Chapter Four:
The *Kyoto Protocol*: Fast Road to Global Governance

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It is necessary to begin with a brief discussion of sovereignty and the nation-state, and its political alternative, which is imperialism or, to use the current jargon, “global governance”.

The contemporary nation-state, and its sovereignty, grew out of the collapse of the Holy Roman Empire. The Thirty Years War, 1618-1648, was the last desperate attempt by the competing Christian visions of Rome, Luther and Calvin to win a knock-out blow as they struggled for control of northern and central Europe. It is said that between 30 per cent and 40 per cent of the German-speaking peoples of Europe died during this conflict. Out of it came the *Treaty of Westphalia*, which recognised that the Holy Roman Empire was spent; which proclaimed the full territorial sovereignty of the former members of that Empire; and resolved the religious issues by recognising the right of private worship, liberty of conscience, and the right of emigration, everywhere in Europe except for the hereditary lands of the House of Hapsburg. The *Treaty of Westphalia* laid the basis for the global order we have today, and the UN Charter of 1945 is a contemporary version of it.

Some scholars regard sovereignty as a multi-faceted thing, and speak of:

- “domestic sovereignty”, by which is meant the capacity of those who are politically responsible within a state (in former times, the sovereign), to actually exercise authority within the state’s territory;
- “interdependence sovereignty”, by which is meant the capacity of the sovereign to control movements of people and goods across state borders;
- “international legal sovereignty”, referring to the mutual recognition of states or other entities; and
- “Westphalian sovereignty”, by which is meant the autonomy of the sovereign, within the territory of the State.[1]

These distinctions can be useful when considering the special circumstances pertaining to a country like Taiwan, which is sovereign in every respect except that it is not recognised internationally as a sovereign state.

But in the debate over Kyoto, and whether Australia should ratify or not, these distinctions are irrelevant. The reality is that under the Australian Constitution, domestic sovereignty is shared between the State governments and the Commonwealth government, and that disputes between States and Commonwealth are adjudicated by the High Court; the Commonwealth government controls the movement of goods and people across Australia’s borders; Australia is recognised internationally as a sovereign nation-state; and that, despite the fact that Australia has signed thousands of international treaties, we are autonomous in our capacity to repudiate them, if we deem it to be in our national interest to do so.

There is no treaty (including our defence agreements with the United States) to which Australia is currently a signatory which we cannot repudiate if we decide to do so.[2]

The issue of repudiation is central to sovereignty. Australia has entered into nearly 2000 international treaties since we became, unquestionably, a sovereign nation following the passage of the *Statute of Westminster* on 11 December, 1931. (We inherited some 300 treaties from the UK). Many of these treaties relate to practical matters in which, for example, telecommunications standards, or protocols for international shipping and air services, are decided. Other treaties are much more political. There are many UN Conventions, to which Australia has acceded, which

seek to establish a world-wide policy which is in accordance with the views of politically influential groups in North America or Western Europe. The *UN Convention on the Rights of the Child*, and the *UN Convention on Refugees*, are examples. Australia can withdraw from these Conventions at any time it chooses to do so.

The essence of sovereignty is that it is indivisible. A political community, or "polity", is either sovereign or it is subordinate to another political authority. Sovereignty cannot be shared, or pooled, any more than an individual can share his personality with another individual. Sovereignty can only be given up, or lost, in one lump. It is the whole loaf, or no loaf at all. Sovereignty is to the political community what legal personality is to the individual. Individuals can die, they can be murdered, they can lose their faculties and a guardian has to assume legal responsibility for them: all of these events have political counterparts in the life of a nation-state. Sovereignty means the capacity to choose between the various political options which are available at any time in the global scene and to act accordingly, for better or worse. The Old Testament, and the writings of men such as Herodotus and Shakespeare, are replete with accounts of such decisions, and the consequences which followed.

Sovereignty, therefore, cannot be eroded, fragment by fragment. What can be eroded, and gradually undermined, is our political will, as a nation, to uphold and defend our sovereignty and our independence. For example, every time the oxymoronic phrase "international community" is written without inverted commas, thus implying that there really is such a thing, our minds are a little bit more befuddled and our understanding of political reality diminished. Every time a Minister of the Crown solemnly intones the phrase "international obligations", as a legitimising principle for a policy which cannot stand up on its own legs, we have, likewise, moved a step from the world of reality into a world of make-believe.

