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JOINT STANDING COMMITTEE ON TREATIES

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JOINT COMMITTEE ON TREATIES

Monday, 4 December 2000

Members: Mr Andrew Thomson *(Chair)*, Senator Cooney *(Deputy Chair)*, Senators Bartlett, Coonan, Ludwig, Mason, Schacht and Tchen and Mr Adams, Mr Baird, Mr Bartlett, Mr Byrne, Mrs Elson, Mr Hardgrave, Mrs De-Anne Kelly and Mr Wilkie

Senators and members in attendance: Senators Coonan, Mason and Tchen and Mr Adams, Mr Baird, Mr Hardgrave, Mrs De-Anne Kelly, Mr Andrew Thomson and Mr Wilkie

Terms of reference for the inquiry:

- The implications for Australia of proceeding or not proceeding to ratify the Kyoto Protocol and meeting its target emissions levels by 2008 with regard to anticipated and/or predicted economic, environmental and social outcomes both nationally and in specific regional areas.
- The veracity of conflicting current scientific theories on global warming and any solutions proposed for it.
- What definitions and criteria Australia should develop and actively pursue in its national interest with regard to:
  - grandfathering,
  - trading credits,
  - carbon credits,
  - sequestration,
  - revegetation,
  - land management, and
  - definitions (eg "forest").
- The economic, environmental and social implications of a punitive approach to any domestic regulation of industry including such proposals as a carbon tax and an incentive-based approach.

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Committee met at 10.13 a.m.

AEUCKENS, Mr Volker, Senior Adviser, Greenhouse, Agriculture, Fisheries and Forestry Australia

CARRUTHERS, Mr Ian, Senior Executive Manager, Greenhouse Policy Group, Australian Greenhouse Office

LANGMAN, Mr Christopher, Assistant Secretary, Environment Branch, Department of Foreign Affairs and Trade

IRWIN, Mr Stephen Brent, General Manager, Greenhouse Response Branch, Department of Industry, Science and Resources

CHAIR—I declare open the hearing this morning and welcome witnesses and members of the public, and even a delegation from the National Assembly of Vietnam—Mr Ngo Enh Dung, Mr Le Ming Hong and Mr Ngo Huij Wong. We will be hearing from Commonwealth government departments and the Australian Industry Greenhouse Network about what happened at the meeting at The Hague of the Kyoto Protocol parties, known as COP6. We will also continue our review of the biosafety protocol, or Cartagena protocol, thereafter.

Mr Langman told me earlier that Ralph Hillman, the Ambassador for the Environment who was to appear today, has been called away to an urgent meeting in the United States about the outcome of the COP6 meeting, so Mr Langman will substitute for him.

I might say that this whole issue is growing more and more complicated as the months pass and it is a mighty task for all concerned. It is disappointing to see in the newspapers this morning that one of the bishops of the Anglican Church, Bishop Browning of Canberra and Goulburn, has entered the debate in what I would regard as a fairly hasty and disappointing manner. If bishops of churches in this country feel that we ought to be selling out our farmers, our miners and our factory workers to the European Union and its trade interests, then they might change their name to something like the European Bishop of Canberra and Goulburn. That might be a little more accurate. We have to wake up to the chicanery of the European Union and some of their allies in the environmental movement and perhaps not be quite so gullible in future. If people want to do some damage to the Australian economy then they ought to go out and join Greenpeace, be open about it and stop trying to politicise an institution of worship.

If one of the witnesses at the table would like to make some opening remarks, please do so and then we will have questions thereafter. Mr Langman, would you like to open the batting?

Mr Langman—Thank you. What we thought we might do, if this was seen by the committee as useful, would be that I would make some introductory remarks, give you a sense of what happened in The Hague and talk about some of the substantive issues as well as the process, and Ian Carruthers would then talk about the sinks outcome in a little more detail. As you noted, Ralph Hillman had to leave at somewhat short notice, so he sends his apologies for not being able to attend this morning.

I am sure the committee is aware that The Hague meeting failed to produce an agreement, but the meeting was suspended. It is likely that the conference will resume in May—probably toward the end of May or early June, but the date is not yet certain. While no agreement was reached, the meeting in The Hague did suggest some possible compromises, areas on which work could move forward between the umbrella group and the EU, and we certainly expect that there will be a fair amount of contact, and probably ministerial contact, to build on the discussions that were held in The Hague in the lead-up to the resumption of COP6 in May.

It might be worth quickly reminding the committee of the key issues that we were dealing with as we went into COP6. The first of those are the rules and modalities for implementing the Kyoto mechanisms. A key political issue there is the EU demand that there be a ceiling on the use of the mechanisms—supplementarity, in the jargon, so a supplementarity provision. A second major set of issues relates to how we implement the sinks provisions of the Kyoto Protocol. There, the major political issue discussed during the meeting in The Hague related to additional sinks activities under article 3.4. This is a particularly critical issue for the United States, Japan and Canada.

