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The Australian Workers' Union

Submission to the Joint Standing Committee on Treaties

Review of the Kyoto Protocol and beyond

August 2008

Executive Summary

It is a truism to say that climate change is by definition a global problem. But it is also an accurate statement. And devising solutions to the problem, in particular in the context of both the current and post Kyoto framework, is no easy challenge. It is however, a necessary outcome if domestic efforts - and the burden sharing it entails - aimed at reducing our own carbon emissions are to be successful in also contributing to reduced total global emissions.

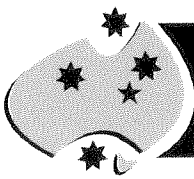
This submission outlines the views of the Australian Workers' Union (AWU) on the need to maximize current outcomes for Australia under the Kyoto Protocol and in future negotiations on post-Kyoto arrangements. In particular, comprehensive coverage is required through extension of the agreement beyond Annex B countries¹ or on an operating framework for the new agreement which has the same effective obligations on major developing country emitters as non-Annex B countries as for Australia. This will determine the future competitiveness of Australia's emissions intensive trade exposed (EITE) industries.

The implications for Australia's Carbon Pollution Reduction Scheme (CPRS) are also clear. Without international progress on achieving effective obligations in developing countries that see real burden sharing in global emission cuts it is most unlikely that Australian governments' will be supportive of more ambitious emission reductions than have already been announced in the context of the cut of 60 per cent of 2000 emissions by 2050.

The AWU congratulates the Rudd Labor Government in leading in the development of the CPRS which we see as a vital contribution to dealing with the impacts of climate change. We have also suggested a number of areas for priority attention in terms of scheme design and operation which will reduce competitiveness impacts on the EITE sectors and workers without limiting their contribution to reducing emissions. On the contrary, our suggestions include a range of ways to harness progress made by a number of industries, including in steel, alumina refining, aluminium smelting, LNG, petrochemicals, paper, plastics and cement to ameliorate their emissions to the greatest extent that is currently technically feasible.

Australia has a tremendous asset in engaging in these negotiations. As a mature industrial producing nation, we are at the best practice end of known technology and that is itself a head start for Australia in achieving lower global emissions so long as others are also contributing fairly and our industries remain onshore. Our industries and workers have insights and knowledge in transitioning to a carbon constrained economy. They need to be fully engaged in this task in order to maximize outcomes for Australia.

After a decade of turning our back on the Kyoto agreement, having signed it in 1998, opportunities to adopt, adapt and transition the national economy along with a focus on constructive international diplomacy in the intervening years have been missed. It is only this year, following the Rudd Labor Government coming to power and in its first act as a new government, ratifying the Protocol in late 2007 that the agreement has been allowed to come into force and with it the legitimacy for full international engagement.



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In the time available to us there is therefore much to be made up. To its enduring credit, the Rudd Labor Government has taken up the challenge to provide leadership to the nation on these issues. The AWU looks forward to working with the Committee throughout the hearings process as a constructive partner.

Introduction

This submission responds to an invitation by the Chair of the Joint Standing Committee on Treaties, Kelvin Thomson MP, to provide views and advice on the terms of reference of the Committee's inquiry.

The Kyoto Protocol aims to address climate change by enforcing binding business reduction targets against 1990 levels under the UN Framework Convention on Climate Change for the commitment period 2008-2012.

On 25 June 2008, the Kyoto Protocol was tabled in Parliament and referred to the Federal Parliament's Treaties Committee for review.

Matters to be considered by the committee include what position Australia should be adopting in international negotiations concerning emissions reduction beyond 2012, what commitments should we be offering and what commitments should we be seeking from other countries. The Committee is also considering obligations and opportunities arising from ratification of the Kyoto Protocol, including the proposed Carbon Pollution Reduction Scheme (CPRS).

The AWU welcomes the opportunity to outline its views on the importance of a post-Kyoto framework which will include a much stronger binding obligation on developing country emitter countries in addition to full participation by the United States in order to maximize scope for global cooperation in reducing emissions in a sustainable manner.

