

## Statement of witness Jennifer Morgan

I make this statement as a witness in the case of R v Hewke and others.

1. Jennifer L. Morgan joined E3G on October 1st 2006 as its Global Climate Change Director. Ms. Morgan focuses most of her time on EU relations with China and the United States and continues her longstanding involvement in the global discussions on the future of the climate regime post-2012. In 2007 she served as Senior Advisor to the German Chancellor's Chief Advisor, Dr. Schellnhuber and in 2008 she advised former Prime Minister Tony Blair on his Breaking the Climate Deadlock project. As a Board member of E3G, she is responsible for overall communications and networking strategies of the organisation.
2. Prior to joining E3G, Jennifer Morgan led the Global Climate Change Programme of Worldwide Fund for Nature (WWF), present in over 30 countries around the world. She joined WWF in July 1998 and headed its delegation to the Kyoto Protocol climate negotiations. Jennifer formulated and advocated climate change policies on the international and national level and directed WWF's science, business and communications efforts, acting as chief spokesperson for the organisation on climate change. She has also served on a number of Boards including the Climate Action Network, the Renewable Energy and Energy Efficiency Partnership and REN21.
3. Before joining WWF, Ms. Morgan worked for the US Climate Action Network, a network of over 200 environmental groups worldwide with eight regional offices working on global climate change. She took a leave of absence from CAN in 1996 to accept a fellowship with the Robert Bosch Foundation in Germany. During her year in Germany she worked for the European Business Council for a Sustainable Energy Future and for the Federal Ministry of Environment, supporting the head of the German delegation to the UN climate change negotiations.
4. She has a Bachelor of Arts from Indiana University in Political Science and Germanic Studies and a Masters of Art from the School of International Service, The American University in International Affairs.
5. The UN Framework Convention on Climate Change (UNFCCC) was signed in 1992 and entered into force in 1994. Its stated objective was "to achieve stabilization of greenhouse gas concentrations in the atmosphere at a low enough level to prevent dangerous anthropogenic interference with the climate system". It set no binding limits on greenhouse gas (GHG) emissions for individual countries and contained no enforcement mechanisms. However the expectation at the time of signature was that the UNFCCC would be strengthened through additional "protocols". Further work was to be informed by scientific analysis from the International Panel on Climate Change (IPCC), established in 1988.

6. In 1997 countries agreed the Kyoto Protocol to the UNFCCC, including absolute binding caps on industrialised countries and a set of voluntary actions by developing countries. The Kyoto Protocol also created emissions trading among industrialized countries and a "Clean Development Mechanism" enabling industrialized countries to achieve part of their domestic targets by funding emissions reduction in developing countries. These arrangements reflected the UNFCCC principle of "common but differentiated responsibilities" under which industrialized countries were expected to take the lead in tackling climate change. However in early 2001 the Kyoto Protocol was rejected by the Bush Administration on the basis that it was not fair economically to the United States and did not include binding commitments from developing countries such as China and India.
7. In the summer of 2001 the rest of the world decided to move forward with the Kyoto Protocol and to finalise the rules for implementation. This was driven in part by the IPCC's Third Assessment Report (2001), which stated: "There is new and stronger evidence that most of the warming observed over the last 50 years is attributable to human activities". The IPCC's analysis indicated that a "business-as-usual" scenario in which GHG emissions continued to increase at the present rate could lead to global average temperature rises of up to 5.8 degrees C over the next century – implying a high risk of severe climate impacts. The European Union (EU) had adopted in 1996 a formal policy objective of keeping global warming below 2 degrees C. It was clear by 2001 that this would require much tighter caps on GHG emissions.
8. The Kyoto Protocol finally entered into force on 16 February 2005. The EU played a leading role in making this happen, notably by pressing for ratification by Russia, and began to implement measures to reduce its own emissions. However, despite the growing international scientific consensus on the need for urgent action, the Bush Administration's rejection of a binding cap on US emissions remained a major obstacle to achieving a concerted political response. In the absence of leadership by the world's largest emitter, Japan, Canada and other large industrialized countries implemented few if any serious measures to reduce their emissions and fell behind in meeting their Kyoto targets. Emerging economies such as China and India were reluctant to do more in the absence of US engagement. Emissions continued to increase rapidly in both industrialized and developing countries.
9. In 2005 Prime Minister Tony Blair prioritised the issues of climate change and Africa for the G8 Summit at Gleneagles in the UK. There were a series of events leading up to the Summit engaging scientists and other stakeholders. Perhaps the most important was a conference on "Avoiding Dangerous Climate Change" where the world's top scientists gathered, welcomed by the Prime Minister, to outline the latest findings since the IPCC's Third Assessment Report. In addition, the UK invited China, India, Brazil, South Africa and Mexico – the "G5" – to the Summit to discuss climate change. Momentum seemed to be building towards an ambitious

response. The initial negotiating texts for the Summit included a long-term target for global emissions reduction and specific programmes to curb emissions; promote innovation, energy efficiency and conservation; improve policy, regulatory and financing frameworks; and accelerate the deployment of cleaner technologies across borders.