This slow process of undermining our capacity to think about our national interests coherently, and thus the capacity to defend them vigorously when required, is a serious thing. There are in Australia people and interests who either through interest, or through intellectual incapacity, have become caught up in this attempt to capture the language of politics – leading eventually, if they are successful, to a situation where we will find it impossible to use the words we need to defend our sovereignty. At that point we will lose it. This is the battle-ground on which we are now engaged.

I have already referred to the *Statute of Westminster* of 1931 as the declaration to the world that Australia (among others) was a sovereign nation. We have become accustomed to living our lives and taking part in political life as citizens of a sovereign nation, the Commonwealth of Australia. During the 19th Century, Australians lived in various colonies, more or less self-governing, but they saw themselves as subjects of Queen Victoria and as citizens of the British Empire. The Imperial Parliament of Westminster was the source of political authority, and the Colonial Secretary was the Minister of State responsible to the Parliament for the administration of all the British colonies, not just the Australian colonies. The British Empire was of short duration compared with the empires of antiquity.

Many books have been written about empires, in particular the Roman Empire. One point to be made about empires is that they provide lots of career opportunities for those ambitious people who can make it into the imperial administration. It is noteworthy that within the Roman Empire many people from places other than Rome made it to the top. And I think it has to be said that a new global green imperialism, headquartered in Bonn or some other European city, will offer lots of career opportunities for an up-and-coming generation of green priests and green civil servants from Australia, as well as from other parts of the world.

Why should the *Kyoto Protocol*, of itself, presage a new imperialism? What distinguishes it from every other international treaty which Australia has ratified? The difference between *Kyoto* and every other international treaty is this. If *Kyoto* is brought into effect the economic dislocation which must follow its implementation will be unprecedented in modern times. It will be

equivalent to the famines of the early 19th Century in its disruptive power (except that the famines were followed by good seasons). There are some treaties which Australia has ratified which have caused economic loss to Australians and to people in other countries. The *Basel Convention* is the best known example. But the extent of the economic loss due to *Basel* is minuscule, at least in Australia, and understood by very few people. The *Kyoto Protocol* is a different thing, indeed, compared with *Basel*.

At this point of the argument the Greens say, “No, No, we are only talking a few percentage points of GDP here”, and misquote econometric studies commissioned by the mining industry, for example, to bolster their soothing assurances. We need, therefore, to get behind the econometricians and their modelling exercises, to understand the significance of what the Europeans call “de-carbonisation” and others call “carbon-withdrawal”.

The thing which makes life different for us, in contrast to the lives of our grand-parents, and more dramatically our great-great-grand-parents, is our use of energy. For example, we can call up huge trucks which can carry 300 tonnes of ore in their trays. We can fly from Sydney to San Francisco, non-stop, in 14 hours in aeroplanes which consume more than 140 tonnes of fuel on the journey. We cool our houses in summer and warm them in winter.[3] Our farmers can plant and harvest wheat on 10,000 acres, single-handedly, with the aid of massive tractors, the implements they can pull, and the energy-intensive fertiliser which enriches the soil, and the crop yields they obtain (tonnes per hectare) are unprecedented in the history of agriculture. All of this is completely dependent upon our use of fossil fuels.

It is true that in addition to coal, oil and gas, we have hydro-electricity and, globally speaking, some nuclear energy. We burn the bagasse from sugar cane in boilers in the sugar mills. But these are small fractions of the overall energy scene. In developing countries, animal dung is an important source of energy for heating and cooking. Developing countries quite rightly want to abandon that energy source.

To repeat, most of our energy is derived from burning coal, gas and oil. Some countries use nuclear fuels such as enriched uranium to provide electricity. In France they produce approximately 80 per cent of their electricity from nuclear power stations. Theoretically we could live without coal and oil by using nuclear power, and producing hydrogen for transportation fuels. Such a technology would, however, be very much more expensive than our present carbon-based technology and, of course, the Greens have categorically ruled out any recourse to nuclear power. This is no accident.

In response to these obvious predictions of energy shortages brought about by carbon withdrawal, the Greens claim that we can move smoothly and painlessly into a world of renewable energy. There are now two Bills before the Senate, fortunately held up by Democrat intransigence, the *Renewable Energy (Electricity) Bill* 2000 and the *Renewable Energy (Electricity) (Charge) Bill* 2000. These Bills, if enacted, and upheld by the High Court, will impose an extra cost of about $800 million per annum on electricity consumers, by requiring wholesalers of electricity to source a stipulated quantity of electricity from the high-priced but so-called renewable generators, at the expense of the coal-based generators who can provide electricity at a much lower cost. Our black and brown coal-based generators can produce for about $25 to $30 per MWhr. The most economical so-called renewable generators are based on burning wood chips, and their costs of production are about $90 per MWhr. The $800 million translates into a carbon tax of more than $200 per tonne of coal that is supplanted by wood chips.