A third major set of issues relates to the compliance system regime that will be linked to the Kyoto Protocol. The fourth set of issues relates to developing countries, both how we might fund some activities and what those activities should be in regard to developing countries. I should note that Australia and the United States, with the support of the umbrella group, also worked hard to get the issue of future developing country commitments onto the agenda at the meeting in The Hague.

We have talked with the committee before about all of those issues, and all of them are very difficult and contentious. A lot of work was done in the period since the Kyoto Protocol was agreed to develop negotiating texts on many of these issues, but I think it is fair to say that there has been very little progress on the underlying political differences that relate to the issues. By the time of the meeting in The Hague we had a lot of draft negotiating texts but many hundreds of square brackets and little sense of how we were going to resolve the underlying political problems.

During the first week—the meeting in The Hague was over two weeks—officials worked on these texts intensely, but I think it is fair to say that we did not make a great deal of progress. Altogether, the texts now run to hundreds of pages. I think we mentioned that to you before. Certainly we would be happy to make them available to you, but at this stage they are very much a work in progress. The focus was on trying to streamline the texts, trying to move some technical issues along, and particularly on trying to highlight where there were political issues: what are the political issues that divide us in this large group of countries in regard to each of these issues? The aim was to be able to refer those political issues to ministers when they arrived in The Hague for the second week of negotiations.

I do not suppose we made very much progress in many ways. At the end of the first week, Minister Pronk of the Netherlands, who chaired the meeting, added up the square brackets and said that there was something in the order of 1,500 left in the texts. It gives you an idea of just how complicated and just how long these texts are. But what was really clear was that officials were not able to move this forward much further at that stage. So, on the Sunday before the second week began, Minister Pronk held a meeting with about 35 ministers, including Senator

Hill, and drew up a list of all the outstanding issues and made it quite clear that he wanted ministers to focus on those issues and seek to come to some resolution. Our objective was then to take those decisions and slot them back into the negotiating texts, and that in theory would have been a good way to move forward.

Pronk established a ministerial level informal plenary and four working groups chaired by ministers, which met through the first part of the second week in an effort to come to terms with the political decisions that needed to be taken. It is fair to say, though, that not much progress was made—some at the margins, but there was no real movement on the larger issues. Soon after the middle of the second week, Pronk concluded that this process was not going to produce an outcome. He told the informal ministerial plenary that things were at a stalemate and that, in his view, it was now necessary, as chair, that he bring forward a paper of his own in an effort to move things along; and so he did that. We have provided a copy of that paper to members of the committee. You should have it, I believe, in front of you now.

The paper aimed to provide some compromise text on the major political issues. For example, on mechanisms issues, it sets out an approach to supplementarity, to an associated issue of liability, to an issue relating to whether we will be able to exchange credits from the different mechanisms freely. By the last day of the official meeting, the Friday, it was clear, however, that Pronk's effort to find a middle path had not been successful, and so in a last-ditch effort—and it is worth saying that all players had major problems with his paper—to find some way of getting an agreement in The Hague, he called a meeting very late on the Friday night. I believe it started around 10.30 p.m., with about 30 ministers in attendance, or at least 30 countries or parties represented. Senator Hill was there.

The group worked through the night. It talked through the same issues in rather familiar terms, so it did not produce any major breakthroughs. But from that group a smaller meeting arose between EU and umbrella group ministers, and that group worked at a possible set of compromises on some issues relating to sinks compliance and supplementarity. By about dawn, we had a set of issues on which there seemed to be fairly good agreement. At that stage, the possible compromise was taken to the full EU ministerial group, and at around 8 a.m. they came back into the room to say that they could not accept this as a basis for moving forward.

When we get to specific issues, we will say a bit more about the nature of the compromise that was being discussed, but I think it is important to note that only some of the issues on the table were part of that discussion and also that this was a potential way forward between the umbrella group and EU ministers. It did not, at this stage, involve the broader group of countries—of which, of course, there are many—and I think it was clear to everybody that we were not going to get a final agreement in The Hague. Nevertheless, I do not want to underplay the importance of the possible compromise that was emerging.

On issues of substance, Mr Carruthers, as I said earlier, will talk about sinks, but I thought I might first say a few words about mechanisms, compliance and developing country issues. On mechanisms, the focus of discussions between the EU and the umbrella group was on supplementarity—as I mentioned earlier, the jargon for caps on the extent to which parties with targets will be able to use the mechanisms to meet their targets. The EU, as I am sure you are aware, has long been of the view that there should be a quantitative cap on the use of the mechanisms, and the umbrella group, including Australia, has argued very strongly against that.

Discussions in The Hague suggested that a way forward might include a political statement that domestic action—that is, measures to address climate change that we would take at home—could focus on a political statement that we would do a significant part of our measures at home. In addition, there would be a report on how we were meeting our target through domestic measures. That report would be part of our regular reporting through the national communication—that is, the overall report that covers Australia's efforts or any other parties' efforts if they ratify—and might also be subject to some scrutiny by the facilitative branch of the compliance committee.

