

The Kyoto protocol: a favour to developing nations, a woe to developed nations?

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INTRODUCTION

It has been argued in various fora that the Kyoto Protocol favours developing nations to the disadvantage of the developed nation. This paper sets out to examine the above assertion with a view to coming to a conclusion as to the truth or otherwise of same. Attempts will be made to give the background of the Kyoto Protocol and what it stands for before considering its advantages and disadvantages to the globe at large; and specifically what favour or disfavour it holds for developing nations including Nigeria.

Following scientific warnings about the depletion of the ozone system through harmful activities of man, the United States of America banned the use of aerosols containing chlorofluorocarbons (CFCs) believed to be injurious to the ozone layer. The ozone layer shields man from ultra violet rays of the sun reaching the earth surface and which causes cancer. Such ultra violet radiation is also scientifically proven to have adverse effect on animals and plants.

The gas, CFCs are released into the atmosphere through manufacturing activities in the refrigeration, aerosol, air conditioning and plastic foams industries; and deplete the ozone layer thereby minimizing the protection offered by the ozone layer to the earth surface against the sun.

Similar concerns at national and international levels led to the adoption of the Convention for the Protection of the Ozone Layer in 1985 in Vienna. This was formalized in 1987 in form of a binding protocol called the Montreal Protocol on Substances that Deplete the Ozone Layer adopted on September 16, 1987. Nigeria acceded to both the Convention and the Protocol on October 31, 1988 and became effective on January 29, 1989. The ban of importation of fairly used refrigeration and air conditioners, popularly known as

¹ Okorodudu – Fubara, M.T. Law of Environmental Protection, Lagos, Caltop, 1998, p. 499

"tokunboh" in Nigeria may be a fall out of the objective of the Montreal Protocol. Many industrialized countries have since evolved alternative production technologies.

THE GREEN HOUSE EFFECT AND GLOBAL WARMING

Closely related to the depletion of the ozone layer is what scientists term greenhouse effect of certain harmful gases called green house gases released into the atmosphere which eventually causes global warming i.e. increased warming of the earth's surface and lower atmosphere (hemisphere). This is due to the build up of carbon dioxide (CO₂) principally, and other trace gases like nitrous oxide (NO₂) methane (CH₄) tropospheric ozone (O₃) and fully halogenated chlorofluorocarbons (CFCs) beyond the natural background levels.

Giving a vivid description of the green house affected theory, Okorodudu – Fubara² likened it to the glass panel of a greenhouse of the garden lower which lets in heat but prevents some of it from going out. According to her, it is the cumulative effect of this that scientist argues is causing the gradual global warming.

According to Dr. Irving Mintzer:³

Activities in both industrialized and developing countries the increasing concentration of these gases in the atmosphere threaten within our lifetime, to warm the planet to levels which would alters global climate, disturb traditional patterns of rainfall, cause sea levels to rise, and disturb economically important activities in both industrialized and developing countries.

Continuing Dr. Mintzer opined that if current warming trends continue, the combined effect of the build up of the greenhouse gases is expected to commit the planet to an average surface warming of 1.5 - 4.5 degrees centigrade (3 - 9 degrees Fahrenheit) by about 2030. A warming of this magnitude according to him, would be

² Ibid at 525

³ See statement of Dr. Irving Mintzer of World Resources Institute titled, "Are we Entering the Greenhouse Century?", at pg. 13 in Hearing Before the United States House Committee on Foreign Affairs, 100th Congress, 2nd sess. 96-98 (1998), cited in Okorodudu – Fubara op. cit at 526, fn. 61

accompanied by a rise in average global sea levels of one to four feet and that such a rise would cause extensive coastal flooding, substantial changes in winds, rainfall and ocean currents and could cause hotter and drier conditions in many of the mid-continent, mid-latitude regions which are the bread baskets of the world food economy.

In a report prepared by Seidel and Keys of the U.S Environmental Protection Agency, titled, "Can We Delay a Greenhouse Warming?", they warned that the temperature changes of 5°C cover the entire temperature range experienced during the past 125,000 years but that the projected warming induced by increases in CO₂ alone could equal historical changes in climate in a matter of only 120 years.⁴ Further confirming the fears of Dr. Mintzer above, they warned that an increase of just two feet in sea level rise could flood or cause storm damage to many of the major parts of the world, disrupt transportation networks alter aquatic ecosystems, and cause major shifts in land development patterns.