10. In the end, however, the Summit and the final texts were disappointing at best. The key passage in the Summit declaration read as follows:

11. "Climate change is a serious and long-term challenge that has the potential to affect every part of the globe. We know that increased need and use of energy from fossil fuels, and other human activities, contribute in large part to increases in greenhouse gases associated with the warming of our Earth's surface. While uncertainties remain in our understanding of climate science, we know enough to act now to put ourselves on a path to slow and, and as the science justifies, stop and then reverse the growth of greenhouse gases."

12. A "Gleneagles Dialogue" was launched to encourage continued discussion of climate and energy issues at Ministerial level between the G8 and other major economies. The International Energy Agency and the World Bank were requested to study the issues further and subsequently presented their findings at various Gleneagles meetings over the coming two years. But despite tremendous media attention on President Bush's position in advance of the Summit he refused to sign up to any targets or numerical goals.

13. Before the G8 Summit there were calls for the UK to create a leadership group of G8 countries, ready to adopt mandatory binding caps on emissions, an effort that would have left the US standing alone. Ultimately this did not occur, but reports suggest the White House was worried enough that it began to build a rival alliance -- the Asia-Pacific Partnership (APP). This was duly launched after the G8 Summit and sold as an alternative to the Kyoto Protocol and the UNFCCC negotiations. It included both developed and developing countries -- US, Japan, South Korea, China, India and Australia were the founding members, with Canada joining later on. Its declared objective was to:

"Create a voluntary, non-legally binding framework for international cooperation to facilitate the development, diffusion, deployment, and transfer of existing, emerging and longer term cost-effective, cleaner, more efficient technologies and practices among the Partners through concrete and substantial cooperation so as to achieve practical results."

14. The events of the summer of the 2005 reflected wider divisions over the international response to climate change which have obstructed progress in recent years. Broadly speaking, this boils down to a division between those who accept the scientific case for

urgent action, building on the UNFCCC / Kyoto framework of binding targets for industrialized countries, and those – led by the US – who believe the problem can be solved through softer, voluntary targets and clean technology. Those in the former camp, including the EU, agree that innovation and technology is vital but believe it won't occur fast enough without the hard incentive of a binding emissions cap. The US has begun to see the logic of binding caps but has refused to negotiate on its post-2012 commitment unless China and other developing countries agree to do likewise. Developing countries reject this as inconsistent with the principle of common but differentiated responsibilities. These divisions have diverted time and effort from serious attempts to tackle the climate problem.

15. In December 2005 countries gathered in Montreal, Canada for the first Conference of the Parties since the Kyoto Protocol had entered into force. Many countries wished to launch a new round of negotiations to decide what should happen after 2012, when the first commitment period of the Kyoto Protocol was due to expire. Industrialized countries party to the Kyoto Protocol did in fact launch new negotiations but were unable to decide when they should end. The rest of the world, including the US and developing countries, could only agree to launch a "Dialogue on Long-term Cooperative Action". The Dialogue was intended to explore issues around mitigation, adaptation, technology and finance but was not to result in any future international agreement. It was therefore a place to discuss, not negotiate.
16. The following summer in 2006 Russia hosted the G8 Summit in St. Petersburg. Energy security dominated the agenda and there was only limited discussion of climate change. G8 leaders re-stated the commitments made in Gleneagles the previous year before but failed to break new ground.
17. In October 2006 Sir Nicholas Stern published a lengthy and weighty review of the economics of climate change. This provided the most comprehensive assessment to date of the costs of not acting on climate change (5 to 20% of national GDP) and the costs of taking action (1% of global GDP by 2050). The Stern Review's key message – that climate change demanded an urgent response and could be tackled without bankrupting the economy – reverberated around the world and prompted an upsurge of interest in business circles.
18. However, the heightened interest had little impact on the formal UNFCCC negotiations. The next Conference of the Parties was held in November 2006 in Nairobi, Kenya – one of the most vulnerable regions in the world to climate change. Stern presented his findings to the Dialogue on Long-Term Action. The hope was that the location and the message would spur a strong political response, if only a Ministerial declaration. Unfortunately this did not prove possible; instead negotiators continued fighting out the details around small issues in a range of rather unimportant texts.

