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UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE

AD HOC WORKING GROUP ON LONG-TERM COOPERATIVE ACTION UNDER THE CONVENTION
Fifth session
Bonn, 29 March to 8 April 2009

Item 3 (a–e) of the provisional agenda
Enabling the full, effective and sustained implementation of the Convention through long-term cooperative action now, up to and beyond 2012, by addressing, inter alia:
A shared vision for long-term cooperative action
Enhanced national/international action on mitigation of climate change
Enhanced action on adaptation
Enhanced action on technology development and transfer to support action on mitigation and adaptation
Enhanced action on the provision of financial resources and investment to support action on mitigation and adaptation and technology cooperation

Ideas and proposals on the elements contained in paragraph 1 of the Bali Action Plan

Submissions from Parties

Addendum

1. In addition to the 30 submissions from 26 Parties contained in document FCCC/AWGLCA/2009/MISC.1 and Add.1 and 2, five further submissions from two Parties have been received.

2. As requested by the Ad Hoc Working Group on Long-term Cooperative Action under the Convention, these submissions have been posted on the UNFCCC website.[1] In accordance with the procedure for miscellaneous documents, they are attached and reproduced[*] in the language in which they were received and without formal editing. The secretariat will continue to post on the relevant web page the submissions received after the issuance of the present document.

[1] <http://unfccc.int/meetings/ad_hoc_working_groups/lca/items/4578.php>.

[*] These submissions have been electronically imported in order to make them available on electronic systems, including the World Wide Web. The secretariat has made every effort to ensure the correct reproduction of the texts as submitted.

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PAPER NO. 1A: AUSTRALIA

Australia's National Ambition

Submission to the AWG-LCA and AWG-KP

This submission provides information on Australia's ambition to mitigate its national emissions to 2020.

Australia's national ambition

Australia is committed to working towards a post-2012 outcome that is comprehensive, effective and fair. Australia recognises that it has an obligation to help shape positively an international agreement that addresses climate change beyond the first period of the Kyoto Protocol. Australia intends to take strong mitigation measures delivered through a comprehensive domestic policy framework. Australia is serious about delivering on its announced emissions reductions.

The Australian Government has made a policy commitment to unconditionally reduce Australia's emissions by 5 per cent below 2000 levels by 2020. This is projected to be a 27 per cent reduction in per capita terms (34 per cent relative to 1990 levels). This sets Australia on an immediate course to stop the growth of, and then reduce, national emissions by 60 per cent on 2000 levels by 2050. Emissions peak in 2010 and fall thereafter.

Should countries reach a global deal that includes commitments by all major economies, including key developing countries, to substantially restrain emissions and by all developed countries to take on comparable emissions reduction targets, Australia will commit to reduce emissions by up to 15 per cent below 2000 levels by 2020. This represents a projected reduction of 34 per cent in per capita terms (41 per cent relative to 1990 levels).

Australia will commit, therefore, to a medium-term (2020) target to reduce Australia's greenhouse gas emissions by between 5 per cent and 15 per cent below 2000 levels.

Australia's national ambition for 2020 represents a 12 to 22 percentage point reduction on Australia's target for 2008-2012. This is the same reduction range as implied by the EU's mid-term ambition. Australia faces higher mitigation costs in the move to a low carbon future than most other countries.[1] Australia is willing to commit to these reductions because it recognises that the costs of inaction will be greater than the costs of action and that a comprehensive global agreement is in our national interest.

Australia welcomes the various indications of national ambition that countries have made to date, including most recently the United States and Sweden. However, many countries are yet to nominate a national ambition. Australia encourages all other advanced economies to specify their ambition for mid-term reductions as early as possible in 2009. This is necessary to build confidence and momentum in the negotiations. Such information should be made available to other Parties through the UNFCCC submission process.

Collective goals

Ambitious global emission goals are in Australia's national interest. It is desirable that countries agree on a mid-term and a long-term global goal for emissions reductions. In terms of collective effort, each

[1] A parallel submission addresses the matter of comparable effort.

collective goal should incorporate a single percentage ambition, a base year from which this ambition is measured against, and a target year by which this global aspiration may be achieved.[2]

If a global agreement does emerge over time involving commitments - by developed and developing countries - that are consistent with long-term stabilisation of atmospheric concentrations of 450 parts per million of CO_2-e or lower, Australia would continue to play its full part in achieving ambitious stabilisation levels by establishing appropriate post-2020 emission reduction targets.

Australia is committed to playing its full, fair and constructive part in forging such an agreement. Indeed, the Prime Minister has said that the Government would be prepared to reconsider Australia's 2050 target of reducing emissions by 60 per cent below 2000 levels, if this is required to play our full and fair part, and that the Government would seek an explicit mandate at the next election for this change to our 2050 target.

Domestic action to mitigate climate change

The foundation of Australia's whole of economy strategy to tackle climate change emissions is the Carbon Pollution Reduction Scheme (CPRS). The Government intends to commence the Scheme on 1 July 2010.

The CPRS will put a price on carbon in a systematic way throughout the Australian economy. It employs a 'cap and trade' emissions trading mechanism to limit greenhouse gas emissions. As a market-based solution, the CPRS is the lowest cost way to move Australia to the low carbon economy of the future. Implementing the CPRS represents the biggest structural economic reform since the opening up of Australia's economy in the 1980s and 1990s.

The Government has announced that the Scheme should have maximal practical coverage of greenhouse gas emissions and sectors. All greenhouse gases listed under the Kyoto Protocol will be covered from Scheme commencement. The CPRS will cover around 75 per cent of Australia's emissions. It will cover emissions from stationary energy, transport, fugitive, industrial processes, waste and forestry sectors.

The Government will also undertake a work program to enable it to determine whether or not it is practical to include agricultural emissions from 2015. The Government does not intend to include deforestation in the Scheme. Australian deforestation emissions have reduced markedly since 1990, largely due to increased protections against land clearing. Given the sporadic nature of remaining land clearing emissions, covering deforestation under the scheme would pose large practical difficulties. It also raises the risk of pre-emptive land clearing.

The Government will auction the majority (around 70 per cent) of the Schemes permits. The Government intends for all money raised from the Scheme to be used to help Australian households and businesses adjust to the Scheme and to invest in clean energy options.

The Government intends to guard against the risk of carbon leakage and provide some transitional assistance to emissions-intensive, trade-exposed (EITE) industries. The Scheme will provide assistance to EITE industries in the form of an administrative allocation of permits, linked to the EITE industry's output. Such assistance will be consistent with Australia's international trade obligations.

Complementary Policies

In addition to the CPRS, the Government's emissions reduction strategy has three other elements: the Renewable Energy Target, carbon capture and storage, and energy efficiency.

[2] The desirability of such goals were discussed in greater detail in Australia's submission on mitigation made to the AWG-LCA and AWG-KP in November 2008.

The Renewable Energy Target (RET) will ensure that 20 per cent of Australia's electricity is generated from renewable sources by 2020. This represents a four-fold increase on Australia's current commitments. While the CPRS will help bring renewable energy technologies into the market over time, the RET will accelerate their use. The RET is an important transitional measure that will support the development of a domestic renewable power industry and prepare the electricity sector for its contribution to the significant emissions reductions needed to tackle climate change. The RET is to be phased out between 2020 and 2030.

Carbon capture and storage (CCS) will be a key component of the global solution to climate change. The Government is supporting several projects currently underway in Australia and has also launched the Global Carbon Capture and Storage Initiative to accelerate the scaling up and deployment of CCS technology across the world.

Energy efficiency represents a significant opportunity to achieve low-cost abatement and could help cut future energy demand growth by as much as half. Australia's recent economic stimulus package included $3.9 billion towards improving energy efficiency in 2.7 million Australian homes. This represented the largest single investment in energy efficiency by any Australian Government to date. The Government will announce further energy efficiency measures before the start of the Scheme.

International carbon market linkages

The CPRS has been designed to link with international carbon markets with a preference for open trade within an effective global emissions constraint. No quantitative restrictions will apply to the use of eligible Kyoto units for compliance in the Scheme. However there will be constraints on the types of Kyoto units that will be eligible for acceptance in the Scheme.

The Government will allow entities to use eligible Kyoto units for compliance with Scheme obligations, in particular from the clean development mechanism (with the exception of tCERs and LCERs[3]) and the joint implementation (JI) mechanism. Initially, Australia will not host JI projects in sectors that are covered by the Scheme. In 2013 the Government will consider the scope for domestic offsets and JI projects in sectors that cannot be included in the Scheme.

For prudential reasons and as a way of reducing potential upside price risk, no exports of carbon pollution permits will be allowed at Scheme commencement. The Government's intention is to relax restrictions on linking with credible schemes and mechanisms as the Australian scheme matures. Exports will only be introduced with five years' notice.

Direct bilateral linking opportunities, including mutual recognition of compliance units and harmonization with the schemes of other countries and regions, will be considered on a case-by-case basis after the Scheme has been established. Such a link could be entered into with less than five years' notice where this was unlikely to lead to a significant change in carbon prices.

[3] tCERs – temporary Certified Emission Reductions, LCERs – Long-term Certified Emission Reductions.