The recent report about the Tsunami in Asia, Hurricanes and the drought in Niger and Mali have all been attributed to global warming.⁵

The foregoing was to underscore the imminent dangers posed by global warming arising from unscrupulous release of greenhouse gases into the atmosphere. Since this paper is not intended to examine the consequences of global warming, it would be wise not to unreel more, so as not to miss the point or crux of this write-up. But suffice it to say that these scientific findings formed the basis of both national and international concern that eventually led to the adoption of the United Nations Framework Convention on Climate Change at the U.N. Headquarters in New York on May 9, 1992.

⁴ Okorodudu-Fubara *op. cit.* at 525

⁵ See for instance 'Food Shortage Warning for Mali', The Sunday Times (South Africa), May 4, 2005

THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE 1992

The Convention was open for signature at the Earth Summit, held in Rio de Janeiro, Brazil, from 4th to 14th June, 1992 and thereafter at the United Nations Headquarters, New York from 20th June, 1992 – 19th June, 1993. At the Rio Summit alone, the Convention received 115 signatures; and as at June 1993, it had received 166 signatures.⁶

Such states that had not signed the Convention may accede to it any time and the Convention is to come into force in such states on the ninetieth day after the deposit by such states of the instrument of ratification at the UN Headquarters;⁷ although the Convention entered into force on 21st March 1994. There are currently 186 signatories to the convention.⁸

The crux of the United Nations Framework Convention on Climate Change (UNFCCC) as stated in Article 2 of the Convention is, "to achieve in accordance with relevant provisions of the convention, stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner".

The Rio summit of 1992 re-affirmed the goal of the Convention to ensure that parties cut back their greenhouse gas emissions to 1990 levels by the year 2000.

However, parties to the Convention have not been able to match their commitments with action in accordance with the principles and commitments under Articles 3 and 4 respectively of the Convention. For instance, Article 3 to the convention dealing with principles provided as follows:

In their actions to achieve the objective of the Convention and to implement its provisions, the parties shall be guided, inter alia, by the following:

⁶ See <http://unfccc.int/2860.php> for current ratification status which is 186

⁷ Art. 23.2

⁸ See <http://unfccc.int/2860.php>

1. The Parties should protect the climate system, for the benefit of present and future generations of human kind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. Accordingly, the developed country parties should take the lead in combating climate change and the adverse effects thereof.;
 2. The specific needs and special circumstances of developing country parties, especially those that are particularly vulnerable to the adverse effects of climate change, and of those parties, especially developing country parties that would have to bear a disproportionate or abnormal burden under the Convention should be given full consideration;
 3. ... Efforts to address climate change may be carried out cooperatively by interested parties;
 4. ...
 5. The parties should cooperate to promote a supportive and open international economic system that would lead to sustainable growth and development in all parties, particularly developing country parties, thus enabling them better to address the problems of climate change. Measures taken to combat climate change, including unilateral ones, should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade.
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Article 4, which deals with commitments of the parties to the Convention, provides:

1. All parties, taking into account their common but differentiated responsibilities and their specific national and regional development priorities, objectives and circumstances, shall:

- (a) ...
 - (b) ...
 - (c) Promote and co-operate in the development, application and diffusion, including transfer of technologies, practices and processes that control, reduce or prevent anthropogenic emissions of greenhouse gases not controlled by the Montreal Protocol in all relevant sectors, including the energy, transport, agriculture, forestry and waste management sectors;
 - (d) ...
 - (e) ...
 - (f) ...
 - (g) Promote and co-operate in scientific, technological, technical, socio-economic and other research, systematic observation and development of data archives related to the climate system and remaining uncertainties regarding the causes, effects, magnitude and timing of climate change and the economic and social consequences of various response strategies;
 - (h) Promote and cooperate in the full, open and prompt exchange of relevant scientific, technological, technical, socio-economic and legal information related to the climate system and climate change, and to the economic and social consequences of various response strategies;
 - (i) Promote and cooperate in education, training and public awareness related to climate change and encourage the widest participation in this process, including that of Non-Governmental Organization; and
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(j) Communicate to the Conference of the parties, information related to implementation, in accordance with Article 12.

(2, 3, 4, 5, and 6 omitted here)

7. The extent to which developing country parties will effectively implement their commitments under the Convention will depend on the effective implementation by developed country parties of their commitments under the convention related to financial resources and transfer of technology and will take fully into account, that economic and social development and poverty eradication are the first and overriding priorities of the developing country parties.

