protocol to the UN FCCC which would ‘mandate new commitments to limit or reduce greenhouse gas emissions for the Annex I Parties, unless the protocol ... also mandates new specific scheduled commitments to limit or reduce greenhouse gas emissions for Developing Country Parties within the same compliance period.’

<sup>3</sup> An amendment to a FY1999 Appropriations Bill, forbidding funds to be used ‘for the purpose of implementation, or in preparation for implementation, of the Kyoto Protocol’.

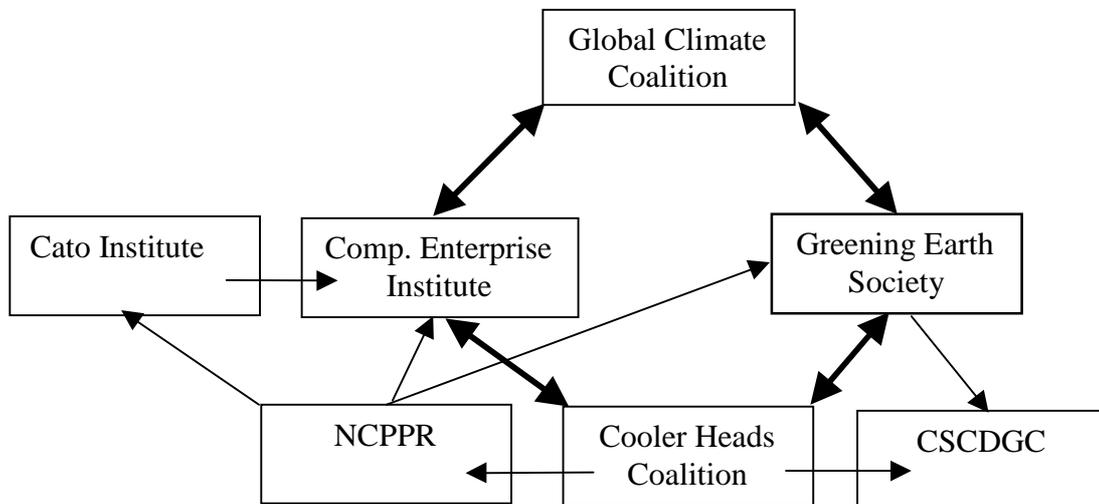
Chairman of three Congressional ‘Countdown to Kyoto’ hearings prior to the Kyoto conference. A further five represent energy producing States (three Republicans and two Democrats). Two further Republicans can be accounted for by virtue of what I call the ‘Muncie Connection’ (see below), which leaves two Democrats, both leading members of the American Legislative Exchange Council (ALEC). Given that ALEC had previously passed the *State Responses to Kyoto Climate Change Protocols Act* – a model bill for state legislation aimed at preventing state agencies from promulgating rules and regulations designed to meet the Kyoto targets prior to Senate ratification – we can, to borrow an Army phrase, conclude: ‘all present and accounted for’!

Concerning the predictability of these political testimonies, the surprise is hence really that there were any ‘pro-testimonies’ at all. Indeed, this may my fault, for to classify Representative Ralph Hall’s (Democrat, Texas) testimony as ‘pro Kyoto’ on the grounds of him declaring that ‘This is not an anti-environmental position; it is not an anti-Administration position; it is a pro-Constitution and a pro-balanced budget amendment position.’[23/4/98] may have been stretching the term ‘pro’ somewhat.

*Industry.* Assuming that people will not usually testify against their (perceived) self-interests, predicting the nature of the testimonies given by industry witnesses is a relatively simple matter. After all, the list of sectors represented at the hearings reads like a Who is Who of sectors which have been well-known to feel threatened by the prospect of CO<sub>2</sub> abatement. Moreover, the ‘fossil fuel testimonies’ were all linked to one or both of the institutions represented at the hearing of 16 Sept. 98 by William O’Keefe as Executive Vice President of the American Petroleum Institute and Chairman of the Global Climate Coalition (GCC, not to be confused with the Gulf Co-operation Council of Middle Eastern oil-producing countries). The only industrial testimony which was mildly in favour of the Administration’s point of view was that by the Director of Public Policy of the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), David Smith, whose constituency went beyond these carbon sectors. (Incidentally, the AFL-CIO has recently held talks on climate change with the American Sierra Club, and one of the GCC witnesses, the Ford Motor Company, has since left this coalition – as have General Motors, Daimler/Chrysler, Dow Chemicals, Royal Dutch/Shell, BP Amoco, and most recently, Texaco.)