PAPER NO. 1B: AUSTRALIA

Post-2012 Model Treaty Outline

Submission to the AWG-LCA and the AWG-KP

Summary of two options for the post-2012 treaty

This submission elaborates, by way of model treaty outlines, two possible legal options for the post-2012 outcome. It takes as its starting point the United Nations Framework Convention on Climate Change (the Convention) and the Kyoto Protocol, and builds on the lessons learnt from the implementation of these two treaties.

This submission addresses the structure rather than the substantive content of a post-2012 outcome. It is intended to complement and feed into the work of the AWGs and their Chairs.

This submission elaborates on Australia's earlier legal submission contained in FCCC/AWGLCA/2008/Misc.5/Add.2 (Part I). To recall, the first legal option consists of a single, new protocol that unifies action under the Convention and builds on the Kyoto Protocol (Model A). The second option entails two protocols in the form of an amended Kyoto Protocol and a new Protocol under the Convention (Model B).

Core elements of both models

The two options or models have elements common to both, with the intent of enabling commitments that do not differ in substance. It will be important for Parties' collective objective to be clearly expressed in both models. The models will need to address mitigation, adaptation and delivery commitments, actions and mechanisms, as well as reporting, compliance and institutional issues.

From the perspective of legal certainty, operational efficiency and simplicity, the most effective legal structure for a post-2012 outcome would be a single new protocol that unifies action under the Convention and builds on the relevant provisions of the Kyoto Protocol. Whilst a single treaty has evident advantages in terms of operational efficiency, legal certainty and simplicity, Australia could accept both models as the basis for further consideration.

Implications of each model

Single treaty

A single treaty (as per Model A attached) would establish a coherent framework for the post-2012 regime, enabling a robust environmental outcome. While it would build on the Kyoto Protocol framework, it would not necessarily replicate all Kyoto provisions. It would provide clarity in relation to the objectives of the post-2012 regime, would promote transparency and comparability of legal obligations for the post-2012 period, and would lead to more predictable outcomes.

A single treaty would readily accommodate the schedule and registry approach proposed by some Parties for capturing mitigation commitments and actions. The treaty could make provision for schedules to be adopted as annexes to the treaty, similar to those used in the World Trade Organisation and Gothenburg Protocol.[1] These schedules could record a Party's mitigation commitments and actions and provide a legally-binding framework as necessary. For example, some schedules might include Kyoto-style

[1] Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution to Abate Acidification, Eutrophication and Ground-Level Ozone.

quantified emission limitation and reduction obligations (QELROs) whereas others might include different approaches. These schedules taken collectively would represent a registry of commitments and actions.

A single treaty would facilitate negotiations. It would allow a level playing field during the negotiations, which would enable countries to properly assess comparability of effort and operationalise the principles of common but differentiated responsibility and respective capabilities. If key developed country mitigation commitments (under the amended Kyoto Protocol) were separated from commitments and actions relating to non-Parties to the Kyoto Protocol and advanced developing economies (under a new Protocol), it would be more difficult to assess comparability of effort, given such assessment would to take place across two negotiating fora.

A single track of negotiations could help achieve a reasonable and politically feasible balance both among the mitigation commitments and actions and between the mitigation, adaptation and financial commitments.

A single treaty would also provide much greater certainty during the implementation phase. It would allow the development of a single set of institutions and procedures applying to all Parties to the regime. This is particularly important for the measurement, reporting and verification obligations, where consistent principles would enable the efficient and effective collection and use of information. It would also simplify issues relating to compliance and dispute resolution, and would reduce the cost and complexity of operating two treaties on the same issue. It would further provide a strong basis to enhance the development of international climate law.

Two treaty outcome

By contrast, a two-track approach (Model B) potentially presents a number of short-term practical and political benefits. It could facilitate a conclusion on the post-2012 legal outcome within the current two-track negotiating framework of the AWGs. It could preserve the structure and content of the current Kyoto Protocol, providing Parties with a greater level of comfort given their familiarity with current commitments and obligations. It could reduce the risk of backtracking from current commitments and obligations, and would be more likely to preserve the institutional framework of the Kyoto Protocol.

A two-track outcome would separate mitigation commitments and actions for Kyoto Parties from those for non-Annex I Parties and non-Kyoto Protocol Parties (non-Kyoto Protocol Parties would be unlikely to ratify an amended Kyoto Protocol because they would be unable to participate in related decision-making). The separation would retain the division between Annex I and non-Annex I countries and potentially discourage a wider range of countries from adopting legally-binding economy-wide emissions reduction targets over time. It may also discourage Annex I Parties from ratifying the amended Kyoto Protocol.

A two-track outcome would also create difficulties with regard to the flexibility mechanisms. Non-Annex I Parties and non-Kyoto Protocol Parties which take on suitable commitments and actions should be granted access to the Kyoto Protocol flexibility mechanisms. Facilitating this access under a two-track outcome would require either a complex legal linkage between the amended Kyoto Protocol and the new Protocol, or a separate set of mechanisms for each Protocol.

Implementation of a two-track approach would be more complex than a single treaty approach, and therefore more likely to lead to difficulties regarding interpretation of rights and obligations. The two-track approach would therefore also increase the potential scope for uncertainty relating to differing legal interpretations. Such uncertainty could potentially be destabilising for the emerging carbon market.

Further, a two-track outcome would benefit from some form of legal linkage between the two Protocols to facilitate parallel implementation of the post-2012 package. This could be achieved, for example, through linked entry into force provisions.

Some countries have suggested that the output of the AWG-LCA should not involve a treaty-level instrument. If such an approach was taken, commitments and actions for non-Kyoto Parties could only be captured in decisions, rather than in legally-binding treaty text. Splitting commitments across treaty and non-treaty level instruments would weaken the global response by creating an unbalanced legal outcome.

One possible consequence of such an outcome is that some countries may not be in a position to agree to targets as ambitious as would otherwise be possible. Legal uncertainty could also reduce private sector confidence in the carbon market, and thereby reduce access to private sector resources for mitigation and adaptation.

Issues relating to the transition to the post-2012 treaty

Negotiations will also have to consider legal issues relating to coherence and consistency in the transition to the post-2012 regime. Whether the new commitments are integrated into a new Protocol, or whether they are split across a new Protocol and an amended Kyoto Protocol, there will need to be arrangements in place to provide the carbon market with a degree of legal certainty in relation to applicable rules.

The primary concern is to facilitate an outcome whereby the new Protocol, and any Kyoto Protocol amendments relating to a second commitment period, enter into force prior to the end of the first commitment period. At the same time, the legal framework relating to the accounting of emissions/removals and assigned amounts over the first commitment period, including provisions relating to QELROs, emissions trading and flexibility mechanisms will need to remain legally binding until such time as the accounting for the first commitment period has been completed.

In addition, the equivalent legal framework for the next commitment period may need to be provided some form of legal certainty prior to entry into force, to enable States and non-State actors to better manage the transition. This outcome may be achieved by including text that states that certain provisions shall have provisional effect for all State parties prior to entry into force. This would be in accordance with Article 25(1)(a) of the Vienna Convention on the Law of Treaties.

Implications for 2009 negotiations

These points raise significant implications for the conduct of the negotiations, particularly given that Parties have now moved into full negotiating mode.

As the Parties progress the Ad Hoc Working Group (AWG) work programs agreed at Poznan, they will have to give consideration to the legal aspects of their work. For example, will agreement on a certain issue need to be reflected in an amendment to the Kyoto Protocol, be part of a new Protocol or be addressed through COP/CMP decisions?

Under the AWG-KP, Parties have already made specific provision in their work program to discuss the legal implications arising from the AWG's work. Under the AWG-LCA, Parties will need to examine the same type of legal implications through their consideration of the Chair's document.

Parties could consider ways in which the two negotiating streams could work cooperatively to progress legal issues, facilitated by the two Chairs.

MODEL A

Preamble

Text could be modelled on the approach used in the Preamble of the Kyoto Protocol, including references to decisions 1/CMP.1 and 1/CP.13.

Definitions

The style of these provisions could be based on those contained in the United Nations Framework Convention on Climate Change (the Convention) and the Kyoto Protocol.

Objective

Provisions could express Parties' "shared vision for long-term cooperative action", supporting, but not duplicating, the ultimate objective of the Convention as set out in its Article 2. As mandated in the Bali Action Plan, the ambition of the shared vision should include a long-term global goal for emissions reductions. Provisions could also express, in general terms, the shared vision of adaptation, technology and finance.

Principles

Provisions could recall the principles set out in Article 3 of the Convention. Parties may also wish to agree to additional principles, to further guide their efforts to achieve the objectives of the Convention and this Protocol.

Mitigation

Provisions could detail how Parties intend to enhance and maximise action on mitigation of climate change. Provisions could establish a spectrum of nationally appropriate mitigation commitments and actions, accepted by all Parties as representing legitimate mitigation effort.

For example, economy-wide targets in the form of quantified emission limitation or reduction commitments could represent one end of the spectrum. The spectrum could also include economy-wide no-lose targets, sectoral targets (either legally-binding or no-lose) and low-carbon development strategies. Provision could also be made for recognising other mitigation actions, such as international research and development and financial contributions.[2] Article 2(1) of the Kyoto Protocol could provide a model for these provisions.