CHAIR—What was nature of this idea, this report business? Was this part of the deal that was nearly done?

Mr Langman—This was discussed in the context of a possible compromise on supplementarity. In the Pronk paper you will see a notion of a political statement that parties will do measures at home as well as use the mechanisms. I think he uses somewhat different language, but the language we were discussing was that a significant part of our effort would be done through measures at home. The report would then be focused on how we were using domestic measures to meet our target. Again, that is reflected, as I recall, in the paper from Minister Pronk.

On other mechanisms issues—and there are a great many on the table—really not much progress was made. I will just give you some examples of outstanding issues. They include, on emissions trading, the issue of liability—that is, who is responsible for credits that you buy from a party that eventually is out of compliance at the end of the first commitment period. There are concerns about overselling and how that might be addressed possibly through a reserve requirement. Another very important issue is the call by developing countries that there be a levy, a fee, placed on emissions trading transaction analogous to the fee, or levy, that is in place on the clean development mechanism. Those are just examples of the issues that remain on the table on which not much progress was made at a political level or, indeed, very little discussion was had of those issues at a political level.

On compliance, a key issue going into COP6 was what would happen to a party where it did not meet its target. Proposals on the table—and the committee will be familiar with these ideas—included having a non-compliant party make up the emissions that it did not meet in the first commitment period, and that is at a rate to be specified; the formulation of a compliance action plan, which would set out measures for how a party would return to compliance; possible payment into a compliance fund; and restrictions on the use of the mechanisms. These are all ideas that have been talked about in the context of the compliance system for some period now. There was general acceptance at COP6 that parties should make up the emissions credits that they have failed to meet during the first commitment period—although whether this should be done at a rate of one for one or at a higher rate is undecided.

Discussions also focused on the compliance action plan, how it might be developed, how it might be reviewed and assessed, and what would be included. On mechanisms—and Australia has always argued that we should not restrict parties from using the mechanisms in the second commitment period to make up for any credits they did not cover in the first, as that would be akin to shooting yourself in the foot—there seemed to be no definitive decisions but a lot of support for the notion that such restrictions should be limited to transfers: that is, to sales of

credits rather than buying. Another issue on compliance relates to the composition of the compliance committee's two branches—the facilitative and the enforcement branch. Again, a lot of discussion but no final outcome. It reinforced that the outcome on this issue is likely to be decided in the context of decisions on other Kyoto bodies, particularly the executive board of the Clean Development Mechanism. Of particular importance to Australia will be the make-up of the enforcement branch. Along with the other annex 1 parties, we are strongly of the view that the enforcement branch—which will consider whether parties have met their targets and, if they have not, what should be done about them—should consist of experts primarily from countries with targets rather than those without.

On developing country issues, there is still a long way to go. And it is fair to say that there was certainly no equivalent ministerial engagement to that amongst annex 1 ministers on sinks compliance and supplementarity. The level and source of funding to assist developing countries to address climate change continues to be a major element on which there is no resolution. Apart from the Netherlands and Denmark, donors showed little inclination to provide additional funding on a large scale for climate change at this point. But, most importantly, in order to move the negotiations forward and at the same time make progress on the question of developing country commitments, the umbrella group proposed the provision of additional funding, conditional upon developing countries drawing up and implementing a national greenhouse gas abatement strategy. The proposal was aimed at providing a real incentive for developing countries to take tangible action to reduce their emissions. The initial reaction of developing countries was negative, I have to say, but equally it is important to note that there was no real negotiation on this proposal at COP6. I think I might leave it there and ask Mr Carruthers to say a word on sinks.

Mr Carruthers—I will say a few brief words on that, particularly given the committee's interest in greenhouse sink matters from an earlier occasion. Going back to your opening remarks, Mr Chairman, about media coverage, you certainly glean from the media an intense interest in the greenhouse sinks component in The Hague. Once again, a deal of that reporting on the specifics, particularly as regards Australia's position and approach, is not especially accurate in a number of important regards.

In terms of key developments in The Hague, the reason greenhouse sinks took on the profile and substance that they did in The Hague was, essentially, over the question of what quantity of sinks credits could be generated through possible decisions in relation to additional sinks activities that might be incorporated in the Kyoto Protocol through the vehicle of article 3.4. In particular, the US, Canada and Japan had a proposal on the table concerning the introduction of forest management, crop land management and grazing land management—which I think we have spoken about on a previous occasion. It was really that quantity of sinks credits issue that dominated attention.

I will go back one step and point to a few other areas where we have a direct interest. Concerning the currently eligible activities under article 3.3 of afforestation, reforestation and deforestation, it would be my sense that the process is basically at a point of agreement on the implementation provisions. There is now a clear emergence of where the consensus lies on the definitions to be employed and the accounting frameworks on most of the key aspects. Nothing on the sinks provisions will be decided outside of a total package, both on sinks and wider; nonetheless, I think one can draw some sense from the discussions.