## Small World.

*A Tangled Web.* By far the most interesting (hidden) links turn out to be the connections between our expert witnesses. If we begin with Jack Kemp (15/7/99), who testified in his capacity as Distinguished Fellow of the Competitive Enterprise Institute (CEI) – a Washington D.C. based think tank ‘dedicated to the principles of free enterprise and limited government’ – our first link leads us to Mark Mills (2/2/00) who testified as Senior Fellow at CEI and Scientific Advisor of the Greening Earth Society. As it happens, Patrick Michaels (6/11/99) – author of ‘Logic Goes Extinct as Planet Warms’ (Dec. 98) and ‘Chimera of Global Warming’ (April 99) – who testified as Professor of Environmental Science, University of Virginia,<sup>4</sup> is also a Scientific Advisor of the Greening Earth Society, and in addition a Senior Fellow at the Cato Institute, also based in the District of Columbia. The Cato Institute – which ‘seeks to broaden the parameters of public policy debate to allow consideration of more options that are consistent with the traditional American principles of limited government, individual liberty, and peace’ – was itself officially represented by its Director of Natural Resources Studies, Jerry Taylor (20/5/99). Another (unofficial) representative of the Cato Institute was its Adjunct Scholar Thomas Gale Moore (23/4/98) – author of ‘Global Warming: Try It, You Might Like It’ (3 June 98); ‘Warmer earth might be welcome trend’ (28 April 98), ‘Global Warming: More Than Hot Air?’ (24 June 98) – who is also a board member of the Competitive Enterprise Institute, but testified as Senior Fellow of Stanford’s Hoover Institution which ‘seeks to secure and safeguard peace, improve the human condition, and limit government intrusion into the lives of individuals.’



**Figure 2: The ‘Hyper Web’**

This leaves us with six antagonistic expert witnesses: four economists (who will be scrutinised later), Keith Idso (6/10/99), Vice President of the Center for the Study of

<sup>4</sup> A position formerly held by Dr. S. Fred Singer, author of ‘The Scientific Case Against the Global Climate Treaty’(1997), founder and President of the *Science & Environmental Policy Project* which co-sponsored the 1995 ‘Leipzig Declaration on Climate Change’, the signatories of which ‘cannot subscribe to the politically inspired world view that envisages climate catastrophes and calls for hasty actions.’ – a declaration also signed by Dr Michaels.

Carbon Dioxide and Global Change (CSCDGC) and David A. Ridenour (15/7/99), Vice President of the National Center for Public Policy Research (NCPPr) – a ‘conservative/free market foundation established in 1982 and located on Capitol Hill.’ – who testified on behalf of the Cooler Heads Coalition, an alliance of public policy groups formed in the run-up to Kyoto (May 1997) ‘to dispel the myths of global warming by exposing flawed economic, scientific, and risk analysis.’[<http://www.globalwarming.org>] Given this mission statement and the Cooler Heads membership of the NCPPr, it should not have been all too difficult to anticipate the direction of Ridenour’s testimony. And similarly for Dr Idso, the author of ‘The Ecological Benefits of Increasing Atmospheric Carbon Dioxide Levels,’ a Cooler Heads Briefing published on 19 March 99. Figure 2 depicts some of the hyper-links between the web-sites of the Institutions encountered thus far. Although not necessarily an indication of approval, such hyperlinks do at least reveal a knowledge of the other’s existence, and it is probably fair to say that mutual hyperlinks would generally indicate a level of mutual approval.