Provisions could accommodate different contributions by different types of countries, based on the principle of common but differentiated responsibilities and respective capabilities. Provisions could stipulate that countries with similar national circumstances should aim to undertake a similar level of mitigation effort.

Provisions could indicate those commitments and actions eligible for support. See outline of provisions on Financial resources, Technology cooperation, Market-based mechanisms, and a REDD mechanism. Provisions would also need to set out those commitments and actions that are to be measured, reported and verified in accordance with the provisions on Reporting and review.

Provisions would establish timeframes (for example, a commitment period) for the implementation of the mitigation commitments and actions. Provisions on related metrics would be contained in the Methodological issues article below.

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[2] Note, these are examples of possible commitments and actions and are not an exhaustive list.

The provisions would also need to address coverage, including gases, sectors/source categories. Provisions could follow the approach of the Kyoto Protocol, listing in an annex the greenhouse gases and sectors/source categories applicable to mitigation commitments and actions.

Schedule / registry approach

A system of schedules could offer one model for capturing mitigation commitments and actions consistent with the principle of common but differentiated responsibilities and respective capabilities. This could reflect the national schedule approach taken in the World Trade Organisation context and / or the action-specific approach of the Gothenburg Protocol.[3] Such schedules could be adopted as annexes to this Protocol, in order to provide a legally-binding framework as necessary.

A Party could inscribe in its schedule the commitments and actions they are bound to undertake as means to enhance their action on mitigation. As noted above, in addition to any quantified target, the schedules could include financial and technical assistance pledged by Parties or "matched" to meet mitigation commitments and actions undertaken by other Parties. These schedules taken collectively would represent a registry of commitments and actions.

Given the variety of commitments and actions that are likely to be undertaken by Parties, as well as the need to account for comparability of effort and national circumstances, these schedules could be negotiated through a 'request – offer' approach or an 'offer - review' approach. Provisions for the amendment of schedules could be drafted to provide the flexibility to enhance mitigation contributions throughout the commitment period (see provisions on the adoption and amendment of annexes to the Protocol, below).

Land use, land use change and forestry

Provisions could enable Parties to more fully realise the mitigation potential of the land use, land use change and forestry (LULUCF) sector. To this end, some Parties have proposed the provisions, supported by revisions to the sector's accounting rules, modalities and guidelines, align LULUCF with other sectors to focus exclusively on anthropogenic emissions and removals of greenhouse gases.

International aviation and maritime transport

As a minimum, provisions could reaffirm the responsibility of the International Civil Aviation Organization and the International Maritime Organization to develop measures relating to international aviation and maritime transport emissions, consistent with Article 2(2) of the Kyoto Protocol.

Joint fulfilment of quantified emission reduction or limitation commitments

Provisions could enable Parties to meet targets either individually or jointly, so as to accommodate the needs of regional economic integration organisations. Consistent with Article 4(5) of the Kyoto Protocol, individual commitments would remain legally binding in the event of a failure to meet the total combined level of emission reductions.

Market-based mechanisms, including flexibility mechanisms

Provisions could establish market-based mechanisms, including flexibility mechanisms, as a means of: contributing to the objective of this Protocol; assisting Parties in achieving sustainable development; and assisting Parties in giving effect to their mitigation commitments and actions at least cost. Provisions could also affirm Parties' commitment to building a comprehensive and well-functioning carbon market.

[3] Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution to Abate Acidification, Eutrophication and Ground-Level Ozone.

The mechanisms could include international emissions trading, an enhanced clean development mechanism (CDM) and joint implementation (JI), but could also include new mechanisms, such as sectoral trading, sectoral crediting and the REDD mechanism outlined below.

The provisions could clarify the scope and availability of the mechanisms to Parties, noting the linkages to the provisions on Mitigation above. For example, some Parties have suggested that provisions should allow for CDM credits to be awarded against sectoral or technology-based benchmarks. Parties could consider what modalities and procedures would be necessary to support these enhanced mechanisms, including governance arrangements. Parties could also consider the extent to which modalities and procedures are elaborated in this Protocol on the one hand, and in decision text on the other.

REDD (reducing emissions from deforestation and degradation in developing countries) mechanism

Provisions could accommodate the establishment and operation of a REDD mechanism. The provisions would assert that the objective of the mechanism is to mobilise investment on the scale necessary to realise the full potential of REDD to contribute to the ultimate objective of the Convention. Some Parties have proposed that the mechanism could include deforestation, afforestation and reforestation.

Adaptation

Provisions could build on existing principles in the Convention and Kyoto Protocol related to adaptation. The provisions would define, and where appropriate, establish mechanisms to support the most vulnerable developing countries in identifying, prioritising and communicating their adaptation needs and to support the implementation of adaptation actions.

This Protocol could include principles relating to the scaling up of financing for adaptation. The generation of financial resources for adaptation could be addressed under the general financial resources provisions. However, adaptation-specific principles may also be established, including those relating to broad guidelines for adaptation actions, the governance and disbursement of funds, the scope of costs and activities to be funded, methods for reviewing implementation and outcomes, and any specific requirements relating to the prioritisation of support to the most vulnerable Parties.

Spillover effects

If required, provisions could involve the establishment of principles on how Parties can best address spillover effects.

Financial resources

Provisions could establish architecture for the generation of new financial resources; set out the governance arrangements for such resources; and establish principles for the disbursement of funds.

To generate financial resources, provisions could establish principles relating to how existing and potentially new mechanisms could contribute to the generation of such funds. Provisions could continue to recognise, in accordance with Article 11(5) of the Convention, the importance of financial and technical contributions, including in-kind support, both within and outside the Convention framework.

Provisions could establish architecture to govern support in an efficient and coherent manner, while allowing for issue-specific provisions and governance as appropriate. Governance arrangements would need to be accountable and transparent, applying principles of measurement, reporting and verification and incorporating lessons learnt from existing architecture. Provisions would establish the role of the CMP to this Protocol, including the level of direction it would have over various elements of the architecture.

Principles relating to the disbursement of funds would be included in this Protocol's provisions and could be elaborated in subsequent CMP decisions.

Technology cooperation

Provisions could set out principles for enhancing technology cooperation. Provisions could elaborate on the Convention's facilitative role in technology cooperation and recognize the existing frameworks and mechanisms relating to technology. Provisions could address the role of the Experts Group on Technology Transfer (EGTT). Governance arrangements would need to be accountable and transparent, applying principles of measurement, reporting and verification and incorporating lessons learnt from existing architecture.

Given the need for financing for clean technology in this Protocol, the provisions might indicate linkages to the financial resources provisions outlined above.

Reporting and review

Inventory reporting

Provisions could specify minimum annual national inventory reporting to be undertaken by all Parties, and related review arrangements. These provisions would be designed to provide the robust, comprehensive data on anthropogenic greenhouse gas emissions and removals considered by the Parties to be integral to effectively tracking their progress towards the Convention's ultimate objective. To better facilitate any capacity building required for submission of the inventories on an annual basis, the provisions could stagger commencement of the reporting requirement.

Mitigation commitments and actions

Provisions could also detail how the mitigation commitments and actions undertaken by Parties in accordance with the Mitigation article would be measured, reported and verified. The provisions would recognise the need for robust, high quality and transparent arrangements to assess Parties' implementation of their mitigation commitments and actions, and instil confidence in the credibility of the reported outcomes. The measurement, reporting and verification (MRV) arrangements detailed in the provisions could draw on lessons learned from implementation of the Convention and Kyoto Protocol reporting and review arrangements, in particular the independent third party review arrangements of Article 8 of the Kyoto Protocol. The provisions could also be designed to harmonise, to the extent possible, the timing and format of reporting and review arrangements under this Protocol and the Convention.

Provisions could recognise the need to build some Parties' capacity to implement the Article and indicate the linkages with the provisions on Financial resources and Technology cooperation in this regard.

Methodological issues

Provisions would specify the metric to calculate the carbon dioxide equivalence of anthropogenic emissions and removals of the gases covered by this Protocol. Provisions would also specify the procedure by which each gas-specific metric and the emission/removal estimation methodologies for sectors/source categories would be adopted to determine fulfilment of mitigation commitments and actions. The approach in Article 5 of the Kyoto Protocol could provide the basis for such provisions.

Compliance procedure

Noting the alternative approach outlined in the provisions on the Multilateral Consultative Process below, provisions could require the CMP to develop procedures and institutional mechanisms to promote

compliance with this Protocol, determine cases of non-compliance, and secure timely return to compliance. The Parties could consider the extent to which these procedures and mechanisms are elaborated in this Protocol, and in decision text.

Multilateral consultative process

The provisions on procedures and institutional arrangements for the promotion of compliance proposed for inclusion in the above article, could alternatively be incorporated into this Article.

Immunities for persons serving on bodies constituted under the Protocol

Provisions could confer immunities on persons serving on bodies constituted under this Protocol in their official capacity, as a means to secure participation by the most qualified persons and the ability of such persons to discharge their official duties in a professional and conscientious manner.