As far as article 3.3 is concerned, Australia's position is well catered for. Indeed, we did have a pleasing development in getting registered in The Hague some particular accounting issues that attach to short rotation plantation forestry pursued in Australia in recent years and also in NZ, but not in other annex 1 parties, and a recognition that some accounting issues associated with those short rotation plantations needed to be looked after. So that was a good development.

Mr ADAMS—Be 'looked after' in which way?

Mr Carruthers—In a positive sense. I do not want to get too much into the detail here. The problem with the Kyoto Protocol general accounting regime under article 3.3 is that you only earn credits from new forests growth during the commitment period. Let us imagine that you put in a 10-year rotation plantation today. It would be harvested in 2010. For the first rotation, you would secure two-years worth of credits, 2008 and 2009, from that particular plantation, but you would incur 10-years worth of debits on the carbon accumulated with the harvest in 2010. Once you get into the subsequent commitment periods, it would all balance out for the subsequent rotations. So there is recognition of that accounting anomaly and, indeed, the proposal that Australia has put forward as to how you would deal with that perverse accounting arrangement is travelling quite well at the moment.

Mr ADAMS—What sort of input did we have on the first round, to let it get there like that in the first place?

Mr Carruthers—Australia has essentially been the only party pushing it. New Zealand has come on board and is pushing it, but we really are the only two countries, amongst developed countries, that engage in short rotation plantation forestry. You simply cannot grow trees that quickly in most parts of North America and Northern Europe. We can come back to any further questions.

In relation to article 3.7, we were looking to have clarification of the implementation provisions. That relates to the treatment of land clearing emissions and is specific to Australia, so it is not really mainstream for other parties. That seems to be moving along in a satisfactory way, although, again, it is dependent on the final outcome.

In relation to article 3.4, on additional sinks activities, you would recall from our earlier input to the committee that Australia has proposed that revegetation be included as a specific activity. There seems to be good acceptance that any package on article 3.4 would include revegetation, so that is travelling quite well.

That brings us to the question of how to bring in these broad, land based activities of forest management, crop land management and grazing land management. One of the things that struck me about the session in The Hague was that, as far as the European Union and the G77 are concerned, they have moved beyond just talking about principles to now beginning to engage, at least at ministerial level, in the specifics of how that might occur. But there is still a separation particularly between the European Union and umbrella countries as to the specifics of how much sinks credits should be allowed and what the particular policy construct would be that would allow the entry of those sinks credits. It is essentially now an argument about numbers.

CHAIR—Let us pause there and go to questions because we can draw a lot from what both of you have said this morning. Dick, do you want to continue?

Mr ADAMS—Yes. Why is there great concern about short-term rotation tree growing?

Mr Carruthers—There is concern from Australia's viewpoint in that we need to have a correct incentive structure for plantation growers as to the quantity of credits that they might be able to earn in relation to new forests. With short rotation forestry, as I described before, there is potentially a perverse incentive in the way the accounting could be done, which we have sought to redress. This is well understood within the Australian forest industry. As I remarked before, it is essentially an irrelevant consideration for most other annex 1 parties and they have not wished to be troubled by it in the broader scheme of things. We have made it clear that we think it is a significant issue for Australia and deserves to be addressed.

Senator COONAN—I want to go back to Mr Pronk's paper, in particular the trading modalities and liability. What was the rationale behind trying to retain a portion of the assigned amounts in the national registry for the purposes of compliance? It seems to me in principle that, if there are problems policing that, there must be problems policing any retained amount. Have I got it wrong? I am just not quite sure what is being got at there.

Mr Langman—The notion is that, by requiring parties with targets to retain a fixed proportion of their initial credits in their national registry, there would be some safeguard against large-scale overselling.

Senator COONAN—It would only be a pretty approximate sort of thing, wouldn't it? If you cannot monitor or enforce compliance anyway, how can you monitor or enforce compliance with a notional amount retained?

Mr Langman—There could be different versions of this idea, but certainly there would be ways—and some parties have been thinking about how to do it in practical terms—to make this quite a precise requirement. We have some concern about practical issues in implementing such a proposal, but in practical terms you could, for example, build into your registry system, I understand, a requirement that no credits above a certain percentage of your initial assigned amount, your initial credit, could be traded. So there could be trading, but as soon as the software detects that a credit that is above that percentage is being proposed as a trade—and all trades will have to move through the national registry system, and it is also likely that there will be monitoring at the international level through a transaction log—an alarm would go and the credit that was proposed for trade in that instance would not be allowed to move. So there are ways to make it operational. They are quite complicated, clearly.

Senator COONAN—I am sorry I am not up to speed with this. Could you just walk the committee through sanctions, please, and where that is in the discussions and thinking?

Mr Langman—In the compliance context?