*Fatally Flawed Science.* One of the recurring themes in the ‘contra-testimonies’ is the contention that the scientific consensus reported by the Intergovernmental Panel on Climate Change (IPCC) – exemplified by the famous statement that ‘the balance of evidence suggests a discernible human influence on global climate’ (IPCC 2<sup>nd</sup> Assessment Report) – is fatally flawed. Indeed, the Subcommittee’s Chairman himself repeatedly makes this allegation. And on one occasion he proposes to set things right:

‘The central premise of both the Kyoto Protocol and the Administration’s climate policies is the theory of catastrophic global warming. [...] More simply put, Kyoto proponents contend that CO<sub>2</sub> – a clear, odorless gas and the fundamental nutrient of the planetary food chain – is a pollutant. [...] So, to borrow a well-known phrase from the UN’s Intergovernmental Panel on Climate Change, today’s hearing will consider where the “balance of evidence” lies. Does the balance of scientific evidence suggest that CO<sub>2</sub> emissions are endangering public health, welfare, and the environment? Or, does it suggest that such emissions are “greening” the planet, enhancing global food security and biodiversity?’[McIntosh, 6/10/99]

Quite apart from the fact that the two options presented for consideration by Chairman McIntosh do not exclude one-another, the evidence to be ‘balanced’ at the hearing was presented by the aforementioned Dr. Patrick Michaels and Dr. Keith Idso, and by Dr. Chris Field, Staff Scientist at Carnegie Institution of Washington (Department of Plant Biology) at Stanford. Unfortunately Dr Field’s testimony is not available on the House website, but since Idso was explicitly invited ‘to testify about carbon dioxide and the positive effects that its rising atmospheric concentration has on plant growth and ecosystem biodiversity’ [Idso: p.1] one might be forgiven for thinking that Field may have been given a similar brief. In any case, at least two thirds of the testimonies (i.e. 2) were ‘balanced’ in favour of McIntosh’s ‘greening the planet’ option.

Moreover, Michaels’ testimony is reminiscent of one given by Moore at an earlier hearing – based on his 1998 *Climate of Fear: Why We Shouldn’t Worry about Global Warming* (Cato publication) – which deserves to be quoted in this context:

‘Casual analysis of the economic effects of climate change demonstrates that most modern industries are relatively immune to weather. Climate affects principally agriculture, forestry, and fishing, which

together constitute less than two percent of U.S. GDP. Manufacturing, most service industries, and nearly all extractive industries remain unaffected by climate shifts.[...] Air travel would be subject to fewer weather-related delays: air transport costs, which are higher in cold weather, would be reduced. Bad weather in the summer has fewer disruptive effects and passes quickly: fewer storms and less fog will make shipping less risky. Construction would experience fewer holdups from weather. [...] Climate change, if it takes place, is most likely to lead to a warmer climate, especially in higher latitudes where it will have a strong beneficial effect on the length of the growing season. [...] Do people prefer the summer or the winter? Do humans enjoy warm weather or cold? What proportion of vacationers in the winter go south and what proportion go to ski resorts? The answer is obvious: people call warm weather “clement” and enjoy warm, sunny days.’ [Moore, 23/4/98]

As someone who in my more philosophical days has written on semantics, I do appreciate the importance of what things are called, but in this case, I have to admit, I find the analysis a bit too ‘casual’ for my liking.

### *Misunderstanding or Misinformation*

Not knowing Moore’s full study on why ‘we’ (the USA?) should not worry about global warming, I am not in a position to discuss his rose-tinted business-as-usual scenario in any detail. However, there are other testimonies where it is quite clear that falsehoods are being promulgated. Take Melvin Dixon’s statement that

‘The treaty imposes no obligations whatsoever on the world’s fastest-growing economies, which are also the fastest growing emitters of greenhouse gases. This means the treaty may not even be able to do what it says it is supposed to do—namely reduce the world’s output of these gases.’ [Dixon, 16/9/98]

Now Dixon, who works full-time in a tissue mill, may be forgiven for not realising that it is *not* the aim of the Kyoto Protocol to reduce *global* emissions below current levels by 2010. The Executive Vice President of the American Petroleum Institute and Chairman of Global Climate Coalition cannot expect the same leniency when he claims that ‘China, India and other developing countries have said they will never agree to curbs on their carbon emissions.’ [16/9/98]. He ought to (and probably does) know better. And the same goes for the Chairman who, in his opening statement to the hearing of 9 Oct. 98 echoed Dixon in declaring that ‘As a result, even if every developed country were to achieve its emissions reduction targets, there still would be no net reduction in greenhouse gas emissions.’ [McIntosh, 9/10/98]