Given our present technology it is an inescapable reality that to restrict the use of carbon, is to restrict our use of energy. The Greens have acknowledged, without embarrassment, that the *Kyoto* targets, if realised in full, will not measurably diminish the atmospheric CO_2 concentrations which are blamed for global warming. They accept that *Kyoto* therefore is but the first step along the long and difficult road to virtually complete de-carbonisation, which means the de-industrialisation of our society. Their ambitions are so audacious that it is difficult to accept the

reality of them.

Australia, because it is a major exporter of energy intensive products, and because its CO_2 emissions have already well exceeded the 108 per cent quota we accepted in December, 1997 at Kyoto, is the first nation to have to really face up to the price of *Kyoto*. Australia is also a democracy, and as the Inquiry conducted by the Joint Standing Committee on Treaties (JSCOT) into *Kyoto* proceeds, it is becoming increasingly clear that any political party which goes openly and frankly to the polls, on a *Kyoto* platform, will be soundly defeated. And, to repeat, *Kyoto* is but the first step towards a fully de-carbonised society.

The architects of *Kyoto* are determined to ensure, as best they can, that it will be impossible for those nations who commit to the *Kyoto* regime (the first step in a long journey) to ever change their minds. In order to ensure that the sovereign rights of withdrawal (which are written into the *UN Framework Convention on Climate Change (UNFCCC)* and the *Kyoto Protocol*), can in practice never be exercised, a new imperial order will have to be created, and meaningful and effective sanctions will have to be imposed on recalcitrants. Under this new global structure, decisions with the most profound and intimate effect on Australian economic and social life will be made by the Kyoto (*UNFCCC*) Secretariat based in Bonn[4] and Australia will only be able to escape from entrapment in this new imperialism through immense political upheaval, of the kind experienced by George Washington and his colleagues when they rebelled against the authority of the British Crown, and established the United States.

The prospect I have described of a new global imperial order, based on de-carbonisation, seems so bizarre and so far-fetched, as to invite ridicule. But the official documents describing a global carbon tax, international trading in carbon credits, enforcement, compliance and "facilitation" are readily to hand. The texts to be considered by the delegates to the sixth meeting of the Committee of the Parties (i.e., those countries party to the *UNFCCC*) (COP VI), soon to assemble at The Hague, are replete with these words, and it is a matter of considerable concern that the Minister representing Australia at COP VI, Senator Robert Hill, has been entrusted with a brief which allows him far too much latitude on these issues. None of these things, carbon taxes, international trading, enforcement and compliance, can happen, except in the context of a new global imperial order, in which nations such as Australia have given up their sovereignty, and have accepted an imperial rule legitimised by the totally weird belief that, in order to save the planet, we have to de-industrialise our economy and go back to the living standards of the early 19th Century.

To say these things is to invite accusations of derangement. To try to ward off such accusations I quote representative documents from authoritative sources which in my view provide compelling evidence for the claims I have made.

The first is from the recent issue of the journal *Foreign Affairs*. This journal is published by the Council on Foreign Relations, an organisation richly endowed by the Fords and Rockefellers, and membership of which is much sought after. The paper, entitled *The New Sovereigntists: American Exceptionalism and its False Prophets*, is by Peter J Spiro, Professor of Law at Hofstra University, and its appearance in this journal means that his views are regarded, at the very least, as worthy of respectful consideration by the American foreign affairs establishment. He is writing about the US:

> "Indeed, the Constitution will have to adapt to global requirements sooner or later. . . During the twentieth Century the United States was able to defy various international norms only because other countries were unwilling to bear the costs of sanctioning America for its sins; at the same time international organisations had little power to wield on their own. . . Washington will continue to maintain the fiction of an opt-out capability and the international community cannot yet force formal participation in international regimes. But economic globalisation will inevitably bring the United States in line.
>
> "Meanwhile the international community can advance the rule of international law by

working against key US actors – most notably corporations but also states – in trade and investment decisions. That way it can directly discipline US entities, circumventing and constraining anti-internationalist federal policy makers in the process. . . .