8. In the implementation of the commitment in this Articles, the parties shall give full consideration to what actions are necessary under the Convention, including actions related to funding, insurance and the transfer of technology, to meet the adverse effects of climate change and/or the impact of the implementation of response measures especially on:

Countries whose economies are highly dependent on income gathered from the production, processing and export and or on consumption of fossil fuels and associated energy – intensive products.

The foregoing are excerpts of articles 3 and 4 of the UNFCCC that is considered important to the topic of this article. As has been stated earlier, parties to the Convention have not matched their commitments with actions either in form of legislation or in the form of flow of information or transfer of technology. This has been observed more in the breach as shall be shown later in the area of transfer of technology. Thus, it is submitted that developing nations have not been able to do much in the implementation of the objectives of the Convention because, the developed nations have not lived up to their expectation as envisaged under Art. 4.7 stated above.

It is however, pertinent to mention the feeble attempts by Nigeria to legislate both on the ozone layer and on climate change even before the UNFCCC was adopted in 1992.

Nigeria promulgated the Federal Environmental Protection Agency Act⁹ in 1988. Under the Act, the Agency, (FEPA) is empowered to establish guidelines, specifications, and standards to protect and prevent *inter alia*, the concentration of substances in the air which separately or in combination are likely to result in damage or deterioration of property or of human, animal, or plant health; and to locate and prevent all sources of atmospheric pollution.¹⁰

Similarly, the Act empowers the Agency to undertake the study of data and recognize developments in international force and other countries regarding the cumulative effect of all substances, practices, processes and activities which may affect the stratosphere, especially ozone in the stratosphere, when such effect may reasonably be anticipated to endanger public health or welfare; and make recommendations and programmes for the control of same.¹¹

The efforts of FEPA were not very noticeable due to lack of the technical-know-how and appropriate national policies for the implementation of the objectives for which it was set up.

Nigeria also attempted to stop gas flaring by the promulgation of the Associated Gas (Re-injection) Act¹² which prescribed January 1, 1984 as the terminal date by which all oil companies should invent technologies for recycling or utilising liquefied natural gas (LNG) and put a stop to flaring except the Minister of Petroleum otherwise permits.¹³

THE KYOTO PROTOCOL, 1997

At the first Conference of the Parties to the Convention on Climate Change (UNFCCC) held in Berlin in 1995, Parties to the Convention attempted to deal with the lack of commitment to the terms of the Convention. An ad hoc group was therefore set up to commence

⁹ Decree No. 58 1988; Now Cap 131 LFN 1990; Cap F10 Lexis-Nexis Butterworth's LFN

¹⁰ S. 18

¹¹ S. 19

¹² Decree No. 99 of 1979; Now Cap A25 LFN

¹³ S. 3(1)

negotiation of a legally binding protocol in line with the requirement of Article 4 of the Convention.¹⁴ This culminated in the adoption of the Protocol in Kyoto, Japan, on December 11, 1997, at the third Conference of the parties to the Convention on Climate Change.

The Protocol became known as the "Kyoto Protocol" which essentially provided a more legally binding target and time-table for Parties to the UNFCCC for the control of emission of greenhouse gases in contra-distinction with the mere voluntary pledges of Parties to the Convention, to reduce the emission of greenhouse gases in their domain to 1990 level by the year 2000. The preamble to the Protocol left no one in doubt as to its essence stated above in the following words:

"The parties to this protocol, being parties to the United Nations Framework Convention on Climate Change; hereinafter referred to as "the Convention",

In pursuit of the ultimate objective of the convention as stated in its Article 2, recalling the provisions of the Convention, being guided by Article 3 of the Convention, pursuant to the Berlin Mandate adopted by decision 1/CP.1 of the conference of the parties to the convention at its first session, have agreed as follows,"

The Kyoto Protocol was open for signature from 16th March 1998 to 15th March 1999 at the United Nations Headquarters, New York. By that date, the Protocol had received eighty-four (84) signatures.¹⁵

The Protocol is subject to ratification, acceptance, approval, or accession by Parties to the Convention; and shall enter into force on the ninetieth (90th) day after the date on which not less than 55 parties

¹⁴ Specifically Art. 4.2 (b) which talks of information and measures taken by Parties to comply with the objectives of the Convention which said information shall be reviewed at the 1st session of the Conference of Parties to the Convention.