The Issues:

Carbon leakage

Both the Garnaut Climate Change Review and Carbon Pollution Reduction Scheme Green Paper acknowledge that emission intensive trade exposed (EITE) industries represent a special case.ⁱⁱ In its recent Position Paper, the AWU outlined its primary concern with domestic emissions reduction schemes – the probability of carbon leakage in the form of lost investment and jobs in the absence of a global carbon price and market.ⁱⁱⁱ The prospect of major industries relocating to countries free of carbon constraints in the form of prices or taxes is present and real.

The AWU hosted a Round Table with major trade exposed industries on 23 July 2008. There was unanimity in ensuring an effective ETS that accounted fully for the interests of the EITE industries and that the Federal Government at the same time needed to ensure that progress was measured directly by success internationally in achieving an effective global emissions framework.

A few facts illustrate the challenges for the EITE industries:

- Excess capacity in SE Asia and China was estimated to be more than 20 times Australia's demand for cement in 2007^{iv}. Australian demand could be easily met by this extra capacity.

- The 2007 Australian smelter PFC emissions from aluminium production were 0.26 tonnes CO₂ equivalent per tonne of aluminium compared to 0.7 per cent globally in 2006. This result has been achieved through sound potroom management and technology change.^v Lost production to China would result in twice the level of emissions for the same quantity of aluminium produced.
- Since emissions trading was introduced in the EU to the start of 2008 there have been more than 3 million tonnes of printing and writing paper mill capacity closed in the EU, much of it in companies expanding in Eastern Europe and Asia. Imports of paper into Australia would increase and domestic production fall as paper producers are price takers and heavily trade exposed to SE Asian competitors in particular.^{vi} This, despite the fact the carbon intensity has reduced by 14 per cent in 6 years (in the case of Australian Paper).

Progress in meeting Kyoto targets

At 13 May 2008, there are 182 Parties to the Protocol. The United States and Kazakhstan are not currently Parties to the Protocol, but we anticipate the US will move quickly after Presidential elections to ratify the Protocol (ie within the next 12 months).

The Protocol's Compliance Committee is charged with monitoring compliance with agreed commitments under the Protocol. While not currently legally binding, they have the effect of at least highlighting by comparison the relative progress in meeting obligations under the Agreement.^{vii} It is therefore important for Australia to ensure that the Protocol maximizes the opportunities for the Compliance Committee to promote compliance with the Agreement as this is key to including current non-Annex B countries under post Kyoto frameworks.^{viii}

In circumstances in which Australia is scheduled to meet its own commitments to 2012, it is critical that burden sharing among Annex B countries reflect the fact that many countries will not do so. If total global emissions are in fact to have any prospect at all of falling it is critical that Annex B parties meet their targets in order to demonstrate progress. In its absence, it would be quite within the rights of the Australian Government to assume a different short term trajectory for domestic emissions reductions.

The Report of the Task Group on Emissions Trading^{ix} noted that with some exceptions, the overall picture on the performance of Annex B countries is that most are tracking well above their targets and face the prospect of purchasing a significant volume of credits from foreign sources in order to comply with their obligations under the Protocol. It would be useful to update on what the possible compliance costs for non-achievers means in practice.

In terms of mitigating the impacts of leakage this will ensure that carbon constraints are placed on other countries commensurate with the progress in meeting current commitments and obligations. And to the extent that non-Annex B countries are also participating in emissions trading via the Clean Development Mechanism, it would be very valuable to ensure that the Compliance Committee is assessing their progress with commitments under this and other arrangements. These steps will at least serve to ensure that whatever domestic measures are finally adopted in Australia the gap between leader (in this case Australia) and followers (in short, lagging Annex B members and non Annex B members) is closed to the maximum extent possible under current arrangements and performance.