### *The ‘House Study’.*

Amongst the handful of economic studies presented to the Subcommittee, there is one which is being quoted in the hearings to a degree that makes Mr Knollenberg’s epithet ‘well-respected’ look like an understatement. What I am referring to is, of course, the 1998 WEFA study entitled ‘Global Warming: The High Cost of the Kyoto Protocol’. The WEFA study was presented – together with a study by Principal, Standard & Poor’s DRI – in the very first of the hearings considered here (23/4/98). As the study is dated 1998, this presumably means that at the time of the hearing, it had been in the public domain for less than four months. It is astonishing that in this short time, it had come to the attention of over half of the 17 witnesses at this first meeting, including Judy Kent (consumer & housewife from Virginia).

However, instead of dwelling on how this could have happened, it may be more interesting to ask ourselves what it is about this study which made it such a hit, not just at this initial hearing, but at almost all of them. Could it be that the study title itself contains the answer? The fact is that the WEFA study (funded by the American Petroleum Institute) – by excluding non-CO2 greenhouse gases, sinks, and most importantly, the international flexibility mechanisms – arrives at economic costs which are considerably higher than most other studies. The DRI study presented at the same hearing, for example, estimates a range of permit prices from \$40 per ton of carbon (full flexibility) to \$180 (no flexibility), which is still lower than WEFA's \$200. The reductions in GDP from the business business-as-usual baseline in the Kyoto commitment period estimated by DRI are 1.6 per cent and 0.6 per cent, respectively. WEFA, by contrast, estimates a reduction of 3.2 per cent, although the figure which is usually quoted is the corresponding absolute sum of \$300billion., or even better: \$2700 per family.

### **The Muncie Connection.**

Before I turn to some concluding remarks, I feel I ought to mention a phenomenon which for some time I felt was quite enigmatic: the Muncie Connection. I do not know what percentage of the world's population knows about the town of Muncie, Indiana. I certainly had never heard of it before I read in the testimony of John Fiedler, the Chairman and CEO of the Borg-Warner Automotive, Inc. that his company has 'invested heavily in ... Chicago, Muncie and Detroit'[15/7/98]. Of course, even I have heard of Chicago and Detroit, but I may be forgiven for wondering why he continue to single out Muncie by stating: 'I like to be able to create jobs, but if this protocol unfairly disadvantages the US, I don't want to be creating jobs in Italy, Japan, China or Korea at the expense of the people in Muncie, Indiana.'[15/7/98, p.2] My puzzlement as to why I have never heard of this town increased when I realised that Muncie's mayor had also given a testimony, in which he stated;

'The Kyoto Protocol, a substantial underpinning to the White House Initiative is at best unfair. While it would legally bind its signatories to future reduction in greenhouse gases to 7% less than their 1990 emission levels, it would not require any reductions in 134 of the World's 168 countries, including China, India, Mexico, and the former Soviet Union countries. But it is in these developing nations where greenhouse gas emission increases have been the most dramatic. There is no credible scientific or other factual bases on which to conclude or even infer that this Protocol will reduce emissions in the World as a whole - our real goal!

Past experience has shown us that the costs for reducing greenhouse gases in my home town as elsewhere in the United States, are going to be multiples of the costs for reducing greenhouse gases in developing countries such as China or Mexico where pollution controls are relatively nonexistent. A pound of greenhouse gas is a pound of greenhouse gas whether it's in China or Mexico or the United States. A well thought out initiative would be moving toward developing and funding pollution controls in the developing nations until those controls have obtained a parity with the controls already in place in the more developed countries.'[Canan, 20/5/98: p.2f]

Indeed, the plot thickened, considering that, a month earlier (23/4/98) another person apparently from Muncie gave testimony to the subcommittee: The Honorable Beulah Coughenour. The reason why am slightly cautious is that, explicitly, Ms Coughenour's testimony only tells us that she is a member of the Indianapolis/Marion County City-Council. It does contain, however, an implicit clue which suggested her origins to me, for she too refers to 'the costs for reducing greenhouse gases in my

home town'. Indeed, except for a sub-clause, Ms Coughenour's testimony contains *verbatim the same text* as the one quoted above from Mr Canan's testimony. This could, of course, be a coincidence, but the chances do seem to be rather slim. So what is it with Muncie, Indiana that makes it so topical in the House climate change hearings? Could the answer possibly be in Chairman McIntosh's opening statement of the hearing of 20 May 98, where he welcomes 'my good friend Daniel Canan, the Mayor of my hometown of Muncie, Indiana.'?

