Australian Chamber of Commerce and Industry

Future Made in Australia (Production Tax Credits and Other Measures) Bill 2024

Submission to the Senate Standing Committee on Economics

January 2025

Introduction

The Australian Chamber of Commerce and Industry (ACCI) appreciates the opportunity to comment on the Future Made in Australia Bill (Production Tax Credits and Other Measures) Bill 2024.

We welcome the government's effort is providing support to unlock private investment in the development of domestic hydrogen and critical minerals industries, but note that the proposed 'Community Benefit Principles' will be expensive, complex and a major retardant on the investment that the scheme is designed to achieve.

As a part of the Future Made in Australia package, the government's Hydrogen and Critical Minerals Production Tax Incentives have the potential to stimulate private investment into the development of the renewable hydrogen and critical minerals industries which are expected to play a key role in facilitating Australia's net zero transition.

Compared to our international competitors, Australia has low rates of private investment in clean energy relative to the size of its economy. Businesses face significant challenges when considering large scale investments as Australia is a high input cost country. Construction costs, regulatory and environmental approval processes, as well as labour costs and an onerous industrial relations system, weigh heavily on the cost of production in Australia. A business is likely to think twice about establishing or re-investing in Australia, when the cost, regulatory constraints and time to realise their investment is likely to be much greater in another country.

Greater support to emerging industry can be useful to offset these higher costs that make production in Australia more expensive than it is in other countries in our region. Production tax incentives (PTI) are one such measure to make it easier for new industries to establish and become competitive when incumbent industries benefit from externalities. PTIs offset part of the difference between the higher production cost of new technology, relative to established processes. This gives the investor a level of certainty of a reasonable price for their goods and return on investment in the initial years of production.

Investment support, through the PTI, can bridge the gap between the higher costs of production in Australia relative to our international competitors, particularly for facilities that need to invest in new low emissions technology under the Safeguard Mechanism when their competitors don't face the same regulatory constraints or low emissions restrictions.

A PTI can be effective as it ties the benefit to the level of production. This encourages businesses to scale up operations and maximize production. Further, producers can only access the incentive after the production facility is established and once production begins, as the incentive provided on a per unit of production basis. Providing the incentive through the tax system provides is an efficient means of delivery, avoiding high administrative burden and potential project selection distortion.

The following discussion addresses the elements of the hydrogen and critical minerals production tax incentives.

Hydrogen Production Tax Incentive

The Hydrogen Production Tax Incentive (HPTI) provides a tax offset, available at a rate of $2 per kilogram of eligible hydrogen for companies that satisfy eligibility requirements.

The technology enabling renewable hydrogen production at scale is still evolving and the market for renewable hydrogen, and its derivatives, is limited by the current cost of production. While technological advances are expected to reduce production costs over the next decade, the current high costs pose a significant barrier. Therefore, the HPTI is welcome support for this emerging industry.

The HPTI requires businesses to be registered under the Guarantee of Origin (GO) scheme to have access to the HPTI. The GO emissions accounting methodologies can be used to create certificates for each kilogram of hydrogen produced. While the GO is a voluntary scheme, **ACCI agree that the GO is the most effective way to validate that the hydrogen produced by the facility meets the eligibility requirements for the HPTI**.

It is sensible that access to the HPTI be time limited to 10 years for the recipient and that the scheme ends for all by 30 June 2040. This will assist facilities producing hydrogen in the initial years of production, supporting them through the establishment and scale-up phases. Over the long term, it is expected that production of renewable hydrogen industry will increase in scale, the technology will be further refined, competition between producers will increase, and production costs will steadily decrease. ACCI is strongly of the view that if we are to build a hydrogen industry in Australia it must be self-sustaining and profitable over the long term without government assistance. **ACCI agrees that the HPTI should be time limited to avoid developing industries that are not sustainable over the long-term without continuing government financial support.**

However, ACCI is concerned that the window to access the HPTI is very narrow, with a business needing to make the final investment decisions on the facility before 1 July 2030 to be eligible for the HPTI. Starting today, there is little time for the development of a new hydrogen production facility before 1 July 2030. There are many regulatory

requirements in gaining the approval to establish a hydrogen production facility, as well as agreements with suppliers and customers, before the final investment decision is made. In particular, there is significant uncertainty around the environmental approval processes which consistently experience considerable delays. As a result, a five-year window from inception of a project to the final investment decision by mid-2030 is likely to be very challenging for some project proponents. **ACCI recommends that the date for the final investment decision should be extended to 1 July 2035.** However, the date for the conclusion of the HPTI scheme can remain at 30 June 2040, with those entering the scheme after 2030 having access to the HPTI for a shorter period (i.e. 8 years if the final investment decision is made in 2032 or 5 years if made in 2035).