Institutional arrangements *[previously COP/MOP, Secretariat, Subsidiary Bodies]*

Provisions could confirm that the Conference of the Parties would serve as the Meeting of the Parties to this Protocol (CMP), that is, as a functionally integrated but legally distinct body (as per Article 13 of the Kyoto Protocol). Provisions could also address the functions of the new CMP and outline the rules concerning participation of non-Parties and other organisations; the timing of sessions; and rules of procedure.

A provision could nominate the secretariat of the Convention to serve as the secretariat of this Protocol.

Provisions could establish that the Subsidiary Body for Implementation (SBI) and the Subsidiary Body for Scientific and Technological Advice (SBSTA) will serve as the SBI and SBSTA of this Protocol. Provisions could also be made for Parties to establish new subsidiary bodies as necessary.

Dispute settlement procedure

While not strictly necessary, provisions could apply the provisions of Article 14 of the Convention on settlement of disputes between any two or more Parties concerning the interpretation or application of the Convention, *mutatis mutandis*, to this Protocol.

Review of the Protocol

Provisions could require the CMP to review this Protocol at regular intervals, based on the best available scientific, technical, social and economic information relevant to climate change and its impacts. The provisions could require the CMP to take appropriate action, based on the findings of the review. The provisions could also specify the CMP at which the first review should take place.

Amendments to the Protocol

Provisions could accommodate the amendment of this Protocol in line with the arrangements under Article 20 of the Kyoto Protocol and Article 15 of the Convention.

Adoption and amendment of Annexes to the Protocol

Provisions could accommodate the adoption and amendment of the annexes to this Protocol in line with the arrangements under Article 21 of the Kyoto Protocol. Reflecting recent proposals to facilitate Parties' efforts to enhance their individual mitigation contribution within the timeframe set out in the provisions on Mitigation, the provisions could also accommodate an accelerated amendment procedure. Key elements of such an accelerated procedure could be that: (a) an amendment to change a mitigation

commitment or action of a particular Party could only be proposed by that Party; (b) the amendment must add a new commitment or action, or enhance an existing commitment or action; and, (c) such an amendment must first be adopted by the CMP.

Right to vote

Provisions could confirm that each Party shall have one vote, except where regional economic integration organisations are concerned, in which case the practice could follow that outlined in Article 18 of the Convention and Article 22 of the Kyoto Protocol.

Depositary

Provisions would establish the Secretary-General of the United Nations as Depositary of this Protocol.

Signature, ratification, acceptance or approval

This provision would enable signature, ratification, acceptance or approval by States and Regional Economic Integration Organisations (REIOs) which are Parties to the Convention. Participation by REIOs would be governed in a manner consistent with Article 22 of the Convention and Article 24 of the Kyoto Protocol.

Entry into force

Provisions should compel participation of major emitters and key economies to help achieve a post-2012 outcome that has environmental integrity and encompasses a global response. The entry into force requirements of this Protocol could build on the 'double-trigger' model of Article 25(1) of the Kyoto Protocol, involving ratification by a minimum number of Parties and ratification by a minimum percentage of Annex I emitters. Negotiations could further refine each of these triggers so that they reflect current political and environmental needs.

Reservations

This provision would prevent reservations to this Protocol.

Withdrawal

In line with Article 25 of the Convention and Article 27 of the Kyoto Protocol, this provision could allow Parties to withdraw from this Protocol after a set period of time and establish a minimum time frame for any such withdrawal to take effect.

Authentic texts

This provision would establish equal authenticity for the deposited texts in all six UN languages.

Annexes

To promote clarity as to this Protocol's coverage of greenhouse gases and sectors/source categories, it could contain an annex based on Annex A of the Kyoto Protocol. Modifications to Annex A proposed by Parties to date would result in the annex under the new Protocol including nitrogen trifluoride; individually listing each of the HFCs and PFCs contained in table 2.14 of the errata of the IPCC Fourth Assessment Report of Working Group I (AR4 table 2.14 errata) (http://www.ipcc.ch/pdf/assessment-report/ar4/wg1/ar4-wg1-errata.pdf); and, citing both the common name and chemical formula of each gas.

MODEL B

Parties should aim to achieve under a Model B approach (amended Kyoto Protocol and new Protocol) the environmental, developmental and economic outcomes that would be achieved under a Model A approach.

AMENDED KYOTO PROTOCOL	*NEW PROTOCOL*
Preamble	**Preamble**
Existing KP provisions retained.	Similar to Model A, with the exception of the reference to decision 1/CMP.1.
Definitions	**Definitions**
Amendments unlikely to be required.	Based on the style of the Kyoto Protocol provisions.
Objective	**Objective**
Provisions could be added to complement the provisions of the new Protocol.	Similar to Model A, these provisions would express Parties' "shared vision for long-term cooperative action", supporting, but not duplicating, the ultimate objective of the Convention. The provision could refer to the respective roles of the new Protocol and the Kyoto Protocol in achieving the ultimate objective. The provision could also establish a long-term global goal for emissions reductions.
Commentary: If the Kyoto Protocol was not amended to add the suggested provisions, the Model B approach would reduce the utility of agreeing a long-term global goal, as a large element of the means to achieve that goal would fall outside of the new Protocol.	
Principles	**Principles**
No change.	Provisions in the new Protocol could recall the principles set out in Article 3 of the Convention. Parties may also wish to agree to additional, new principles, but these could not be inconsistent with Article 3 principles.
Mitigation	**Mitigation**
KP would continue to form the basis of mitigation commitments for those Parties whose national circumstances enable them to take on quantified emission limitation or reduction commitments. At a minimum, amendments would be required to Annex B and some parts of Article 3. With regard to international aviation and maritime transport and the LULUCF sector, KP amended as per Model A.	Provisions could, in a similar fashion to Model A, establish a spectrum of binding nationally appropriate mitigation commitments and actions. The other elements of the mitigation provisions of Model A could also be taken up in the new Protocol. With regard to international aviation and maritime transport, may also need to contain provisions as per Model A, so that this commitment applies to the broadest possible number of Parties. With regard to the LULUCF sector, would include provisions as per Model A.
Commentary: In separating quantified emission limitation or reduction commitments from other mitigation commitments and actions, the Model B approach would make a comparison of mitigation commitments and actions across Parties more difficult.	

Joint fulfilment of quantified emission reduction or limitation commitments	**Joint fulfilment of quantified emission reduction or limitation commitments**
Existing KP provisions retained.	Mirror KP provisions (as per Model A).
Flexibility mechanisms	**Flexibility / Market-based mechanisms**
The Kyoto Protocol provisions establishing the flexibility mechanisms (Articles 6, 12 and 17) would be amended in line with the consensus emerging from the AWG-KP discussions on this issue. The provisions would also be amended to link to mitigation commitments and actions taken under the new Protocol.	Provisions for eligibility to access KP provisions.
Commentary: The aim is to enable all Parties that take on suitable commitments and actions to participate in all market-based mechanisms. This aim could be achieved under Model B by: (i) provisions in the new Protocol on criteria by which Parties to that Protocol could access the market-based mechanisms of the amended KP; and, (ii) amending the KP's provisions linking the flexibility mechanisms to mitigation commitments and actions taken under the new Protocol. Such cross–referencing between agreements is a novel and relatively untested approach. Model B would establish the bodies to govern the flexibility mechanisms of both Protocols under the amended KP. This approach should reduce complexity, but would also mean that not all Parties have access to the decision-making processes of the bodies. Alternatively, a separate set of governance bodies could be established under each Protocol, which would have its own inherent difficulties. *Model B also makes the design of the REDD mechanism vis a vis its possible linkages with the existing market-based mechanisms more complex. See next section for further detail.*	
	REDD mechanism
	As per Model A.
Commentary: The REDD mechanism logically sits in the new Protocol given its aim is to provide developing countries with a vehicle through which to contribute to mitigation. To mobilise the investment necessary to support developing countries' REDD, however, the mechanism may be designed to generate units that could be fully fungible in the carbon markets supported by both Protocols. Such a design would present greater challenges under Model B. Linking the new Protocol's REDD mechanism with the carbon markets supported by the amended KP could, inter alia, require the revision of Article 17 modalities and procedures. Non-Parties to the amended KP could not participate in related decision-making and the approach would constitute another instance of the relatively novel and untested approach of cross-referencing between agreements.	
Adaptation	**Adaptation**
Parties would need to reconsider the relevance of Article 11(2) of the KP.	As per Model A.
Impact of response measures	**Spillover effects**
Elements of Articles 2(3) and 3(14) of the KP may not remain relevant and could be amended.	As per Model A.
Financial resources	**Financial resources**
Article 12(8) of the KP may need to be amended to reflect any outcome relating to the share of proceeds negotiations.	As per Model A above. If the generation of resources relates to mechanisms involving the flexibility mechanisms or the issuing of AAUs, there would need to be linkages between these provisions and the relevant provisions of the amended KP.
Commentary: It is important that a broad spectrum of both donor and recipient countries ratify the treaty containing provisions on financial resources. In order to encourage such broad ratification, entry into force provisions could be appropriately crafted (see provisions below). However it may be legally difficult to split provisions relating to the generation of resources in one treaty and the mechanism for governing and disbursing such resources into another.	