As Ross Garnaut said in a recent paper:

There is no room any longer for defending the view that the "differentiation" of effort called for in the United Nations Framework on Climate Change Convention between developing and developed countries should be based on the application of binding emissions targets or policies to the latter and not the former.... Without all major emitters binding themselves to economy-wide targets or policies, given rapid emissions growth, the prospects for the global climate change mitigation effort are bleak.^x

Future negotiations

It is essential that a successful in-principle agreement be achieved in Copenhagen in 2009 to universal emissions reductions. The AWU believes an early assessment be made on the elements to succeed in achieving a binding international agreement including the major developing country emitter nations. Engagement with China is key. How can Australia leverage off our own progress in implementing the CPRS? (eg, in a way that essentially maintains access to our markets for countries such as China but only in return for domestic commitments from China regarding her own emissions and other cooperative strategies with Australia).

The AWU also believes that there are two main thrusts to future negotiations in which Australia can take the lead: (1) the interests of the EITE sectors; and (2) the future of effected workers, in particular in the EITE sectors. There is the potential to develop a positive strategy for engagement with other nations, including on sectoral approaches to trade and investment and on protecting and promoting the interests of workers.

Australia's EITEs are at the best practice frontier as a mature industrial nation. There are a range of lessons to be learned from our industries on how best to transition other less efficient production which will serve to reduce total global emissions.

For example, the International Aluminum Institute has overseen the reduction of emissions from a baseline of 4.9 tonnes of CO₂ per tonne of aluminium in 1990 to 0.7 tonnes in 2006, a reduction of over 80 per cent. This was the global voluntary objective set by IAI to be achieved by 2010. The IAI is now preparing to set further reduction goals for the next decade.^{xi} As noted above, Australian producers are already leading the way down in terms of achieving even lower levels of emissions than this.

That is why in the AWU's view, these industries should be seen as part of the answer in ways of reducing emissions and why crucially, the investments and jobs they sustain remain here. That is also why these industries have no problem with a trading system per se so long as it recognises their special place within it, including the impacts on their competitiveness and which rewards rather than penalises technical and production innovation.

As far as workers in these industries are concerned, the AWU has been complementing efforts of industry by highlighting the contribution by our workers to transitioning industry and the impacts on them of moves toward the implementation of the ETS.

The AWU has been promoting carbon insurance for workers as one way of proactively working to maximize the participation of the workforce and to assure their interests in the transition to lower carbon economy.

The Position paper outlined how ETS schemes may be able to compensate and reward workers for their participation under the ETS in particular through awarding permits direct to workers in addition to affected industries which would act as a form of carbon insurance in the event of leakage.

The AWU proposes that if the free permit goes untraded or acquitted it may serve as a form of risk insurance for workers. If a company ceases production of the activity or process the permits pass to the affected workers rather than returned to government. In the event that the free permits are tradable the AWU would insist on an allocation to relevant workers at the commencement of the ETS to be held in trust in order to provide incentive for the enterprises to retain the activity and workers. In the event the activity ceases, the affected workers at least retain the allocated permits.

How nations deal with displaced workers in the face of efforts to reduce emissions is one of the biggest obstacles to securing binding international commitments to reduce emissions from developed and developing countries alike. The interests of these workers therefore are not a residual of structural change where displaced workers are dealt with through the welfare system, but as primary stakeholders in the system which opens up opportunities for negotiating outcomes in partnership between industry, workers and government. There may be a valuable role for the use of development cooperation to facilitate this support for workers.

Possible sectoral agreements

Garnaut proposed the possibility of sectoral agreements for EITE sectors as an interim step to arriving at a comprehensive global ETS.

The AWU agrees that it is an immediate trade policy priority for Australia to negotiate international sectoral agreements in priority areas for Australia (including metals, LNG, cement and paper) or a binding global agreement. A two stage strategy and perhaps with a regional focus may yield benefits which should be explored. EITE industries and their peak bodies both nationally and internationally have taken their own steps to make progress in achieving international voluntary agreements and measuring their own performance against these (such as the work of the International Aluminum Institute noted above). These would serve as a useful model to build more binding commitments in the relevant sectors.