Facilities able to be registered to receive the PTI must produce hydrogen through electrolysis of water (green), biomass conversion or photocatalytic processes (yellow). The emissions intensity of production must not exceed 0.6 kg of CO_2 for each kilogram of hydrogen or if produced using electricity from the grid, it must meet grid matching requirements. ACCI questions the decision to limit access to the HPTI only to producers of green and yellow hydrogen by electrolysis of water or photocatalytic techniques. **ACCI urges consideration be given to processes involving carbon capture and storage (blue hydrogen)**, if it can achieve the threshold emissions intensity of less than 0.6 kg of CO_2 for each kilogram of hydrogen. Allowing producers of blue hydrogen to access the HPTI will accelerate the production of hydrogen at scale and support the development of new hydrogen markets.

Access to secure, reliable and affordable supply of renewable energy represents a considerable hurdle for the production of green hydrogen. Currently, hydrogen production cannot rely solely on variable renewable energy sources to meet its energy requirements. The variability of renewable energy sources, such as solar and wind, necessitates the oversizing of generation capacity and the development of robust energy storage solutions to ensure a consistent and reliable power supply. Firming solutions, such as gas-powered generation, are necessary to maintain reliability during periods of low renewable energy output.

While there has been considerable investment in large-scale renewable energy infrastructure in recent years, it is struggling to keep up with the demands of the national electricity grid. It is expected that it will become increasingly difficult for renewable energy to fill the gap in electricity supply from the projected closures of coal fired power stations. There is currently very limited additional renewable energy capacity within the national electricity grid to support hydrogen production.

If hydrogen producers are not able to access secure, reliable and affordable energy from the electricity grid, they will need to develop 'stand-alone', dedicated renewable energy supplies and storage capacity, as well as firming solutions that may include gas-power generation, to meet their energy needs. This will add considerably to the cost and will slow the development of hydrogen production facility.

Uncertainty around access to secure reliable and affordable renewable energy has led to a number of green hydrogen projects being abandoned or delayed/postponed in the past 6 months.

Critical Minerals Production Tax Incentive

The Critical Minerals Production Tax Incentive (CMPTI) provides a refundable tax offset of 10 per cent of the cost of eligible production activities for the processing of critical mineral in Australia.

The critical minerals list includes 31 general critical minerals as well as 6 platinum derivatives and 16 rare earths. However, key metal and minerals for the energy transition, such as copper, zinc, alumina/bauxite and uranium have been left off the list. Increased production of these metals and mineral is just as important for the production of solar panels, windmills, batteries and energy as the other metals and minerals included on the list. **ACCI urge that consideration be given to including copper, zinc, alumina/bauxite and uranium on the critical minerals list.**

While critical minerals are extracted and there is some beneficiation in Australia, only a very small amounts are processed from ore to refined end-product entirely onshore. Following beneficiation critical minerals are typically shipped overseas for further processing. Processing can be highly polluting and energy intensive. Australia's high environmental standards and emissions reduction regulations have been a significant barrier to processing of critical minerals in Australia in the past. Therefore, the decision as whether to value add to critical minerals in Australia is not purely based on costs. **In addition to the support provided by the CMPTI, significant changes to environmental standards and environmental approval processes, as well as concessions in the emissions reduction regulations, such as the Safeguard Mechanism, will also be needed to encourage investment in further transformation of critical minerals in Australia.**

CMPTI aims to encourage and facilitate initial stage investment in downstream minerals processing, moving along the value chain from extraction to more refined and transformed metal or mineral product. Similar to the HPTI, access to the CMPTI is limited to a 10-year period within the income years from 1 July 2027 to 30 June 2040. **ACCI agrees that it is appropriate that this support is time limited**. If we are to build a critical mineral processing industry in Australia it must be self-sustaining and profitable over the long term without government assistance.