Technology cooperation	**Technology cooperation**
Existing KP provisions retained.	As per Model A.
Reporting and review	**Reporting and review**
Existing KP provisions (Articles 5, 7 and 8) retained.	As per Model A.
Commentary: The Model B approach provides less scope for streamlining MRV arrangements and therefore associated resource requirements, placing a greater burden on the already limited technical, administrative and institutional resources of the Parties and their expert reviewers. This could in turn lower Parties' ambitions with respect to their mitigation commitments and actions. Model B also increases the complexity associated with setting deadlines for reporting and verification and maintaining an appropriately consistent approach to the MRV of quantifiable commitments and actions recorded in both instruments.	
Methodological issues	**Methodological issues**
Existing KP provisions retained.	Provisions could specify that the metrics and estimation methodologies used in determining fulfilment of mitigation commitments and actions would be those adopted by the new Protocol's CMP, mirroring the procedure contained in the existing KP provisions.
Commentary: It would be more difficult to promote consistency of methodologies and metrics under Model B, and therefore more difficult to promote comparability and transparency of the resulting greenhouse gas data, unless Parties under the new Protocol were willing to adopt decisions of the amended KP's CMP.	
Non-compliance	**Non-compliance**
Existing KP provisions retained.	Provisions would require the CMP adopt procedures and institutional mechanisms, modelled on those of the KP, to promote compliance with the new Protocol, determine cases of non-compliance, and secure timely return to compliance.
Commentary: The Model B approach would involve two compliance bodies, potentially applying different procedures and mechanisms. This would complicate efforts to promote consistent and equitable treatment of similar compliance issues. It could be particularly problematic where an instance of potential non-compliance before a compliance body under one Protocol concerned market-based mechanisms accessible to Parties under both Protocols. Two compliance bodies would also increase demands on existing institutional arrangements (the secretariat).	
Multilateral consultative process	**Multilateral consultative process**
Existing KP provisions retained.	Provisions could require the CMP to consider the development of a multilateral consultative process, in light of the compliance procedures and mechanisms adopted under the above article.
Immunity of persons serving on bodies established under the Protocols	**Immunity of persons serving on bodies established under the Protocols**
Provisions added per Model A, covering persons serving on specified bodies constituted under the amended Kyoto Protocol and the new Protocol.	Provisions would mirror those contained in the amended KP.
Commentary: The Model B approach, compared to Model A, may provide less protection to persons serving on the bodies of the two Protocols. This is because it may not be possible, owing to some Parties' domestic arrangements for the conferral of immunities, to include in the provisions of the two Protocols the requirement that Parties to confer immunity on persons serving on bodies established under both Protocols, regardless of whether they are a Party to both Protocols.	

Institutional arrangements	**Institutional arrangements**
Existing KP provisions retained.	Provisions would need to address the same issues as outlined under this heading for Model A.
Commentary: Requiring existing institutional arrangements (the COP and the secretariat) to service a second, separate Protocol would increase the burden on the UNFCCC secretariat. In contrast, a Model A approach could eventually result in streamlining of institutional arrangements.	
Dispute settlement	**Dispute settlement**
Existing KP provisions retained.	As per Model A.
Review of the Protocol	**Review of the Protocol**
Existing KP provisions retained.	As per Model A.
Amendments	**Amendments**
Amendments unlikely except as a means to link the entry into force provisions of both Protocols.	As per Model A.
Commentary: see commentary below on entry into force provisions.	
Adoption and amendment of Annexes	**Adoption and amendment of Annexes**
Provisions amended to add an accelerated amendment procedure to enable any Party to assume mitigation commitments or actions, or enhance existing commitments or actions, during the timeframe agreed under the Mitigation article.	As per Model A.
Right to vote	**Right to vote**
Existing KP provisions retained.	Based on Kyoto Protocol provisions.
Depositary	**Depositary**
Existing KP provisions retained.	As per Model A.
Signature, ratification, acceptance or approval	**Signature, ratification, acceptance or approval**
Existing KP provisions retained.	As per Model A.
Entry into force	**Entry into force**
Existing KP provisions retained.	As per Model A. In addition, it may be useful to include provisions linking its entry into force with the entry into force of the amendments to the KP, discussed below.
Commentary: The provisions of an amended Kyoto Protocol and a new Protocol may benefit from simultaneous entry into force, as the two legal instruments are likely to be negotiated as an indivisible package, and some provisions (eg financial resources, flexibility mechanisms, REDD mechanism) require the broadest possible ratification to be fully effective. However, linking entry into force provisions presents challenges owing to the apparent lack of precedent in international law and the current rules for amendments to the Kyoto Protocol. *There may be alternatives to establishing an explicit legal linkage between the entry into force provisions. Entry into force might be achieved within similar time frames by building sufficient incentives into each treaty so that countries would choose to become Parties to both, rather than just one.*	

Reservations	**Reservations**
Existing KP provisions retained.	As per Model A.
Withdrawal	**Withdrawal**
Existing KP provisions retained.	As per Model A.
Authentic texts	**Authentic texts**
Existing KP provisions retained.	As per Model A.
Annex A	**Annex A**
Amended per Model A.	As per Model A.

PAPER NO. 1C: AUSTRALIA

Economic cost as an indicator for comparable effort

Submission to the AWG-KP and AWG-LCA

This submission addresses the economic costs of mitigation as one of the relevant indicators for comparable effort. It presents results of economic modelling by the Australian Treasury, which was an important input into Australia's decision to reduce emissions by between 5 and 15 per cent on 2000 levels by 2020.

All developed countries should make mitigation commitments that represent a comparable effort, taking account of national circumstances, as part of the post-2012 outcome. Numeric indicators can play a useful role in aiding understanding of comparable effort, including national circumstances, and in assessing the relative ambition of country's mitigation commitments.

It is important that indicators for comparable effort are robust, relevant, impartial and credible. Getting 'comparable effort' right will be crucial to the success of the post-2012 outcome, and is therefore critical to achieving the ultimate objective of the Convention to prevent dangerous anthropogenic interference with the climate system.

A number of factors are relevant to assessing comparability and no single indicator can by itself provide a comprehensive picture of the particular national circumstances of each Party. We note recently published European Council Conclusions, which list indicators such as capacity to pay, emission reduction potential, domestic early action and population trends.[1] With respect to cost metrics, such as capacity to pay and economic costs, Australia notes that the cost of mitigation needs to be considered in the context of a country's capacity to pay, and alongside other relevant indicators. Australia's November 2008 submission to the AWG-LCA and AWG-KP on mitigation identified the aggregate economic cost of meeting national mitigation targets as one important measure.[2]

Economic cost of mitigation as an indicator of comparable effort

The 'economic cost of mitigation' refers to the overall impact on national economic welfare arising from meeting national mitigation commitments. While impacts vary across sectors within an economy, it is the aggregate (whole-of-economy) costs that are directly relevant to assessing comparability of effort of countries' national-level commitments. Aggregate economic cost reflects the size of a country's structural adjustment task; that is, the effort required by a country to move to a low-carbon economy.

The flexibility mechanisms of the Kyoto Protocol allow countries to meet national commitments through a cost-effective mix of domestic and overseas abatement. In this environment, aggregate economic cost (the cost to the economy as a whole) is more relevant to assessing comparability of effort than marginal cost (the cost of reducing emissions per tonne) of domestic mitigation opportunities. This is because the market can equalise the marginal costs of all participating countries. As a result, countries that have fewer opportunities for low cost domestic mitigation may meet ambitious targets at low cost to the economy as a whole by purchasing credits in the market.

It is also important to note that in a market environment, the overall cost to an economy is a function of both domestic action and transfers from international trade in emission rights. As a result, measures of

[1] See *Council Conclusions on the further development of the EU position on a comprehensive post-2012 climate agreement* 2928th Environment Council Meeting Brussels, 2 March 2009.
[2] This submission can be accessed at http://unfccc.int/resource/docs/2008/awg6/eng/misc04a01.pdf

comparable effort need to capture the effect of international emissions trading. This means that national production or income (GNP/GNI) is more relevant than domestic production (GDP).[3]

The economic costs of mitigation vary significantly across countries, due to differences in national circumstances, including industry profile, resource endowment and mitigation potential.[4] The share of energy- and emission-intensive industries in an economy determines the extent of economic restructuring and/or technological transformation required. This may be reflected in the economic cost of meeting a given national commitment.

One way to better reflect comparability of effort is to differentiate national emission reduction commitments according to relative economic costs.

Australia's economic modelling of post-2012 mitigation action

Australia has an established tradition of using quantitative economic analysis as an important input to major policy decisions. In setting its 2020 target range, the Australian Government drew on one of the largest and most complex economic modelling projects undertaken in Australia.[5] This project, led by the Australian Treasury, contributes to a growing and evolving body of international analysis of comparable effort and cost metrics.[6] The project investigated the potential economic impacts of reducing emissions over the medium and long term, through analysis spanning global, national and sectoral scales.