¹⁵ www.unfccc.int (last visited May, 2001)

to the Convention, incorporating Annex I Parties¹⁶, which accounted in total for at least 55% of the total carbon dioxide emission for 1990 from that group, have deposited their instrument of ratification, acceptance, approval, or accession.¹⁷ As at 7 July 2006, 164 parties and regional economic integration organisations had signed and ratified or acceded to the Kyoto Protocol¹⁸

The highlights of the Kyoto Protocol were legal obligation on parties to implement commitment under Article 3 in order to promote sustainable development, cooperation with other parties to enhance the individual and combined effectiveness of their policies and measures adopted under and pursuant to Article 4.2(e) (i) of the Convention.¹⁹ Parties are encouraged to share their experiences and exchange information on such policies and measures including ways of improving comparability, transparency, and effectiveness.

Another radical innovation of the Protocol was the obligation of parties to reduce their quantified emission of greenhouse gases by at least 5% below 1990 levels between 2008 and 2012.²⁰ The UNFCCC only obliged parties to reduce their green house emission to 1990 levels by the year 2000.

Parties included in Annex 1 are required to minimize adverse social, environmental and economic impacts on developing country parties while striving to implement their commitment under Article 3.1.²¹

According to Okorodudu – Fubara²², the major implications of the Kyoto Protocol which spells legal commitment by the parties cut across the following salient issues:

¹⁶ Parties included in Annex 1 of the Convention (UNFCCC), as may be amended, or a party, which has made notification under Art. 4.2(g) of the Convention. See the Definition Article, (Art. 1.7) of the Protocol

¹⁷ Art. 25 of the Protocol; The Protocol entered into force on February 16, 2005 after Russia ratified it and brought it in compliance with the requirement of Article 25 thereof.

¹⁸ See http://unfccc.int/essential_background/kyoto_protocol/status_of_ratification/items/2613.php (last visited on 22/7/2006)

¹⁹ See Art.2

²⁰ See Art. 3.1

²¹ See Art. 2.3 and 3.14

²² Op. cit at 548

- i. Target and time frame for emission reduction;
- ii. Emission trading;
- iii. Joint implementation;
- iv. Voluntary assumption of commitment;
- v. Clean development mechanism; and
- vi. Financial resources, policies and measures.

Copious mention is made of the Montreal Protocol in the Kyoto Protocol to underscore the relativity that exists between the two.

What ever happens to the ozone layer, which the Montreal Protocol is all about, will virtually re-echo in form of global warming and climate changes, which is the crux of the Kyoto Protocol.

In Annex A to the Kyoto Protocol, the greenhouse gases are listed to be carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF₆). The sector or source categories are also listed to include energy, fuel combustion, manufacturing and construction industries, transport, oil and natural gas, mineral products, agriculture, solid waste disposal of land etc.

ADVANTAGES OF THE KYOTO PROTOCOL

The Kyoto Protocol was adopted basically to avert the adverse consequences of global warming and climate change; which were enumerated in the report prepared by Seidel and Keys²³ earlier referred to as, increase in temperature, change in precipitation, changes in storm pattern and increases in sea level owing to thawing ice and glacier on land, increased desertification and deforestation and food shortages owing from shift in land use patterns. The avoidance of the foregoing, no doubt, will be the major advantage of the Kyoto Protocol.

²³ See fn 4

DISADVANTAGES OF THE KYOTO PROTOCOL

In the same report, possible beneficial consequences of global warming owing from increase in atmospheric carbon dioxide (CO₂) were also discussed. Such benefits were listed as enhanced photosynthesis and decrease in moisture requirement for plant growth – a resultant agricultural productivity increase.

An elementary knowledge of biology also shows that man and animal species will have purer air to breathe in since the by-product of photosynthesis is oxygen – a sine qua non for life in the animal kingdom, man inclusive.

A global warming, the report continues, could also improve the climate for high latitude areas, increase precipitation for some parts of the world, and reduce heating costs worldwide. To the extent that the above are derivable benefits from global warming, the Kyoto Protocol therefore, is disadvantageous. But the question is the balance to be held between the benefits of global warming and its adverse consequences.

It is argued that though, increase in CO₂ will increase agricultural output, certain species of plant will respond to this stimulus more than others. So, it would require scientific research to identify the species that will benefit more for nation to be able to maximize this benefit. This means plants that are exotic in some regions may not be of any benefit to such region should such plant belong to beneficiary species.

Equally, reducing heating costs world wide may spell economic problems to nations whose economy is dependent on fossil fuel that generates the energy for heating in cold regions.

Now, to the question whether the Kyoto Protocol favours developing nations to the disadvantage of the developed nations. From the analysis done above, the adverse effects of global warming are not restricted to any one nation, developed or developing. Similarly, the beneficial consequences of global warming also avail all nations irrespective of the status of their economies.