"When France undertook nuclear tests in 1995, NGOs launched a campaign against French wine that helped force President Jacques Chirac to back down from future testing. Something similar would happen if America announced an intention to test [nuclear weapons]. Boycotts might threaten certain powerful US industries (e.g., fast-food chains) with lost sales, which would in turn press the US Government to respect the tests ban. . . .

"For example, the chairman of the European Parliament's delegation for US relations warned George W Bush in 1998 that European companies – which hold $38 billions in investments in Texas – were under pressure from shareholders and public opinion to consider cutting back investments in states that apply the death penalty. It will take only so many lost auto plants, business conventions, and tourist dollars to make the death penalty look dramatically less attractive to state politicians.

"Above all the United States compromises its own interests by formally refusing to adopt widely accepted international regimes. Treaty committees and other international institutions usually extend participation rights only to member states. America thereby forfeits any right to help shape those regimes that it rejects. It has no voice in shaping international norms at a critical stage of their development, even as its ability to resist their imposition diminishes ...".

Professor Spiro has set out arguments that are very familiar in Australia where, compared to the US, our wealth and military power are very small indeed, and concerns about telling the "international community" to stop interfering in Australian affairs, are more keenly felt.

From New York, where the Council on Foreign Relations is head-quartered, we go to Melbourne, where the Business Council of Australia (BCA) is located, and my quote is from a letter sent to members of the BCA by its President, Campbell Anderson, dated September 12, 2000. He wrote, *inter alia*:

"Although there are still uncertainties in the science of climate change, the international community has embarked on a course of action to constrain greenhouse gas emissions. Notwithstanding that this has potentially significant economic and social implications for Australia and all other nations, the international communities are adopting this agenda and it is in this context that we as Business Council are operating".

When this sentence is deconstructed it is evident that we are dealing here, in the heartland of corporate Australia, with the triumph of faith over reason. Campbell Anderson acknowledges that "there are still uncertainties in the science of climate change", which one can reasonably interpret, given what follows, as a euphemism for saying that the science doesn't matter any more. Belief in global warming has become a matter of faith.

We therefore have to count the BCA amongst those organisations which are, at the least, relaxed and comfortable at the prospect of the new imperial order that I have outlined. That conclusion is further supported by a paper given on 25 May, 1995 by David Buckingham, currently Executive Director of the BCA, but who was then Executive Director of the Minerals Council. His paper was entitled *Australia in a Global Context: the United Nations and Law-making in the 21st Century*, and it focused on a number of international treaties which had seriously impacted on Australia's mining industry, in particular the *Basel Convention* and the *World Heritage Convention*. His concluding paragraph is noteworthy:

"In conclusion, I would suggest that in recent years we have witnessed an irreversible shift from our domestic, sovereign prerogative to a situation in which international treaty frameworks and commitments will, in ever increasing degree, govern the conditions under which we as a nation will operate. To the extent that this is the case, we as a nation need to make sure that we are not only geared to respond effectively to those processes, but that

the results and implications of those processes are generated and applied in ways all elements of society can accept and respect. Unless that is the case, the legitimacy of the instruments themselves will be in doubt and their application a matter of continuing controversy. The experience with both the *World Heritage Convention* and the *Basel Convention* should be ample proof of this. The more recent experience with the *Framework Convention on Climate Change* suggests we are learning".

My third document is a flier advertising a Symposium to be held on November 15-16 next at the New York University (NYU) School of Law in New York City. The Symposium is entitled:

"Combating International Eco-Crime in a Global Economy:
The Use of Technologies and Information Management to Monitor Compliance with International Agreements, Prosecute Environmental Crime, and Reform Environmental Law and Trade".

The Opening Statement is to be given by Michael Penders, First Chairman, G-8 Nations' Law Enforcement Project on Environmental Crime, and the sessions listed in the flier include:

- "International Environmental Law: Obstacles to Enforcement, Impacts on Free Trade and Development, and the Promise of New Technology";
- "The Utilisation of Remote Sensing and Other Technologies";
- "The Use of Technology by Non-Governmental Organisations"; and
- "Implications of the Use of New Technology for International Agreements, Trade, and Environmental Law".

The NYU Law School Symposium is a new development. To my knowledge, no one has publicly canvassed the extent of the police powers which will be necessary to ensure compliance with the *Kyoto Protocol* in the frank and open way which is set down in the agenda for this symposium. NASA imaging and NASA electronic environmental reporting, for example, are listed as topics for discussion.

