

China and India exempted from Kyoto Treaty controls. For the EU Kyoto is not so much about reducing CO<sub>2</sub> emissions as it is about increasing the costs of energy inputs for American industry and agriculture. In fact Kyoto would add about U\$ 400 million in costs to US industry and reduce the US economy by 2-3 % of GDP growth per year.<sup>762</sup> For this reason, the US withdrew from Kyoto with a unanimous 95-0 rejection of the accord in the US Senate.<sup>763</sup>

Kyoto is an important mechanism to re-balance the EU's competitive relationship with the United States. As the EU Environment Commissioner revealed in 2002: '[Kyoto] is not a simple environmental issue where you can say it is an issue where the scientists are not unanimous,' and 'This is about international relations, this is about economy, about trying to create a level playing field for big businesses throughout the world.' To the EU, Kyoto is about the United States' unfair tax competition, since the American government consistently refuses to match the European level of taxing energy use to modify behavior, particularly repressing automobile use and population.<sup>764</sup> Kyoto is likely to engender trade disputes because it widens the already large disparities in energy prices between Europe and the United States and increases the costs of doing business in Europe.<sup>765</sup>

Though the US is not a Kyoto participant the EU will persist in trying to enforce the costs associated with Kyoto on the US. If Russia ratifies, Kyoto will have attained the requisite numbers to go into effect against nations that have voted to accept it. The EU has made clear its intent, either through U.S. participation in Kyoto or otherwise, to extract Kyoto-style economic pain from the United States. The EU could claim that all U.S. goods are impermissibly subsidized by the United States' refusal to adopt Kyoto-style energy taxes. This would create complications within the WTO order, as the US would certainly refute these allegations and counter with tariffs on EU products. It is unclear how such a dispute would be resolved.

Adding to the issue's complexity is the fact that it is debatable about how energy efficient the EU is versus the US or how dirty US policy actually is. Critics of Bush's Kyoto rejection point out that the United States leads in per capita emissions of carbon dioxide. This is

however only one way of determining emission levels. There are two other methods that rank the US as a rather clean power. One method is to divide greenhouse emissions by total economic output, which gives emissions per dollar of gross domestic product. This exercise demonstrates the efficiency of emissions in producing economic wealth. In this regard the US would come out 3rd best amongst industrialized countries and Russia the worst. Only Germany and Japan are superior to the USA on such an efficiency scale, mostly due to their use of nuclear energy.<sup>766</sup>

A second method is to look at the use of energy involved in transportation. On average, about one-third of a nation's energy use goes to transportation. Nations that are bigger geographically will emit more carbon dioxide, even after adjusting emissions for economic efficiency [say Canada vs. Belgium for instance]. One solution is to adjust emissions per unit GDP for the area of each country. In this calculation, the United States comes in as the number one most efficient nation on earth. The worst is the United Kingdom. There are several reasons why the US is more efficient in its use of energy on transportation. In the US railroads are used to efficiently haul about 40 percent of produce, compared to Europe, where trains mainly carry people instead. In the US air flight is also a more important means of product transport than in other jurisdictions.<sup>767</sup>

As such the US could rightly argue that its own internal environmental regime is cleaner than that forwarded by the Kyoto protocol and that its overall high emissions is due to geography, a vibrant economy and a growing population and that subscribing to Kyoto would reward more inefficient or higher taxed nations. If the US can persuade an appellate body that its domestic regime complies with commons protection of the climate through a different but effective manner, it could avoid serious litigation and impair nascent environmental protectionism.

### 3. Domestic support and media approval

For most politicians the need to appease Kyoto and other environmental movements sponsored by increasingly powerful