If anything, the effect of the Kyoto Protocol may spell doom for developing nations bearing in mind that the greenhouse gases are emitted from sources that may be the mainstay of economies of the

developing nations. For example, under Annex A to the Protocol, energy and agricultural sectors are identified as source categories. Nigeria, as a developing nation, has over 90% of its Gross National Product (GNP) dependent on oil and natural gas,²⁴ already fingered as a culprit sector. If Nigeria is to implement the Kyoto Protocol, it would need safer and alternative technologies to do so. This needs the help of the developed nations; otherwise, it would mean dwindling income for Nigeria if it is forced to reduce oil and gas production in the face of inability to adopt safer and cleaner technology for oil exploration and development. It becomes a matter of choice between the welfare of Nigerians and compliance with the Protocol.

Nigeria's continued flaring of liquefied natural gas contributes much to greenhouse gases. The Associated Gas (Re-injection) Decree²⁵ has not been helpful in stopping gas flaring. Other developing nations in the oil sector may also be guilty of this but the oil companies responsible for this degradation are multinational companies with base in developed countries where gas flaring is no longer in vogue. The same rings true for other developing nations which are dependent on oil and gas or some other fossil fuel and agriculture for their economies.

This assertion is fortified in the words of Mr. Mahattir Mohammed the Malaysian Prime Minister, who in his address to the Earth summit held in Rio De Janeiro, Brazil in 1992, accused developed nations of creating environmental problems for the globe when he said:

"We know that the 25% of the world population who are rich consume 85% of its wealth and produces 90% of its waste... but the rich will not accept a progressive and meaningful cutback in their emission of carbon dioxide and other greenhouse gases."

²⁴ See "Nigeria to Raise Gas Export by 328% in 2010", Financial Standard (Nigeria), February 6, 2006

²⁵ Decree No. 99 of 1979, Now Cap A25 LFN

because it will be a cost to them and retard their development progress.²⁶

It is in realization of this fact that Article 4.8(h), and Article 4.9 of the UNFCCC require parties to give full consideration to actions that are necessary under the Convention including actions related to funding, insurance and transfer of technology to meet the adverse effects of climate change and/or the impact of implementation of response measures, especially on countries whose economies are highly dependent on income generated from the production, processing and export, and or on consumption of fossil fuels and associated energy intensive products.

Particularly, Article 4.9 and 10 of the Convention provides for developed nations to take account of specific needs and special situations of the least developed countries in their actions with regard to funding and technology transfer and the vulnerability of such economies dependent on fossil fuels and associated energy-intensive products for which such parties have difficulties in switching to alternatives.²⁷

Sound and thoughtful as the above provisions may seem, the true state of affairs are echoed in Mexico's complaints about the refusal of advanced countries to sell alternative technologies to it under fair and most favourable conditions; although such governments had undertaken to ensure expeditious transfer of safe substitutes and technologies on such terms under the Montreal Protocol on substances that Deplete the Ozone Layer.²⁸ The above portends perilous times for developing nations and a threat to compliance with the Kyoto Protocol since it cannot be guaranteed that the attitude of developed nations will be different from that displayed under the Montreal Protocol to Mexico.

Developing nations who are parties to the Kyoto Protocol and who want to implement same may therefore be at very serious disadvantage as they lack the know-how to shift to or adopt alternative technology. This is underscored by the massive

²⁶ See Saba, Abdul Rasheed K., "After Rio – What Next?", in Ajomo, M.A. and Adewale, O. (ed.), *Environmental Law and Sustainable Development in Nigeria*, Lagos, NIALS, 1994, p. 1 at 4

²⁷ This is also provided for under Art. 2.3 and 3.14 of the Kyoto Protocol

²⁸ Okorodudu-Fubara, *op. cit.* at 548

exportation of obsolete appliances laddened with CFCs and other greenhouse gases, like refrigerators and air-conditioners by developed countries to the developing ones.