### **Conclusions: The Judicious Way Forward**

Having read an earlier version of this article, my American friend – the one whose remarks led me to have a closer look at the Subcommittee testimonies – had somewhat mixed reactions. He felt, in particular, that the article 'seemed intent mainly on adding fuel to the fire ...for Europeans who are already persuaded just how alien things are across the ocean,' and it would not 'further understanding of the issues in the US'. Not surprisingly, I tend to disagree with this assessment: As mentioned initially, this article is not –and was never meant to be– a scientific paper, pushing the frontiers of general understanding. It does not present any facts which have been totally unknown. It is merely intended as a 'reality check' or 'wake-up call' to those of us in the climate change arena who may have heard about the antagonistic stance of the US Congress, but chose to remain guardedly optimistic about US ratification. As such, it had to be slightly provocative, for it is difficult to wake up someone with a lullaby.

To deliver the sort of 'rhinestone' statements exhibited above either takes enormous chutzpah or the knowledge that one is preaching to the fanatically converted. Not wishing to denigrate the courage of the witnesses in question, I believe we can safely adopt the second alternative as our working hypothesis. The important point here is not so much the fact that Congress is antagonistic, but the surprising strength of these feelings – given that it had actually ratified the Framework Convention. The only other object which seems to be able to elicit the same level of hostile Congressional emotions I can think of is President William J. Clinton and his Administration. Indeed, there is good evidence that the two are intimately related, and that the main motive behind the Congressional enmity to the Kyoto Protocol is nothing else than domestic partisanship. This is particularly evident in the statements of the main protagonist, Chairman McIntosh:

'What is clear is that, in promoting this agreement, President Clinton and Vice President Gore are putting their own political agenda ahead of the welfare and interests of the American people, our children, and future generations. We cannot stand by and allow that to happen. [...] Congress must shine a light on the true costs of the Kyoto Protocol. We must ensure that the interests of every American are protected by preventing the Clinton White House from obscuring, or assuming away, the true costs of Kyoto.' [McIntosh 19/5/98]

'In this hearing, we will tell the American people about the real costs of Kyoto – the factories that will be closed, the jobs that will be lost, the small towns that will be boarded up, the pay cuts, the hidden tax on everything from food to family vacations, and, in short, the knife in the back of the American Worker.' [McIntosh 23/4/98]

The moral of the tragicomedy acted out in these hearings is that, to a large extent, Congress is trifling with the Kyoto Protocol for the purposes of purely domestic

trench warfare.<sup>5</sup> What is more, the situation is unlikely to change through the forthcoming elections. The chances for the second half of 'Clinton-Gore' to find a more accepting Congress if he does move in front of the hyphen are very slim. And while George W. Bush 'recognizes that global warming should be taken seriously,'<sup>6</sup> he nonetheless opposes the Kyoto Protocol. In short, it is highly unlikely that anything short of substantial economic pressures (say, from a private sector realising that climate change could be profitable,<sup>7</sup> or through natural disasters on US territory seen to be caused by climate change) will alter the dismal prospects of US ratification.

Acknowledging this state of affairs as a political fact carries with it certain implications. For one, there can be no doubt that the morally high-minded version of what my friend refers to as the 'American excuse' – i.e. a claim to environmental leadership conditioned on US ratification – becomes clearly untenable. To claim the moral high-ground by declaring ones wish to show 'environmental leadership', while declaring that this presupposes US ratification becomes openly hypocritical once the chances of US ratification are acknowledged to be negligible: The fact –argued elsewhere<sup>8</sup> – is that American non-ratification is not tantamount to the demise of the Kyoto Protocol. The rest of Annex I can still demonstrate the 'leadership' expected of them by the developing world, but only if they manage to ratify the Protocol in sufficient numbers for it to come into force. By misleadingly claiming the contrary in order to make ones declared wish to show 'leadership' dependent on US ratification while it is generally acknowledged that this is not going to happen, one will find it very hard to defend oneself against the accusation of 'falsely presenting an appearance of virtue' which, according to the Oxford English Dictionary, is what hypocrisy is all about.