Senator COONAN—Yes.

Mr Langman—Of course. There is a range of potential sanctions on the table, of consequences, to use the jargon, of not meeting your target. The sorts of measures that are under discussion include the idea that a party would need to implement a compliance action plan. That would be a plan in which you set out what you intend to do to ensure that you are no longer out of compliance, and it could include a range of measures. For example, it could say, 'We will adjust some domestic policy measures,' or it could say, 'We will buy some credits internationally.' That is one idea. Another idea relates to restoring the credits. I think there is a consensus that, if a party that has ratified is out of compliance—that is, it has not met its target after the first commitment period—it should cover the shortfall in the second period. Exactly how it will do that is not yet resolved, but there has been some discussion about what rate should be used to restore those credits.

Senator COONAN—Or in what way, presumably?

Mr Langman—And in what way. But there has been considerable discussion about the rate at which those credits should be restored: should they be one for one, one plus some percentage, an opportunity cost for the money involved or a penalty? Those issues are still under discussion.

Senator COONAN—I suppose the ultimate sanction is just one of finger pointing, isn't it? There is nothing much you can do if eventually people cannot or will not comply.

Mr Langman—As we have indicated to the committee before, Australia's view is that the best way to make an international instrument of this sort work is through political will. In that case, certainly our view is that an important sanction is to make clear that a party has not met its target. I think it is fair to say that most other parties in this negotiation do not agree with us that that is sufficient.

Senator COONAN—Thank you.

Mrs DE-ANNE KELLY—Was there a figure decided for the cost of carbon?

Mr Langman—No, there was no discussion about the cost of carbon but, clearly, many of the things that were under discussion will add up in the end to a cost of carbon. The discussions on mechanisms and sinks issues, in particular, will have implications for the cost of carbon, but there was no explicit discussion about the cost of carbon.

Mrs DE-ANNE KELLY—The cost of carbon is meant to be homogeneous around the world, it is not going to vary from country to country. Is that right?

Mr Langman—Certainly, in our view, the most effective and efficient outcome will be one where there is a very vigorous global market in carbon credits, and that should produce an outcome where the cost of carbon is relatively even across countries that ratify the protocol. But, having said that, that will depend on the nature of the outcome.

Mrs DE-ANNE KELLY—My concern is this: will the carbon produced from growing a forest on marginal soil in Australia be priced the same as growing a forest on fairly expensive country in, say, Europe?

Mr Carruthers—That is correct. From the viewpoint of the Kyoto Protocol, it is really immaterial where the tree grows. A tonne of carbon is a tonne of carbon in terms of the benefit for the atmosphere, and that tonne of carbon would have a world market value. In terms of how to link the value of that carbon into a wider national agenda of, say, restoration of lands in drier zones, that is really then a matter of policy formulation as to how to address that. That, of course, is something that there is an increasing focus on in government, how to link together salinity, land degradation and greenhouse outcomes.

Mrs DE-ANNE KELLY—So the intention is that the same price for carbon be established right across the globe, and Australia is not going to change that. Is that right?

Mr Carruthers—Australia has seen that the so-called Kyoto mechanisms, the international carbon trading mechanisms, are an important feature of the Kyoto Protocol in arriving at least cost solutions for the Australian and global economy. Really, as Christopher has noted already, an automatic consequence of that would be that there effectively becomes a world carbon price of the day.

Mrs DE-ANNE KELLY—Have you maximised the benefits for Australian land-holders in terms of the outcomes that you are working towards at Kyoto?

Mr Carruthers—Australia has been taking a very active interest in the feature of greenhouse sinks in the Kyoto Protocol. I believe that as a consequence of the policy development process that has been going on over the past year or so with wide engagement from stakeholders that, indeed, we have been looking to set up an overall framework that is consistent with maximising Australia's interests in the negotiations, including around sinks.

Mrs DE-ANNE KELLY—Obviously, having competitively priced energy is very important for industry establishment in regional areas, particularly ours where we are very keen to have industry set up, having some high levels of employment. How are we going to avoid a situation where our coal, for instance, and crude oil and so on, is uncompetitively priced due to Kyoto and industry is, therefore, forced offshore? What is being done about that?

Mr Langman—There are two elements to an answer. The first is that your concern, one we share of course, underlines how important making sure that the Kyoto mechanisms function effectively will be. Those mechanisms will be very important to achieving a lower cost of carbon, and effectively a lower additional burden on industry in countries that ratify the protocol.

The second issue relates to the fact that developing countries do not have targets under the Kyoto Protocol. It is certainly an issue that Australia has worked very hard to address. I mentioned that we had floated with our umbrella group colleagues in The Hague a proposal that would seek to provide an incentive for developing countries to move towards greenhouse gas mitigation. I think those are two elements that need to be seen together to provide a means to address the concern you have raised which, of course, is a very real one.