It was in appraisal of this fact that Dr. Raphael Adewoye, the Director General of the Federal Environmental Protection Agency (FEPA) in Nigeria, pointed out that Nigeria, like most African Countries is not only vulnerable to climate change and the associated phenomena, but also bears the burden of triple vulnerabilities. These vulnerabilities he identified to be:

- 1) Land-based vulnerability to the impacts of climate change in the form of aggravated desert encroachment in the Northern part of Nigeria with phenomenal Southward progression and the threatened Southern low-lying Atlantic Ocean Coastline;
- 2) Economic vulnerability of a nation largely dependent on revenue from fossil fuel production; and
- 3) Population based vulnerability of our over 100 million people, a large percentage of which are resource-poor rural people whose poverty burden will be further compounded by climate change and result in greater human misery and environmental refugees.²⁹

From the above postulations, it is clear Nigeria, like other developing nations is in a dilemma. Nigeria, as a developing nation and a non-Annex 1 Party, acceded to the Protocol on 11 December, 2004 and the Protocol entered into force in Nigeria on 10 March, 2005.³⁰

Nigeria can ill-afford the devastating consequences of global warming identified above. It has to implement the Protocol to avert

²⁹ See Adewoye, R., "The Implications of the Kyoto Protocol for Nigeria", (being a keynote address) at the Workshop on Global Warming and Climate Change, organized by Friends of the Environment (FOTE) in Lagos, on April 22, 1998

³⁰ <http://maindb.unfccc.int/public/country.pl?country=NG>

them. But the developed nations have been fingered as the culprits in emission generation even in developing nations.

If the developed nations would agree to cut back their emissions and adopt safer and alternative technologies in their operations in developing nations, it can then be said that the Kyoto Protocol is a favour to the latter. But since the developing nations are still struggling to implement the Protocol with their limited resources and technology, there is no favour. In fact, their plight is worsened by the developed economies adopting safer technologies and shipping the obsolete ones to the developing nations.

Perhaps, it should be pointed out that the Kyoto Protocol might not be worth more than the piece of paper on which it is codified when the fact that there is no framework for the enforcement of compliance with commitments under the protocol is in place. For instance, the U.S.A has refused to ratify the Kyoto Protocol even though it is one of the parties in Annex 1 to the Convention (UNFCCC).³¹ It is not also in doubt that it contributes a great percentage of greenhouse gases to the atmosphere through its activities. But it seems nothing can be done to bring the U.S.A to its knees in this regard. The refusal of the United States to ratify the Protocol may not be unconnected with its economic interests. Where has this then benefited the developing nations to the disadvantage of the developed nations? Reducing greenhouse gases mean cutting down production or even shutting down culprit factories. The U.S.A is surely not ready for this.

CONCLUSION

In the course of this paper, the writer has traced the background to the Kyoto Protocol and all it stands for. Given the imminent threats posed by increased emission of greenhouse gases into the atmosphere, the Kyoto Protocol like the Montreal Protocol is a well-thought out means of averting danger posed by man to himself. But factors militating against developing nations may constitute a clog in the wheel of progress of implementation of the Protocol.

³¹ The US withdrew from the Protocol in March 2001 over emission trading disagreements. See Woerdman, E., "Hot Air Trading Under the Kyoto Protocol: An Environmental Problem or Not?", *European Environmental Law Review* (2005) 14(3) 71

As to whether the Kyoto Protocol favours developing nations to the disadvantage of developed nations, the writer is of the opinion that it does not. Rather, developing nations are hard-hit by obligations under the Protocol, as they will be made to suffer for problems mostly created by developed nations themselves. With developed nations shipping obsolete appliances laden with CFCs to developing nations without helping such developing nations to develop alternative technology in their own domains, the developed nations have turned the developing nations to refuse dumps for their waste while they work assiduously to develop alternative and cheaper technology in their own domains.

It is suggested that there should be a framework for enforcing compliance with the commitments of parties thereto. Defaulting state parties should be visited with sanctions. America has been championing sanctions against belligerent states in the area of global security. No greater risk to global security could be more than refusal or failure of parties to implement the Kyoto Protocol. The U.S.A should therefore also champion this cause of implementation and exemplarily so, by ratifying the Protocol so as to encourage other nations who may not be as guilty as the U.S.A. in pollution circles to do same.

Developing nations should rise up to the challenge by rejecting the use of their domains as dumping grounds for obsolete goods, unless there is a working agreement for such exporting nations to help the recipient nation to develop its own alternative technology. In this regard, the action of the Nigerian Government in banning the importation of "tokunboh" refrigerators, air –conditioners and other allied products is a step in the right direction and should be emulated by other developing nations. This is to protect their economy and the welfare of their people. The fact that they cannot produce safer appliances should not make them a dump yard for the Western refuse.

Nigeria should consider its own national interest in oil production agreements with multinational companies. We do not have the technology to adopt safer production of oil and natural gas yet. The

developed nations are not ready to help us either. This it could subvert through purposeful policies and development of alternative and renewable technologies.