There will be a range of possible design elements with particular relevance to developing countries which together may contribute to making progress toward a binding and comprehensive international agreement. These should be fully canvassed.^{xii} They also reflect the reality of current agreements which are heterogeneous and which therefore require a consistent compliance reporting framework.^{xiii}

Australian businesses are now able to participate in international emissions trading through Joint Implementation and the Clean Development Mechanism. The AWU Position Paper raised a number of additional options in particular exploiting to mutual advantage Australia's close and growing relationship with China which would link and tie investment with technology, best practice and market access.^{xiv}

Life cycle accounting for emissions

These industries also have the know-how to adapt existing expertise to new challenges, including to the challenges of climate change, however, it also needs to be recognized that these industries and the materials they produce can also be recycled, remanufactured and reused over and over again in the context of a product life cycle. And they will build our sustainable green car industry, our wind farms and solar panels in addition to traditional uses as inputs in our mining, manufacturing and infrastructure sectors.

The value of Australia's production of aluminum and LNG as a life cycle product and transition fuel respectively has long been recognized. The challenge is to convert this realization into proper accounting in the current and post-Kyoto framework. The AWU would encourage the Government to promote the value of Australia's heavy metals industries in contributing to better global greenhouse outcomes.

The fact is that industries such as an aluminum or manganese plant are seen as greenhouse intensive but if a longer term, product cycle approach is adopted; these industries in reality generate potentially huge greenhouse benefits and better greenhouse outcomes in areas such as light weight, fuel efficient vehicles in the future.

The AWU is therefore concerned to ensure that the future national emissions trading market and the successor agreement to the Kyoto Protocol recognizes that while Australia has some very carbon intense industries, these industries are also producing products that are actually helping contribute to a better global greenhouse outcome.

The AWU therefore urges the Rudd Labor Government to ensure that Australia recognizes and promotes the beneficial greenhouse contribution of our heavy metals industry. Unlike the Kyoto Protocol which did not include such longer term, life-cycle accounting, the second accounting period (post-Kyoto) must ensure that Australia receives the credit due for its efficient and sustainable manufacture of less greenhouse intensive and more sustainable products over their life cycle. In this way Australia can build on its world's best industrial practices, for example in the manufacture of aluminum.

The Government should also move quickly to ensure that under the Kyoto framework, Australian producers and exporters of natural gas and sustainable energy, including biofuels and ethanol have an early opportunity to earn international carbon credits and not see these credits accrue to overseas interests. These credits may be very valuable in assisting the extractive industries cooperate with industrial producers downstream to offset overall emissions and to aid transition to a carbon constrained market both domestically and internationally.

The new ETS and global mechanisms needs to account for the value of this sustainable usage and as domestically produced inputs to other important uses. The AWU is working closely with industry partners, to promote the trade and sustainability credentials of our industries.

The CPRS

The AWU notes that the Garnaut review and Government green paper set as a condition of the full implementation of an ETS progress with securing a binding future international agreement which would provide a level playing field for the EITE industries avoiding the need to carve out special arrangements to account for the resultant leakage of investment and jobs.

The green paper includes a requirement that future arrangements will be reviewed in the event of a lack of progress in developing a global ETS by 2020. However, the AWU believes Australia's policy settings must be conditional on international progress in order to avoid leakage, maximize benefits to the environment as soon as possible and to place the strongest emphasis we can on a positive and early conclusion to future negotiations.

There are a number of important modifications to the CPRS which would assist in protecting investment by the EITE industries and the future for workers in these industries. The AWU Proposal paper set out a range of issues, including recognition of best practice investment through the allocation of free permits and the transfer of unused permits to workers rather to Government if they remain unused at the end of the compliance period.

A combination of measures which encourages industry to be proactive in lowering emissions, which recognises and accounts for the extent of trade exposure; and which empowers workers directly is far more likely to assist the transition to the ETS and avoid the likelihood of leakage in the absence of a comprehensive international marketplace. These issues will be explored further in the AWU's comprehensive response to the green paper.

Conclusion

Australia's export and import competing industries already face uncertainty concerning access to markets following the collapse of the Doha Round of multilateral trade negotiations. In addition major markets outside of Asia are strained as a consequence of the prolonged fallout of the US sub-prime lending crisis makes its presence felt in slower activity and growth.