Mrs DE-ANNE KELLY—In real terms, what do I tell my constituents? How do we put this in ordinary layman's terms? What is being done to ensure that they are going to have viable

industries? West of my electorate there is a huge mining area and obviously there is gas from the Bowen Basin. Do those people have a future? Are you working for them?

Mr Langman—Certainly, we are working for them. Australia's competitiveness, as a whole, is very much on our minds. I cannot talk to specific industries in specific locations, but I can assure you that it is very much on our minds and that we are working to maximise the means that we have available so that the impact on Australia's competitiveness is not great.

Mrs DE-ANNE KELLY—With respect, that is a whole question, isn't it: who is going to suffer and who is going to win? It is not going to be much good if there are a whole lot of winners in Canberra—a lawyer-led recovery—and a whole lot of miners and farmers out in the regions who are busted. Really, that is not a good outcome. You would have read the Allen report, no doubt, and it shows that, particularly in areas like Fitzroy in Queensland, there will be an increase in unemployment of somewhere between 12 and 15 per cent. Is the Allen Consulting report misinformed or poorly done, or is that a pretty accurate assessment of what we can expect? I also notice huge increases in unemployment in the Latrobe region of Victoria and in the Hunter region of New South Wales were Kyoto to be implemented in its current form. I would like to hear your comments on the Allen Consulting report.

Mr Langman—Ian might like to comment as well, but certainly all of us read the Allen report very carefully. Clearly, the Kyoto Protocol has some potential implications for specific industries in all countries that take on a target. That, of course, is—

Mrs DE-ANNE KELLY—What potential implications?

Mr Langman—As I recall, last time we talked with the committee this issue was discussed. A good deal of analysis has been done, including by ABARE. Mr Carruthers might want to say something specific about it.

Mrs DE-ANNE KELLY—You have not answered my question: potential implications for which industries and what are the implications? When ABARE came to see us, the only study they had done was on some developing countries—which was good for them but not for us—and they said that at that stage they had not been able to do a study and, furthermore, had not been asked to do one. If there is something from ABARE, that would be handy. Please, I would like you to elaborate.

Mr Carruthers—I would like to be able to offer some insights into activity at the Australian Greenhouse Office that has some relevance. I would set it against the backdrop of the target that Australia was assigned in the Kyoto outcome of 108 per cent. As a country, we have indeed received a fair amount of criticism for this so-called growth target.

Of course what the Australian government did, in approaching the Kyoto conference, was to make a realistic assessment of future trends in the Australian economy, including in energy and regionally based industries, and to look at what all this meant in totality for the purposes of a commitment period covering 2008-12 and a target of 108 per cent. The nature of that agenda has been spelt out previously.

Delivery against a target of 108 per cent certainly does raise issues, essentially in the context of national policy formulation, as to what policy framework you would apply in order to maximise economic good in Australia and deal with any structural and regional issues. There have been a number of products provided by the Australian Greenhouse Office over the past year and in recent months, such as the discussion papers on the design of a possible national emissions trading market and how you might use the functioning of an emissions trading system to essentially provide offsets in some way to subsectors that were negatively affected as a consequence. That issue is very much a part of active policy focus, and certainly there is ongoing analytical work there which, if it is of interest to you, I would be happy to assemble in a package.

CHAIR—We had better do this in a more detailed fashion.

Mrs DE-ANNE KELLY—Certainly, Mr Chair.

Mr HARDGRAVE—I am a bit concerned about the comment before about relying on political will. Obviously political will works in countries like Australia, where we have a liberal democratic tradition, but in nations where that kind of tradition, let alone a short-term foray into liberal democratic practices, does not exist, I would suspect that political will has no opportunity to work. In other countries where the political pressure point is feeding the people, political will over greenhouse gases is not going to work.

Essentially, it is a bit like the metaphor about nice guys finishing last. That is what concerns me: that Australia and countries like ours are the easy course for those who are promoting the greenhouse treaty, the Kyoto Protocol, to take and that there are harder nuts out there to crack. We may well get them eventually, but in the short term we are just going to see more and more exporting of pollution from countries that are going to do the right thing on paper but are simply going to export high polluting industries off to poor countries with large populations. Do you have any comment on those observations?

Mr Langman—The comment I made was very specifically in the context of how the compliance system might work for the Kyoto Protocol and was focused really at this stage on those countries that have targets under the Kyoto Protocol. Those are the industrial countries and the countries with economies in transition, including Russia. I was not suggesting that that was the way we should think about trying to extend commitments to address the greenhouse challenge. From an environmental point of view and, of course, from Australia's perspective in terms of competitiveness, it will be very important that developing countries also take on commitments, undertake real actions, to mitigate greenhouse gas emissions.

Mr HARDGRAVE—So you would agree that there is a high cost associated with going along with this, a cost that only some countries can afford and other countries simply cannot?