The Treasury used economic models to examine illustrative global mitigation scenarios and a "no-mitigation" reference case, examining the economic costs to various countries and regions. Two of the mitigation scenarios, CPRS -5 and CPRS -15 (CPRS – Carbon Pollution Reduction Scheme), assume a gradually evolving global framework, with national commitments and international emissions trading developing over time. For the purposes of the modelling, it was necessary to make assumptions about country actions. For simplicity, national commitments reflect each country and region making an equal reduction in emissions, relative to the no-mitigation reference case. Atmospheric greenhouse gas concentrations stabilise at 550ppm and 510ppm carbon dioxide-equivalent respectively.

Table 1 below sets out the modelling assumptions and results for some national and regional targets in the CPRS scenarios, and the associated economic costs. The targets are shown as a percentage change relative to both the existing Kyoto Protocol commitments for the first commitment period, and relative to 1990. The economic costs are shown as the percentage change in GNP relative to the no-mitigation reference case. It is important to note that these costs do not include the economic costs of climate change impacts, or the economic benefits of reducing climate change risks. Nor do they in anyway reflect on the suitability of 550ppm or 510ppm as appropriate levels of global ambition.

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[3] Australian Government 2008 *Australia's Low Pollution Future – the Economics of Climate Change Mitigation*, p. 18.

[4] This difference in economic costs is well established in the literature, for example IPCC 2007 *Fourth Assessment Report, Working Group 3 Summary for Policy Makers*, p. 11; Netherlands Environmental Assessment Agency 2008 *Exploring comparable post-2012 reduction efforts for Annex I countries*, p. 61; and, Pew Centre 2008 *Interim results on Modelling post-2012 climate policy scenarios*, available at http://www.pewclimate.org/post2012modeling.

[5] Full and summary versions of the modelling report *Australia's Low Pollution Future – the Economics of Climate Change Mitigation* are available online at http://www.treasury.gov.au/lowpollutionfuture/.

[6] See footnote 4. Other literature on this issue includes (but is not limited to) OECD 2008 *DRAFT Metrics to measure mitigation potential and to compare mitigation effort: exploring the fundamental questions*.

TABLE 1: Targets and costs: modelling assumptions and results at 2020[7]

	Target *percentage of 1990 emissions*		**Cost**
CPRS-5	**change from Kyoto commitment**	**change from 1990**	***% change from reference GNP***
Australia	-12	-4	-1.1
Canada	+17	+11	-1.1
Japan	-15	-21	-0.2
United States	n.a.	+5	-0.3
European Union	-27	-34	-0.4
Russia and CIS	-25	-25	-3.6
World			-0.7
CPRS-15			
Australia	-22	-14	-1.6
Canada	+5	-1	-1.5
Japan	-23	-29	-0.4
United States	n.a.	-6	-0.4
European Union	-34	-41	-0.6
Russia and CIS	-33	-33	-5.3
World			-0.9

Differentiation of targets helps reduce cost differences, ensuring greater comparability of national efforts. The analysis shows that Australia faces high economic costs, relative to most other developed countries, due to its large share of emission- and energy-intensive industries and a dominance of low-cost coal in electricity generation. Despite this, Australia is willing to commit to strong action because it recognises that the costs of inaction will be greater than the costs of action. Australia's costs are higher than both Japan's and the European Union's, despite being allocated smaller percentage reductions from 1990 levels in all of the scenarios. These broad results are typical of modelling by other groups. They highlight that while the reduction from 1990 is a convenient common way to express an emission target, it is not necessarily informative about the degree effort required to achieve that target.

If Australia had equal targets to those of Japan and the European Union (in percentage reductions on a 1990 baseline), the cost differences would be even greater. This is also the case for fossil-fuel producing countries like Canada and Russia, which would face comparable or higher economic costs than Australia.

During the course of 2009, Australia intends to provide further input on the matter of comparable effort by all countries, including all advanced economies, as part of a comprehensive, effective and fair post-2012 outcome.

[7] Sources: KP base year data for 1990 emissions were used except where unavailable; UNFCCC 1990 emissions including LULUCF was used for Belarus and the United States; European Union excludes Bulgaria and Romania, and includes Cyprus and Malta; European Union base year data uses the 23 countries which are in Annex I (ie excludes Cyprus and Malta); the Russia and CIS (Commonwealth of Independent States) target has been calculated using data for the Russian Federation, Belarus and Ukraine only. No target is shown for the United States as it has not ratified the Kyoto Protocol.

PAPER NO. 1D: AUSTRALIA

Emissions Trading and the Project-based Mechanisms

Submission to the AWG-KP and the AWG

Australia draws attention to its previous submissions on possible improvements to the flexibility mechanisms[1] and welcomes the opportunity to provide additional views to the AWG-KP and AWG-LCA.

Comprehensive and well-functioning carbon markets will assist countries to commit to, and achieve, ambitious mitigation objectives by facilitating least-cost abatement and providing incentives for the development and diffusion of low carbon technologies. Expanding and improving the flexibility mechanisms will be an integral part of building an effective international carbon market. As noted in our previous submission, Australia proposes that improvements to the mechanisms should be designed to increase environmental effectiveness and economic efficiency.

In light of these broad principles, Australia wishes to highlight a number of matters of particular relevance to the current discussion. Further Australian views on the proposals contained in annexes I and II of FCCC/KP/AWG/2008/5 are included in the attached paper.

Support for ambitious differentiated mitigation commitments and actions

The flexibility mechanisms should support the more ambitious differentiated mitigation commitments and actions of the post-2012 outcome. The flexibility mechanisms are a means of achieving our climate change mitigation objectives, not an end in themselves. It is therefore essential that the flexibility mechanisms negotiations are closely coordinated with the discussions on further mitigation commitments and actions for developed countries in the AWG-KP, and for developing countries and non-Kyoto Parties in the AWG-LCA.

The current mechanisms are designed to accord with the bifurcated structure of the Kyoto Protocol, in which one group of countries has economy-wide binding emission targets and another group has no quantified emission limits. An effective climate change response will require more ambitious mitigation objectives by all countries. The post-2012 outcome will need to reflect a wide range of differentiated mitigation commitments and actions that take account of the national circumstances and respective capabilities of particular Parties. The flexibility mechanisms should be developed to support these new commitment structures.

This suggests that the pure offset approach of the CDM may no longer be suitable for all developing countries in the post-2012 outcome. New mechanisms may need to be developed to facilitate a net contribution to mitigation, in accordance with the national circumstances and respective capabilities of host countries. Sectoral crediting and sectoral trading could be two such mechanisms. These mechanisms may be a way of increasing the scope of the carbon market to finance mitigation activities in developing countries (see further comments on proposals I.E, I.F and III.A in the attached document).

To promote a consistent and effective post-2012 outcome, it is important that every effort is made to ensure that all appropriate market mechanisms are accessible to all Parties that take on suitable commitments and actions, regardless of the forum of these discussions and regardless of the eventual legal form of the post-2012 outcome.

[1] FCCC/KP/AWG/MISC.1/Add.5 and FCCC/KP/AWG/MISC.7/Add.1

Comprehensive coverage

An effective, efficient and fair response to climate change will require all countries and all sectors to be engaged in the task of emissions reduction. It is important that the full range of abatement opportunities is available to the market. The flexibility mechanisms should therefore cover as many sectors and activities as possible. In particular, effective treatment of reduced emissions from deforestation and forest degradation in developing countries (REDD) and other forest-related activities in a post-2012 outcome could make a significant contribution to global mitigation efforts: recent modelling by Australia indicates that the inclusion of REDD and other forest-related activities in a post 2012 outcome could reduce global mitigation costs by 20 to 25 per cent. Australia intends to make a substantial contribution on REDD in the negotiations (see further comments under I.A in the attached document and Australia's submission to the AWG-LCA on REDD).

The flexibility mechanisms should be technology-neutral and not prescribe or proscribe particular technologies. For example, carbon capture and storage (CCS) should not be excluded from the flexibility mechanisms. CCS is expected to be a key technology for reducing greenhouse gas emissions. Fossil fuels, especially coal, are likely to remain a major source of the world's energy in the coming decades. A wide range of global mitigation studies project that CCS will deliver a significant share of global emissions reductions. CCS will be an important technology for many developing countries and the flexibility mechanisms provide incentives for technology cooperation and diffusion between developed and developing countries. Inclusion of CCS in the flexibility mechanisms will support the ability of developing country Parties to choose nationally appropriate development paths, including the choice not to deploy CCS. Australia notes that it is, and should remain, the prerogative of host Parties to determine which projects/technologies are appropriate for their territory.

Governance

Effective and efficient governance and institutional arrangements are critical to ensuring that the objectives of the flexibility mechanisms are delivered in a transparent, efficient, timely and accountable fashion. Every effort should be made to increase administrative simplicity and minimise transaction costs.

Governance arrangements will need to be developed for new flexibility mechanisms, such as sectoral crediting. In doing so, Parties should be careful not to duplicate roles, functions and processes, but also be prepared to learn from experiences in the first commitment period.

Australia considers that there is a good case to re-examine the structure and operation of the CDM and its project approvals system to facilitate an increased flow of crediting proposals post-2012.