19. It was clear from the onset that 2007 was going to be an important year for climate change. Germany overtook the Presidency of both the G8 and the EU. The IPCC was scheduled to release its Fourth Assessment Report and a series of related publications. The Dialogue on Long-Term Action was scheduled to come to an end. The World Economic Forum in Davos in early 2007, a major annual event for business and political leaders, had climate change at the top of its agenda. There was indeed a massive amount of media coverage in the first six months of the year, with front page articles making the climate change threat much more real to the public than ever before. An IPCC report concluded: "Warming of the climate system is unequivocal, as is now evident from observations of increases in global average air and ocean temperatures, widespread melting of snow and ice, and rising global average sea level". Most of the observed increase in global average temperature since the mid-20<sup>th</sup> century was, according to the IPCC, "very likely" due to the observed increase in anthropogenic greenhouse gas concentrations.
20. The upsurge in attention spurred the EU to adopt a new set of targets in March 2007 including a headline commitment to reduce its GHG emissions in 2020 by 20% from 1990 levels or by 30% as part of a broader international agreement. While this was an important political signal it left open the all important details about how the target would be met. Sceptics noted that the EU-15 was at risk of missing its more immediate target under the Kyoto Protocol of reducing emissions over the period 2008-2012 by 8% below 1990 levels. While some EU Member States had achieved significant reductions, others were behind schedule and the EU-15's cumulative reduction from 1990 levels was around 3% in 2006.
21. The UK was among the EU Member States that had achieved significant emissions reduction but much of this had occurred during the period 1990-2000 as a result of the switch from coal to gas and other structural changes in the economy. Since 2000 progress had been much more limited and in the power sector emissions had begun to rise. The Government responded by announcing proposals in March 2007 for a Climate Change Bill and then by publishing an Energy White Paper. However critics argued that the Government's rhetoric was not matched by reality in key areas such as investment in renewable energy: as a percentage of the total energy mix the UK renewables sector was among the smallest in the EU.
22. Chancellor Merkel of Germany prioritised climate change at the G8 Summit at Heiligendamm. The draft G8 texts were very ambitious, calling on G8 countries to agree to keep global average temperature increases below 2 degrees C in comparison to pre-industrial levels and to cut emissions by 50% below 1990 levels by 2050. The texts also included targets to improve efficiency across all sectors and ambitious programmes to achieve those targets. Public pressure and media coverage were growing. Chancellor Merkel, a physicist and former environment minister was prioritising

climate change in her bilateral meetings and public speeches. All eyes were once again on President Bush: would he respond to the findings of the Stern Review and the IPCC by agreeing finally to binding targets to cut emissions?

23. But again the hopes of climate campaigners were disappointed. Days before the Summit, without the knowledge of other G8 countries including the Presidency, President Bush launched another separate process to bring together the “major emitting” countries of the world to discuss climate change. While this was presented as a way of supporting the G8 discussions and the UNFCCC process, there were no targets or timetables and a strong sense that the US was again trying to avoid taking on serious binding caps to reduce emissions as well as make action by industrialized countries contingent on similar binding commitments by developing countries. Rather than negotiating binding commitments under the UNFCCC the US proposed that each country should simply pledge what it would do voluntarily. Announcing the initiative, President Bush said:

“The new initiative I am outlining today will contribute to the important dialogue that will take place in Germany next week. The United States will work with other nations to establish a new framework on greenhouse gas emissions for when the Kyoto Protocol expires in 2012.....It's important to ensure that we get results, and so we will create a strong and transparent system for measuring each country's performance. This new framework would help our nations fulfill our responsibilities under the UN Framework Convention on Climate Change”.

24. At the Summit itself G8 leaders were only able to agree to “seriously consider” the goal of at least halving global emissions by 2050, with the US and Russia identified as not currently supporting such a goal. The Summit text suggested agreement that the UNFCCC process should remain central but there was still no commitment by the US to begin negotiations on a binding emissions cap.
25. The first “Major Economies Meeting” was held in Washington DC in September 2007. President Bush attended the meeting and held a speech which once again linked any US commitment to binding targets to parallel commitments by developing countries – an implicit rejection of the UNFCCC principle that developed countries should take the lead and a politically poisonous approach which made international agreement of any kind all but impossible. His speech also included familiar language on the central role of technology in solving the climate problem:

“...For many years those who worried about climate change and those who worried about energy security were on opposite ends of the debate. It was said that we faced a choice between protecting the environment and producing enough energy. Today we know better. These challenges share a common solution: technology. By developing new low-emission technologies, we can meet the growing demand for energy and at the same time reduce air

pollution and greenhouse gas emissions. As a result, our nations have an opportunity to leave the debates of the past behind, and reach a consensus on the way forward. And that's our purpose today."

26. Thus, while the scientific community was increasingly united on the issue of climate change, and public pressure was growing for an urgent response, political leaders had yet to overcome their differences and global emissions continued to rise. President Bush's rejection of the Kyoto Protocol and attempts to build an alternative approach had obstructed the UNFCCC process. EU leaders had been forced into a defensive position, using political capital to preserve the achievements of Kyoto rather than to strengthen it. And while the EU had set some ambitious targets for 2020 and beyond, the domestic policies of some Member States, including the UK, raised doubts about the seriousness of their intentions. With the climate clock ticking the world was running out of time.