In this context, it is vital for Australia's economy to remain competitive and open in order to maximize returns from the existing robust growth in Asia. Despite the constraints on growth, Australia's net exports are for the first time in many years trending in a sustained positive direction. The investment, jobs and growth it brings will be vital to sustaining living standards during the current period and beyond. This is the starting point for Australia in assessing the impacts of a domestic ETS and in developing options for promoting a comprehensive agreement under the auspices of the Kyoto Protocol and beyond.

Burden sharing, achieving targets, avoiding free riders, encouraging technology and innovation and future investment and jobs including carbon insurance for workers will be key factors to promoting sustainable growth in Australia and as a model to the world.

Trade exposure and impacts on workers are common international themes in policy responses to the challenges posed by climate change. Despite lost opportunities, Australia has not stood still. Australian industry and workers, scientists and policy makers have, in addition to Australia's rich resources, much to offer in terms of know how, technology, and transition energy supplies, in particular LNG, and sustainable products including steel and aluminium. Let these features of Australia's response be at the vanguard of international efforts to secure cooperation in the future.

Endnotes

ⁱ Parties with quantified emission limitation or reduction commitment under the Kyoto Protocol. This list is a subset of the much larger list of Parties to the Kyoto Protocol of 182 countries.

ⁱⁱ Refer to Chapter 14 of the Garnaut Climate Change review Draft Report, June 2008 and Chapter 9 of the Green Paper, July 2008

ⁱⁱⁱ AWU Position Paper July 2008, The National Emissions Trading Scheme

^{iv} Cement Industry Federation, June 2008

^v Australian Aluminium Council, Sustainability Report 2007

^{vi} Australian Paper and the Australian Government – Working Together, presentation to Government

^{vii} The Protocol's Compliance Committee can apply a range of penalties if an Annex B Party is not in compliance with certain Protocol commitments such as meeting greenhouse gas emissions targets, requirements for the submission of national greenhouse gas inventories, or appropriate implementation of Protocol mechanisms such as the Clean Development Mechanism.

^{viii} If a Party has exceeded its greenhouse gas emissions target, it:

- must make up the difference between its actual emissions and the target for 2008-2012, plus an additional 30 per cent, during a second Protocol commitment period;
- must develop a compliance action plan to remedy deficient performance; and
- is suspended from international emissions trading under the Protocol. National Interest Analysis [2008] ATNIA 21 with attachment on consultation (Kyoto Protocol to the United Nations Framework Convention on Climate Change (Kyoto, 11 December 1997, [2008] ATS 2)

^{ix} Prime Ministerial Task Group on Emissions Trading, May 2007

^x Emissions in the Platinum Age: The Implications of Rapid Development for Climate Change Mitigation, Ross Garnaut, Stephen Howes, Frank Jottzo and Peter Sheehan, May 2008

^{xi} Australian Aluminium Council Sustainability Report, 2007.

^{xii} There are a number of possible options, including, for example:

- sector-specific arrangements with a 'baseline and credit' approach
- technology-based programs, for example focused on capital development
- voluntary programs focused on best practice targets at the industry or sectoral level. (See Report of the Task Group on Emissions Trading, Chapter 5)

^{xiii} Schemes have developed against very different policy backgrounds and often conflicting goals and concerns:

- the EU scheme is mandatory;
- the Chicago Climate Exchange is voluntary.;
- the New South Wales scheme targets emissions related to the production and use of electricity;
- the EU scheme covers five industry sectors and will be expanded in the second phase.
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Some markets are particularly exposed to external competition, so unilateral action is more difficult; others are more open to radical new initiatives. However, differences in systems and structures are at odds with the global and shared nature of the environmental problems that the schemes are designed to address. They also militate against the efficient operation of international environmental markets. See Building Trust in Emissions Reporting. Global Trends in Emissions Trading, PwC, Feb 2007

^{xiv} AWU Position Paper July 2008, The National Emissions Trading Scheme