ATTACHMENT

Additional comments on the proposals in annexes I and II of FCCC/KP/AWG/2008/5

ANNEX I

I. A. Include other land use, land-use change and forestry activities

Australia supports including a broader range of land use, land-use change and forestry (LULUCF) activities in the flexibility mechanisms. The definitions for any new LULUCF activities included in mechanisms must be consistent with the activity definitions agreed for Parties with economy-wide mitigation targets. The inclusion of additional eligible activities should be in a way that is rigorous and robust, accounts for anthropogenic emissions and removals at the time they occur, and be policy relevant.

Increased capacity to measure and verify emissions reductions since adoption of the Kyoto Protocol allow for the development of a more comprehensive and effective approach to LULUCF, in particular forest-related activities (A/R activities and REDD). Australia believes that market-based approaches are likely to be the most effective and efficient way of addressing forest-related emissions in developing countries. Australia intends to make a substantial contribution on these matters in the negotiations and welcomes further discussion of them in both the AWG-KP and the AWG-LCA.

I.B. Introduce a cap for newly eligible land use, land-use change and forestry activities

Australia does not support a cap on eligible LULUCF activities under the flexibility mechanisms. All genuine abatement activities should be included in the flexibility mechanisms without restriction. Placing undue limitations on particular activities will increase the cost of abatement to the global economy.

I.C. Include carbon dioxide capture and storage

Australia draws attention to its submissions to the SBSTA regarding approaches to including CCS in the flexibility mechanisms. Australia reiterates that the flexibility mechanisms should be technology-neutral and not prescribe or proscribe particular technologies. For example, CCS is expected to be a key technology for reducing greenhouse gas emissions, given that fossil fuels, especially coal, are likely to remain a major source of the world's energy in the coming decades. A wide range of global mitigation studies project that CCS will deliver a significant share of global emissions reductions.

Australia acknowledges that some Parties have concerns about certain aspects of the inclusion of CCS in the flexibility mechanisms. These concerns appear to centre around issues relating to: long-term liability, standards for monitoring, and monitoring and accounting for any seepage from the storage reservoir. Australia recognises that addressing these issues is of critical importance in ensuring that CCS projects meet appropriate social, health, safety, and environmental requirements.

CCS activities must be committed to protecting the environment, providing community confidence and providing certainty for investors on safe and secure geological storage of greenhouse gases. As such, the following issues should be addressed in any CCS-related Project Design Document:

- conformity with all relevant national and international laws, policies and regulations of the host government and any other territories that fall within the project's boundaries;
- any transboundary implications of potential leakage and other potential liability issues under appropriate national and international regulatory mechanisms;
- application of appropriate monitoring, reporting and verification procedures;
- clear allocation of short-, medium- and long-term liabilities;

- fully developed operational procedures and plans, including strategies and procedures to address any possible leakage risks;
- procedures for the proper and safe sealing of storage reservoirs; and
- specification of closure and decommissioning plans.

These issues are of course in addition to those issues such as additionality and stakeholder consultation which must be addressed by all CDM Project Design Documents.

The CDM Executive Board should establish appropriate guidelines and methodologies that give effect to the above mentioned principles.

I.E Introduce sectoral CDM for emission reductions below a baseline defined at a sectoral level; and I.F Introduce a sectoral crediting of emission reduction below a previously established no-lose target

Sectoral crediting along with sectoral trading (see III.A) may be a way of increasing the scope of carbon markets to finance mitigation activities in developing countries. Such an approach would involve developing countries agreeing to either appropriate sectoral baselines or no-lose targets. A country would then receive credits for any reductions beyond the baseline or target. Where appropriate, and in accordance with the national circumstances and respective capabilities of the host Party, the baseline or target could be set to facilitate a net mitigation contribution.

Sectoral crediting and trading would not be appropriate for all Parties and all sectors, for example, it is likely that project-by-project CDM will remain the most viable option for LDCs.

Sectoral crediting and sectoral trading could work alongside the project-by-project approach of the CDM. For example, a Party could take on a sectoral commitment for one sector and continue to participate in project-by-project CDM in other sectors. To avoid double-counting, sectoral and project-by-project CDM could not be undertaken together in the same sector. Provision would need to be made for CDM activities currently occurring in sectors put forward for sectoral approaches.

Australia acknowledges the need to support countries in building capacity to facilitate sectoral approaches, including technical and inventory support.

I.G Introduce crediting on the basis of nationally appropriate mitigation actions

The post-2012 outcome should recognise all commitments to nationally appropriate mitigation action and make provision to assist developing countries to meet these commitments. In cases where the emissions reductions from nationally appropriate mitigation actions can be accurately quantified (eg, sectoral no-lose targets), crediting can provide a useful means of financing mitigation actions by developing countries. However, if the emissions reductions flowing from the action cannot be accurately quantified, crediting risks undermining the environmental integrity of the carbon market. In these cases, other financing tools should be used in preference to crediting.

I.H Ensure environmental integrity and assess additionality through the development of standardised, multi-project baselines

The requirement to demonstrate additionality has been identified as one of the most resource-intensive steps in the CDM process. Methods to assess additionality through the development of standardised, multi-project baselines may assist in improving the efficiency of the approvals process.

I.J Differentiate the eligibility of Parties through the use of indicators

The mechanisms will need to support new and differentiated commitment structures and provide incentives for enhanced mitigation action by all countries. Consequently, offsetting approaches may not be appropriate for certain developing countries and consideration should be given to new mechanisms which facilitate a net contribution to mitigation in accordance with Parties' national circumstances and respective capabilities. This discussion will need to be integrally linked to the discussion on mitigation commitments by developing countries in the AWG-LCA.

I.K Improve access to clean development mechanism project activities by specified host Parties

Australia supports efforts to build capacity and facilitate access to CDM project activities in underrepresented countries. However, this should not be done by mandating where project activities should occur; this would raise the cost of abatement to the global economy, thus reducing the efficiency of global climate change mitigation.

It is to be expected that CDM and JI projects will be concentrated in those countries where there is high potential for cost-effective mitigation. However, creating the right enabling environments (legal, social and economic policy frameworks) to promote private investment in low emissions development is of critical importance. It would be valuable for the AWGs to consider lessons learnt from successful host Parties, that could be adopted in other Parties. In addition, Parties may also wish to consider ways to reduce market barriers to the uptake of project-based activities in certain locations, including by building capacity and strengthening good governance arrangements in underrepresented countries.

Expanding the scope of market mechanisms to include additional sectors, in particular those relating to LULUCF and REDD is likely to facilitate a wider geographical distribution of CDM projects.

I.L Include co-benefits as criteria for the registration of project activities

In line with the objective of the Convention, the flexibility mechanisms should remain tightly focused on emissions reduction. While projects should be allowed scope to contribute towards co-benefits, the introduction of additional mandatory criteria may inadvertently detract from the emissions reduction objective. Host Parties are best placed to determine what constitutes sustainable development and which co-benefits are most appropriate to their circumstances.

I.M Introduce multiplication factors to increase or decrease the certified emission reductions issued for specific project activity types

Market-based approaches deliver least-cost abatement by providing incentives to reduce emissions where this is most cost-effective. It is therefore preferable to allow the market to determine which types of project activity to pursue and the introduction of multiplication factors should therefore be very carefully considered. The introduction of positive multiplication factors, in particular, risks undermining the environmental integrity of the mechanisms. It is important that each Kyoto unit represents at least one tonne of CO2-e reduced or our mitigation objectives may not be met.

III.A Introduce emissions trading based on sectoral targets

In the post-2012 outcome, some developing countries may wish to adopt legally binding sectoral emissions reduction targets. Such mitigation commitments, properly monitored, verified and reported, should be able to link to the international carbon market to provide participating countries with the flexibility to choose how best to meet these commitments. An advantage of sectoral trading based on legally binding sectoral targets is that emissions units can be awarded at the beginning of the commitment period thereby providing an option for up-front financing for mitigation activities.

Decisions regarding national policy choices to meet sectoral targets should remain the prerogative of the particular Party.

See also the related discussion on sectoral crediting (above at I.E and I.F).

IV.A Relax or eliminate carry-over (banking) restrictions on Kyoto units

Australia supports efforts to relax or eliminate carry-over (banking) restrictions on Kyoto units. Facilitating increased banking by relaxing carry-over restrictions on Kyoto units will improve intertemporal flexibility and therefore improve the economic efficiency of the market.

IV.C Introduce borrowing of assigned amount from future commitment periods

Like banking, borrowing would also improve intertemporal flexibility and therefore improve the economic efficiency of the market. However, long-term borrowing could lead to significant and potentially detrimental delays in the global abatement effort. Australia assesses that this risk outweighs the potential flexibility benefits of any form of long-term or unlimited borrowing.

IV.D. Share of proceeds

It is important that the international community identify additional means to finance adaptation that are efficient, effective and equitable. However, a discussion on share of proceeds as a means of assisting developing countries to meet the costs of adaptation should not be considered in isolation from the broader discussion on financing adaptation which is to be taken up in the AWG-LCA.

The flexibility mechanisms are a key mitigation tool. Applying a share of proceeds to the flexibility mechanisms may reduce the efficiency of the global mitigation response as it could distort international market price signals, reduce incentives for investment in mitigation activities in developing countries and discourage international permit trade.