CMTPI tax offset is calculated at 10 per cent of the eligible expenditure of a company - expenditure related directly to the processing into a more concentrated element and higher value form. To be eligible for the CMPTI, processing activities must involve substantial transformation of a feedstock that contains critical mineral through extractive metallurgical processing to a purer more refined form that is chemically distinct from the feedstock. Australia processors face substantially higher operating costs due to our more stringent regulatory constraints and industrial relation system, than competing countries where these critical minerals are currently processed and refined. ACCI question whether a PTI of 10 per cent of eligible expenditure would be sufficient to attract new investment into critical mineral processing in Australia. **ACCI considers a CMPTI of 25 per cent may be more appropriate given the more stringent regulatory hurdles and high labour cost businesses face in Australia.**

Mining activities including extraction and beneficiation are excluded from the CMPTI. ACCI questions why extraction and beneficiation are not eligible costs under the CMPTI.

While we understand that the focus of the CMPTI is on value adding, the raw material is a significant component of the overall costs of the refined product. Rather than excluding the cost of extraction and beneficiation, **ACCI suggest it would be better to set a level of transformation before the PTI can be claimed and allow the tax deduction to apply to all costs associated with the transformation of the product to this threshold level**. This should also include energy costs, which are likely to be a major cost associated with the extraction and processing of critical minerals.

Community Benefit Principles

In order to be eligible for both the HPTI and CMPTI, companies will need to gain certification that it meets the five specified community benefit principles. These include requirement that the processing facility:

- Promotes safe and secure jobs that are well paid and have good conditions
- Develops more skilled and inclusive workforces, including by investing in training and skills development and broadening opportunities for workforce participation
- Engages collaboratively with and achieve positive outcomes for local communities, such as First Nations communities and communities directly affected by the transition to net zero
- Strengthens domestic industrial capabilities including through stronger local supply chains
- Demonstrates transparency and compliance in relation to the management of tax affairs, including benefits received under Future Made in Australia supports.

These requirements are unrelated to the investment or the efficient production of hydrogen or critical minerals. They represent significant regulatory hurdles to the success of an investment that adds considerable uncertainty as to the financial viability of what are very long-term investment in processing capacity.

The HPTI and CMPTI require the businesses to show compliance with the community benefit principles to gain the certificate of registration that enables them to apply for the tax credit. Compliance with the community benefit principles is reviewed annually (by either the Clean Energy Regulator for the HPTI or the Secretary of Industry for the CMPTI) before a certificate is granted. In addition to the large administrative burden, the requirement to show compliance with the community benefit principles represents a considerable risk to a business making an investment of hundreds of millions of dollars in hydrogen or critical minerals processing based on access to the PTI, as a change in circumstances could result in the failure of the project proponent to gain registration in a given year, which will undermine the viability of the investment.

Mandating union-friendly inflexible contracting arrangements will increase these risks, lead to higher operating cost and exacerbate productivity problems. Further, recent revelations about nefarious activities in the construction sector have raised questions about mandating union negotiated enterprise bargaining requirements, and the impact this will have on the productivity and cost of major projects, such as investments in hydrogen and critical minerals under FMA.

Similarly, imposing additional indigenous and local community engagement requirements is likely to further delay the planning and approval processes and increase the investment risks of new hydrogen and critical minerals projects. The additional engagement processes required by the community benefit principles parallel existing requirements of the planning and approval process. This is simply adding a further layer of administration and compliance, without any clear benefit. It also adds considerable uncertainty, as it requires the business to gain agreement for a range of disparate indigenous and community groups before the investment can proceed.

As ACCI has stated previously, programs under the Future Made in Australia should not be used to promote other government agendas, such as arbitrary requirements in employment arrangements, by requiring the promotion of "safe and secure jobs that are well paid and have good conditions." Mandated labour arrangements will only increase the cost of projects and reduce the economic benefits of these projects to the wider community.

Access to the HPTI and CMPTI should be on the basis of the level of production by a facility, not determined by a new formulation of community benefit principles which brings in a trade unions agenda of inflexible and unproductive work arrangements through the back door and duplicates indigenous and community consultation processes.