Mr Langman—At this stage, we have to assume that there is going to be a cost associated with addressing climate change. As Mr Carruthers noted, an effort was made in Kyoto to ensure that the impact that it will have on different countries taking targets would be reflective of the effort they would need to make. Hence, Australia has a somewhat higher percentage target than many other industrial countries, but that reflects the nature of our economy, expected growth, population growth and reliance on energy intensive industries. But I think we are talking here

about this issue of when, and if, and how developing countries might take targets in the future. That is an extremely important issue, as I already indicated. We note, for example, that China will be as large an emitter as the United States within a short period of time. So in terms of addressing climate change, it will be extremely important that China is involved in a constructive way in the international regime.

Mr HARDGRAVE—But the United States is trending down, while the PRC is trending up, and seven of the 10 most polluted cities in the world are in mainland China. So one would suspect there are some internal practices that have to be addressed—more than simply their economic circumstances but rather their standards on emission controls and so forth. What work is done to try and promote those kinds of issues with countries like that?

Mr Langman—As I indicated earlier, Australia and other umbrella group countries put a proposal in The Hague that was designed to provide an incentive for countries like China to engage in climate change mitigation activities. You are absolutely right that there are a number of interlinked issues here. In China, for example, I understand that there is a move toward using in the large cities fuels that burn more cleanly for air quality standards reasons, but that that has also had an important impact on the greenhouse emissions associated with power generation.

Mr HARDGRAVE—As Mrs Kelly highlighted, the problem is that most Australians outside of the ACT feel very disengaged from this and are more concerned—as a lot of Queenslanders are—that there are $15 billion worth of shale oil deposits sitting in Central Queensland, but no-one is going to pull them out of the ground, because of this sort of protocol. And yet, in some other country with a higher population basis, they may use far less environmentally sound practices to pull similar shale oil deposits out. Meanwhile, $15 billion worth of economic activity goes down the hole because we are the good guys on the block, and some other country actually pollutes the same atmosphere even more. This is the point that needs to be satisfied, and that is why we are undertaking this inquiry. From your experiences with these negotiations, would there be some consideration given to naming companies or countries that are exporting pollution—in much the same way that some were talking about companies whose components ended up in antipersonnel landmines, for instance—and in naming the bad corporate citizens: people who are happy to pick up pollution from one country and move to another with less rigorous standards?

Mr Langman—I do not think that that idea has been discussed at this stage in the negotiations. Let me make two other remarks. Firstly, there is a mechanism under the Kyoto Protocol for undertaking projects in developing countries to reduce greenhouse gas emissions: the Clean Development Mechanism. Secondly, there are provisions for developing countries to report on their emissions, in the context at this stage of the underlying convention.

Mr HARDGRAVE—Thanks very much.

CHAIR—Dick, you had some supplementary questions.

Mr ADAMS—Just going on from that: we, as practical politicians, have to talk about these things in our communities; and sometimes it can be a long way away, and even the way some of this is written in the notes that we have received is pretty much in words that cannot be carried out into the general populace. I want to refer to the point that was being raised by Mrs Kelly and

also by Mr Hardgrave. The points raised about China are raised with us quite considerably, and we have to answer them. My electorate is full of forests operations, and they want to know if they are going to survive and whether carbon sinks are going to be of any benefit to us and where we fit into the world thing. But Mrs Kelly was asking about what work has been done and what the effects are. I know that the coal industry is very keen to get the new technology, and I guess for China it would be one of their pluses if they can take some jumps from old technology to new technology.

I can remember talking to Barry Jones once when he came back from China and said, 'Well, Dick, it is 3,000 years of unsustainable development really.' I have just been involved in a situation where China has been dumping cement in Australia: I have a cement plant in my electorate which is pretty modern and very effective, and has done everything possible to reduce bad discharges, and it is being dumped on by a new plant in China. But there are a lot of old plants in China which are still sending it up there. So these are very practical situations that we have to answer. Is there any work being done on how new technologies can possibly help? As you say, with future policies, the government has policies that it sets from whatever comes out of these rounds of talks. Is any work being done on that?

Mr Langman—Under discussion in the negotiations is the subject of technology transfer, and a lot of thought has in fact been given to this issue. Of course, one of the key issues always comes down to funding, and how this might be funded is problematic. Having said that, I referred earlier to the Clean Development Mechanism, and certainly one of the advantages of the Clean Development Mechanism is that it should bring some technology transfer. You are receiving credits for emissions that are saved through the project, and in many cases that will involve cleaner technologies in terms of greenhouse gases.

Mr ADAMS—Just run that past me again: that was a pretty important point.

Mr Langman—Yes. The protocol provides for a mechanism by which an investor from a country with a target can undertake a project in a developing country—that is, a country without a target—and take the credits from that project, the reductions in greenhouse gas emissions or enhanced sequestration in a sinks project if sinks are included, and count those credits towards their target.

Mr ADAMS—So an aid program could be taken on board that way?