Of course, American non-ratification could still be used as an excuse for inaction, albeit in a less hypocritical guise: Annex I politicians outside the United States could simply adopt the sort of 'level playing field' argument so much cherished by the subcommittee witnesses with regard to developing countries. By claiming that one wishes to ratify, but that for reasons of international competitiveness one can only do so if the US also ratifies, one does not lay claim to the moral high ground vis-à-vis the Americans, but one does leave open the possibility for them to call the bluff. The point is that the 'level playing field' argument does not directly depend on ratification, but on the level of greenhouse gas abatement undertaken in the USA. In particular, if US emissions are reduced to the level specified in the Kyoto Protocol, then the 'level playing field' condition is satisfied regardless of whether the US has ratified or not (indeed, there is no a priori reason why it should not actually be satisfied at less

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<sup>5</sup> To be even-handed, it has to be stressed that trifling with these matters is by no means restricted to Congress, or even to Annex I institutions. Yuka Kobayashi, for example, argues in her forthcoming Thesis (Oxford 2000) on 'Explaining Chinese Environmental Diplomacy: The Case of Climate Change at the Multilateral and Bilateral Level (1987-1998)' that the climate change issue is used by senior Chinese negotiators for political/ideological reasons in order to reinforce the 'anti-imperialist' sentiments within China and the developing world against the United States.

<sup>6</sup> [www.georgewbush.com](http://www.georgewbush.com)

<sup>7</sup> The U.S. Agency for International Development commissioned a study by the Confederation of Indian Industry on the "environmental business opportunities in India". The study brought out a vast scope, almost over \$2 billion, for foreign hardware and technology exports to India [*The Hindu*, 14/4/00]

<sup>8</sup> 'OIES Monthly Comment' for February 2000 (<http://associnst.ox.ac.uk/energy/>)

ambitious US reduction levels).<sup>9</sup> It should also be kept in mind Congress not being in the mood to ratify an international treaty signed by the executive branch is neither novel, nor does it imply US non-compliance (take the UN Convention on the Law of the Sea or the Nuclear Non-Proliferation Treaty). And, *pace* Joe Knollenberg and his amendment, it might be time for the Administration or anyone else in the US to remind Congress of the common law principle that *pacta sunt servanda*: even if, for the time being, one happens to be the only global super power, one is well advised – for reasons of future reciprocity– to comply with treaties which one actually *has* ratified and which are in force, such as the UN Framework Convention on Climate Change, with its Annex I commitment to 'adopt national policies and take corresponding measures on the mitigation of climate change, by limiting its anthropogenic emissions of greenhouse gases and protecting and enhancing its greenhouse gas sinks and reservoirs.'(FCCC, Article 4.2)

To those interested in saving the regime established under the FCCC, the lessons to be drawn in face of the Congressional refusal to ratify are two-fold: outside the US, the 'American excuse' has to be exposed for what it is, and all efforts have to be focused on convincing the relevant actors that ratification is possible and essential regardless of what Congress does or does not do. This process, in turn, would be greatly facilitated if US emissions trends were to change in the right direction. While the Administration may to some extent find its hands to be tied by the Knollenberg Amendment, there is nothing Congress can do to prevent private voluntary initiatives. The strategy within the US must be to stop decreeing the doom of the Kyoto Protocol and instead focus ones activities on encouraging (voluntary) abatement efforts, be they through the 'Back Door' (9/10/98), the 'Front Door' (15/7/99), the kitchen door or whichever door available.

Summing up: to the extent in which the US Congress, in its wisdom, chooses to put itself in a morally dubious position by trifling with the international climate change regime for domestic partisan purposes, leave it there! The lesson for those of us who do believe in the virtue of this regime must be: let us not be held hostage by these Congressional machinations, but let's get on with it!

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<sup>9</sup> The 'level playing field' is an economic concept pertaining to equal additional costs incurred through emission abatement efforts. It has really nothing to do with ratification. However, if it is used to justify inaction in absence of US ratification, then it loses this strict economic meaning, since the playing field will then have to be accepted as levelled if the US achieves the emission reduction level it is committed to under the Protocol.