PAPER NO. 2: JAPAN

AWG-LCA Submission by Japan (on finance)

1. Increase financial flows into the field of climate change through mobilization of all kinds of financial resources

It is expected that there will be further financial needs henceforth for mitigation actions by developing countries and adaptation actions by countries that are vulnerable to the adverse effects of climate change. Against this backdrop, it is necessary to address such needs, taking into consideration the following points:

(a) The amount of financial flows in the field of climate change should be increased, through mobilization of all kinds of financial resources. In accordance with common but differentiated responsibilities and respective capabilities, developing country Parties themselves also should take actions, *inter alia*, by further promoting their measures on greenhouse gases (GHG) emissions reduction and on adaptation to the adverse effects of climate change, in the fields such as energy conservation policies, development policies and others.

(b) Mitigation policies and measures in national action plans of developing country Parties should be quantified, including their impact on emissions reductions, to the extent possible, based on appropriate measuring systems, which enables appropriate supports to be provided to the part that developing country Parties have difficulty in reducing emissions by their self-help efforts, depending on emissions reduction effects.

2. Augment, streamline and accelerate supports for mitigation and adaptation activities by developing country Parties, with mobilization of all kinds of financial resources and through utilization of each resource in the most efficient manner

It is desirable that each host developing country Party has option to select, based on its circumstance or the project it pursues, the most appropriate financial resources to bring direct effects on GHG emissions reduction or immediate responding effects to urgent needs for adaptation by the Parties with extreme low GHG emissions and vulnerability to the adverse effects of climate change, including Least Developed Countries (LDCs) and small island developing countries. All kinds of financial resources, including assistance through funds established both under and outside the United Nations Framework Convention on Climate Change (UNFCCC), international organizations, bilateral official development assistances (ODA), technology assistance, R&D investment and investment through market, should be mobilized.

In implementing each concrete project and program, it is necessary to use various financial resources, including private investment, in a flexible manner. For the purpose of augmenting, streamlining and accelerating provision of supports to developing country Parties, it is necessary to involve existing multilateral development banks (MDBs) to the full extent, as they are rich with experience in the type of assistance combining loans and technology assistance. Usage of public financing to mobilize private financing, through promotion and expansion of co-financing should be pursued as well. Bilateral assistance conducted by each county Party should be also utilized in an effective manner as well.

In order to promote technology cooperation for mitigation actions by developing country Parties, it is also effective to establish and utilize an advisory group for sectoral technology cooperation, with participation of experts from public and private sector.

2-1. Mitigation

Private sector has been playing a significant role for mitigation in developing country Parties in deployment and transfer of technology and financial flows, and will continue to be so after 2013. For the purpose of realizing larger assistance to mitigation actions of developing country Parties in a smoother and more prompt manner, and also resulting it in an intensive support to the fields with high potentials of mitigation, through both the above mentioned private technology and financial flows and various public

assistances including financial support, technology transfer and capacity building, it is necessary to involve MDBs and to establish and utilize an advisory group for sectoral technology cooperation.

(a) Involvement of MDBs

Given that MDBs (the World Bank Group (WBG), the Asian Development Bank (ADB), the Inter-American Development Bank Group (IADB), the European Bank for Reconstruction and Development (EBRD) and the African Development Bank (AfDB)) are rich with experiences in utilizing public funds to mobile private financing, through promotion and expansion of co-financing, and in combining loans and technical assistance, and that MDBs can mobilize larger financial flows than grant-based mechanisms, further involvement of MDBs will be effective.

(Expected benefits)
- Larger financial flows are supposed to be realized, in comparison with grant-based mechanisms.
- Grant resources could be concentrated on those country Parties that need the grant resources the most, such as LDCs.
- By utilizing existing frameworks, larger and more prompt assistances by both private and public financing can be materialized for developing country Parties' mitigation, without time and financial loss by developing new frameworks.

(Prospective activities)
- MDBs will continue and expand, with adjustments beyond 2012 as necessary, current loan operations conducted by them in mitigation assistance.
- MDBs will periodically report their achievements of mitigation action assistances to UNFCCC.

(b) An advisory group for sectoral technology cooperation

(Expected benefits)
- An advisory group for sectoral technology cooperation will analyze the conditions of technology introduction rate and the potential for its improvement in developing country Parties. Based on its analysis, it will advise to appropriate donors and/or investors (e.g. funds established under and outside the UNFCCC, international organizations, bilateral assistance donor countries, private investors) the most appropriate ways for the technological assistance. It will also give advice concerning about developing national action plans of developing country Parties which can further enhance developing country Parties' mitigation actions.

(Prospective activities)

[A sectoral group]
- A database for registering sectoral experts coming from both governments and private sectors will be established. Experts for each sector will be selected from this database to form sectoral groups, to conduct activities such as identification of effective technologies, analysis of appropriate measures for promoting technology diffusion and transfer, examination of reduction potentials and its costs, list-making of policy know-hows and technologies and others.
- Donors/investors and/or developing country Parties (recipients) will be made accessible for useful information on sectoral technology and systems collected through above activities. In addition, the information will be also shared to a supporting group for formulation of national action plans (explained below).
- Donors/investors and developing country Parties (recipients) will be provided by opportunities to access sectoral experts and to obtain inputs from these experts. This function of advisory group can supplement and strengthen individual project assessment conducted by each donor/investors.

[A supporting group for formulation of national action plans]
- By utilizing inputs from sectoral groups, this group will respond to the requests from developing country Parties aiming to conduct mitigation actions, and support for further refinement of their national plans.

[The advisory group as a whole]
- Donors/investors can access, if necessary, to an advisory group in making their strategies and plans for, inter alia, their prioritized investment and supporting areas. By doing so, they can realize their assistances more smoothly, reflecting the results of analysis by sectors or the know-hows of formulation of national action plans by a support group.
- It is also meaningful to have those advisory groups to regularly report their activities and to present proposals regarding the way of assistance to developing country Parties to the UNFCCC Conference of Parties, so that those advisory groups can contribute to continuous improvement of quality of assistance to developing country Parties and to facilitate GHG emission reductions in developing country Parties.
- An advisory group will focus on assistance to the developing country Parties which internationally commit targeted actions for their mitigation.

(Organizational structure)
- A sectoral group: each group will be comprised of each sector's relevant experts from private sector and government, who are to be registered (sectors to be considered include; iron and steel, cement, power generation, road transport, forestry).
- A supporting group for formulation of national action plans: this group will be established in a cross-sectoral manner, so that it can respond to the needs of developing country Parties aiming to conduct individual or multiple mitigation actions.

(Status)
- An advisory group will be established as a neutral and flexible group of experts, as the function of this group is to provide specialized technological advice and to enhance effectiveness of assistance to developing country Parties.
- It is desirable to reach a consensus at COP 15, at least on the establishment of an advisory group and on basic elements (structures, objectives and activities) of the group.

2-2. Adaptation

In order to realize effective assistance to adaptation actions in the developing country Parties that are vulnerable to the adverse effects of climate change, through tools such as funds established under and outside the UNFCCC, international organizations, and bilateral ODA, it is necessary to clarify the adaptation needs of those country Parties and to link these needs with the most appropriate financial resource. In this regard, a comprehensive framework for adaptation should be established. In addition, the measures exemplified below and financial assistance have to be linked.

(a) Updating NAPAs (National Adaptation Programmes of Action)

NAPAs have to be updated in order to achieve adaptation mainstreamed into development. In these second NAPAs, accumulation of know-hows gained through the implementation of adaptation projects up to date should be reflected, and the latest scientific knowledge (e.g. vulnerability mappings, climate forecasting models, scientific evaluation) have to be used. For dissemination of these kinds of knowledge, Japan is calling for establishing a knowledge network for adaptation.

(b) Expansion of country Parties to develop NAPAs

In addition to LDCs, there are country Parties for which the formulation of NAPAs is desirable. Specifically, it would be an option to extend support to small island developing countries, so that these countries can develop NAPAs.

(c) Improvement of the accumulation and sharing the information, through the UNFCCC, regarding support for adaptation measures

The information on adaptation measures implemented by country Parties and international organizations should be accumulated and shared under the UNFCCC, so that donor country Parties and

organizations as well as host country Parties will be enabled to find the most appropriate financial resources.

(d) Utilization of MDBs

Adaptation assistance by MDBs should also be promoted by utilizing, inter alia, the knowledge gained through PPCR (Pilot Program for Climate Resilience) under the Climate Investment Funds (CIF) by 2013.

3. Minimize operational costs of funds and ensuring effective governance

What matters will not be the number of funds, but the degree to which effective and maximum assistance to developing country Parties are to be achieved.

(a) Expansion of administrative organization of existing funds should be avoided. Proliferation and duplication of mechanisms should be prevented, and the financial mechanism should be streamlined.

(b) Establishment of new administrative organizations should be examined in a prudent manner. Existing organizations should be utilized to the extent possible.
(e.g. know-how accumulated to date by Global Environment Facility (GEF) Trust Fund and MDBs in the field of climate change)

(c) Large projects would be more effectively financed by loans, and MDBs have much experience in extending such loans. After utilizing and reforming existing schemes, if necessary, the possibility of enhancing such MDBs' loans by mobilizing additional resources is an option to be considered

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