The language in this conference flier is crystal clear when compared with the text of the Report of the Subsidiary Body for Implementation (SBI) of the *UNFCCC* (and the *Kyoto Protocol*) on its 12th Session (Bonn, 12 - 16 June, 2000). The text is heavily square-bracketed (i.e. text which is subject to dispute) and replete with competing euphemisms, but quoted here is text, with the square brackets ignored, taken from page 33 *et seq*:

"Section IV. Outcomes and consequences of non-compliance or potential non-compliance, taking into account the implications of Article 18:[5]

1. The compliance branch may, depending upon the case before it, decide upon one or more of the following consequences:
   (a) Provision of advice and assistance to individual Parties regarding implementation of the Protocol;
   (b) Facilitation of financial and technical assistance, including technology transfer and capacity building to non-Annex I Parties;
   (c) Making recommendations;
   (d) Publication of non-compliance or potential non-compliance;
   (e) Issuing of cautions;
   (f) Initiation of the enforcement procedure set out in annexe b".

(The penalties set out in the following text comprise "fines" under which the offending Party has its CO_2 "allowance" reduced by a formula related to the amount of emitted CO_2 over and above the *Kyoto* target.)

Under paragraph 4 of this Section we find:

"(d) Compliance Action Plan:
Option 1: The Party in question shall, within three months of the determination of the compliance body, determine and commit itself to a compliance action plan,

approved by the compliance body, which shall include, inter alia:

(i) An analysis of the reasons for the Party's non-compliance;

(ii) Policies and measures that the Party intends to implement in order to restore 1.x times the excess emissions and an analysis of their expected impact on the Party's greenhouse gas emissions;

(iii) A quantified assessment of the use of each of the mechanisms under Articles 6, 12, and if provided for by an amendment to the Protocol, Article 17 during the commitment period;

(iv) A declaration not to make transfers under Article 3, paragraph 11, for the duration of the implementation of the compliance action plan;

(v) Detailed information on the economic dimension of the implementation of any action under (ii) or (iii) above;

(vi) A timetable for implementing the measures within a time-frame not exceeding three years, including clear benchmarks for measuring annual progress in the implementation;

(vii) An assessment of the compatibility of the compliance action plan with the strategy developed by the Party to comply with its obligations during the commitment periods in which the compliance action plan is implemented.

Measures implemented under the compliance action plan shall not contribute to any Party's compliance with its quantified emission limitation or reduction commitments during the commitment period in which the compliance action plan is implemented".

The SBI meetings at Lyon did not get very far in terms of reducing the numbers of square brackets (i.e., disputed words) in the text, and the widely held view is that the meeting of the Parties to the *UNFCCC* (COP VI) to take place next week at The Hague will, likewise, make little progress with respect to any of these issues. If George W Bush, after the recount in Florida, does make it to the White House, his victory will upset the concentration of many of the American delegates to COP VI (all of them Clinton-Gore appointees). Contrariwise, if Vice-President Gore wins, then the pressure exerted by the US delegation on Australia to concede ground will be very great.

The main problem we now face in asserting Australia's sovereignty and upholding our political traditions of self-government is the fear, which some of our political leaders entertain, that the "international community" will invoke trade sanctions, or send us to some sort of international Coventry, if we defend our national interests. The questions and answers during the JSCOT's Inquiry into *Kyoto* have been illuminating in this regard.

On November 3 last, Professor Richard Lindzen, the Sloan Professor of Meteorology at the Massachusetts Institute of Technology, a distinguished scientist, and without doubt the most scientifically eminent greenhouse sceptic, appeared before JSCOT. Although most of his presentation was taken up with the state of the science debate, he was asked, as an American, about the alternative greenhouse consequences depending on the outcome of the presidential election, and the international ramifications, for Australia, if we should decide to withdraw from the *UNFCCC* and thus from the *Kyoto Protocol*.

He was obviously troubled, on his return home, about the answer he had given to his interlocutor (Senator Barney Cooney), and he asked me to ensure that Senator Cooney received the following message, amplifying his off-the-cuff response. I'm sure that Senator Cooney would not object to my concluding this paper with Lindzen's statement, since he is second to no one in his concern for Australia's well-being and its continuing sovereignty and independence. Lindzen wrote thus:

"As an American, I hesitate to chide an Australian Senator for a lack of pride in Australia. Nevertheless, I was taken aback by your stated concern that an attempt by Australia to defend its own interests would form a target for criticism by other nations.

"Permit me to remind you that Australia is a great and successful nation that has rarely asked for help from other nations, and has generously and courageously come to the assistance of others in all modern times of difficulty, from the first and second World Wars to Korea and Vietnam. By comparison with Australia, most other nations must certainly be regarded as 'lesser' nations.

"Although I believe the abandonment of *Kyoto* to be in Australia's and the rest of the world's best interest, I am willing to accept sincere differences in opinion. However, the fact that Australia, having decided as to its best interests, is hesitant about putting them forth due to fear of criticism from these 'lesser' nations is much harder to accept. I feel confident in assuring you that Australia's moral stature in the world is not dependent on the approval of other nations, but on Australia's incontrovertible contributions to the world's welfare. In defending its legitimate interests, Australia will not even begin to expend any of its moral capital – capital not even available to most other nations".

Endnotes:

1. See Stephen D Krasner, *Sovereignty: Organised Hypocrisy,* 1999, Princeton University Press, Princeton, New Jersey.

2. It should be noted that an answer given by an Attorney-General concerning Australian sovereignty over World Heritage Areas indicates that Australian sovereignty has been ceded to officials abroad. Senator Peter Walsh, on 17 October, 1991 put the following question on notice:

   > "What legislation or regulation is required by Commonwealth law to delist from World Heritage status, areas which had previously been listed?"

   The answer stated, *inter alia*:

   > "A Commonwealth Act or regulation could not operate to remove an area from the World Heritage List . . A removal can only take place if approved by a majority of two-thirds of the UN World Heritage Committee".

   On 11 August, 1994, Attorney-General Lavarch, in a letter to *The Australian Financial Review*, supported journalist Christine Wallace, who had quoted Judge Robert Bork:

   > "Under our constitutional system no treaty or international agreement can bind the United States if it does not wish to be bound . . . Congress may at any time override such agreement by statute".

   Wallace claimed "Bork's statement is as true for us as it is for them", a position endorsed by Lavarch with the words, Wallace "hit the nail on the head".

   Michael Costello, then Secretary of the Department of Foreign Affairs and Trade, put a similar argument in an article published in *The Australian Financial Review* on 22 November, 1994, and in a letter to the same newspaper on 18 January, 1995. Gareth Evans, then Minister for Foreign Affairs, had claimed, with respect to the ratification of international treaties, on 6 December, 1994, that "we retain the sovereign capacity to make and apply our own laws as we see fit". But neither Ministers Lavarch nor Evans ever stated unambiguously that any law passed by the Australian Parliament, or treaty ratified by the Executive, may be amended, repealed or repudiated by a future Parliament at any time. Nor have their successors, Ministers Williams and Downer.

   This is not just semantic quibbling. The High Court has already shown its propensity to interpret our laws in accordance with international treaties when it deems appropriate (as in the *Teoh Case*). An unambiguous statement from Ministers Downer and Williams might

deter a political Court from doing so again, at least with respect to *Kyoto*. Greenpeace has already attempted to litigate planning decisions on the basis that they conflict with our "*Kyoto* obligations".

The confusion between the answer given to Walsh in October, 1991 and the Lavarch letter of 11 August, 1994 is presumably explained by the extreme reluctance of Department of Foreign Affairs and Trade and Attorney-General's Department officials to ever advise ministers that treaties can, through the withdrawal processes set out in each treaty, be repudiated. The time has come to advertise this fact and at the same time remove the spectre of trade sanctions from public discourse.

3. During the 1960s, as a young engineer with the State Electricity Commission of Victoria, I recall that the maximum demand for the year was a winter event, determined by frosts and other cold weather events. Wagers were made on the size of the maximum demand and when it would occur. Today, the maximum demand is a summer event, well above the winter peak, driven by the demand for air-conditioning. Tropical and sub-tropical Australia is now regarded as habitable only because of air-conditioning.

4. It is noteworthy that the German government has extended substantial subsidies to the *UNFCCC* Secretariat in order to ensure that this rapidly expanding bureaucracy is housed in the parliamentary and public service buildings of the former West German government. Given the strong commitment of successive German governments to the international carbon-withdrawal project, this generosity has obvious political consequences.

5. Article 18 of the *Protocol* cites Article 14 of the *UNFCCC* with respect to dispute settlement procedures and states that the same procedures shall apply to the *Protocol*.