Mr Langman—Development assistance has been a rather controversial issue, and I think it will only be in regard to some parts of the project that development assistance might be used—although that is not finalised. It probably will not be agreed that a country could use development assistance money simply to buy credits. This was strongly opposed by the developing countries in particular, because they want their development assistance on the one hand and investment in new projects on the other.

Mr ADAMS—On the issue that Mrs Kelly also touched on in relation to the carbon sinks and Mr Carruthers' one of the growing trees being easier in some parts of the world than others, and that carbon will have one price: trying to get over desertification by planting trees and trying to go backwards instead of having the desert still coming out would be pretty hard stuff. If you have got a lot of rain, you can usually get to trees to grow. If you have not, it makes it a hell of a

lot longer period of time for rotations. Has there been any work in that area? What is the thinking in that area?

Mr Carruthers—Is your question in the context of developing countries again?

Mr ADAMS—Developing countries, yes—anywhere, really. If we are talking about salination here, and also some of our areas of vegetation.

Mr Carruthers—Absolutely. In Australia's case, we have seen that restoration of tree cover and vegetation cover is an important part of Australia's national greenhouse response that can deliver both greenhouse benefits in terms of take up carbon from the atmosphere and also a number of other sustainability and economic benefits. We have a growing appreciation of that in the Australian context. As far as developing countries are concerned, indeed we would see a number of similarities perhaps between circumstances of Australia and some of the African, South American and Central American countries and Asia. In terms of the Clean Development Mechanism as a possible vehicle for promoting these kinds of projects in developing countries, we certainly advocated the inclusion of sinks in the Clean Development Mechanism—as have a number of developing countries, such as the Latin American countries. Equally, there has been strong opposition from the European Union. There has been opposition from some of the key developing countries, such as China. So this is quite polarised at the present time. We regard it as unfortunate.

Mr ADAMS—What is their argument?

Mr Carruthers—In the case of the European Union, it is concern about permanence of the sinks that are established and how you ensure that the credits are secure in the long term.

Mr ADAMS—It is a conservation argument against plantation forestry versus replantation of multi-species forests, is it?

Mr Carruthers—It is essentially the permanence of the effective emissions saving associated with a sink project as compared with an energy project. If you put in place a different power generation technology, say, then any tonnes you save from emission to the atmosphere will be, if you like, a benefit to the long term. The question is that it is all very well to grow, say, a new plantation in a developing country, but how do you ensure that the plantation will exist for the long term? Or, if that plantation is removed—perhaps harvested and not replanted—how is that loss of the carbon sequestration made up for? That is the debate that is going on.

Mr ADAMS—I would have thought that we could have worked that out reasonably sociably in this country, by reasonable debate.

Mr Carruthers—It is really only an issue for developing countries. It would operate internally within our overall carbon accounting framework. It is really not an issue for Australia or indeed for other developed countries with targets.

Mr ADAMS—But you are saying the others are opposed to it, and are putting up the arguments, so it is an issue of negotiations, isn't it?

Mr Carruthers—Yes, it is. It is a live issue.

CHAIR—I have two more questions to finish off. The agreement which was nearly reached early in the morning and to which the EU came back and disagreed, in effect, did that include the question of developing countries' commitments, funding or whatever it is called now? Or was it just on those other issues of supplementarity, sinks and compliance?

Mr Langman—No, it was on the specific issues that you have mentioned—supplementarity sinks and compliance.

CHAIR—I do not know what the generic word was for the developing countries—the mendicancy—but that was left aside, was it, to be dealt with by this mechanism of the adaptation fund, convention fund and those other things?

Mr Langman—That was, as you say, not one of the subjects that the EU and umbrella group ministers talked about early on the Saturday morning. It is still under discussion in the negotiations.

CHAIR—Although we went, the policy of the cabinet—as government members were told—was that there would be no agreement unless there was consensus or agreement reached on developing country commitments. That in a sense was put aside, was it, and we are about to agree on things without any commitments, any agreement on funds or whatever, with the Third World?

Mr Langman—I think there are a number of issues, as I indicated, still not agreed.

CHAIR—At 7.30 a.m.—before Prescott came back—we and the rest of the umbrella group were apparently on foot. We had some agreement that was depending on their caucus agreeing to it on the other issues, but we left aside the issue of developing countries and their role in the whole thing?

Mr Langman—I think it would be accurate to say that there were a number of issues within each of those bigger boxes—mechanisms, compliance, sinks—that were under discussion as providing part of a way forward, but that would need to be part of a broader agreement on a range of issues.

CHAIR—I understand. We are not going to get far with this, but we have to establish whether what we were told by our executive before they went actually took place there, or whether it changed during the conference: that is to say, without our imprimatur. It does appear, from what we were told, that agreement was nearly reached on something that did not include our core national interest—that is, carbon leakage—and that this was put aside.

Mr Langman—If I can just say again: there were a number of issues that were being discussed through the night, and a whole range of other developing country issues were subject to very intense discussion during the night as well. And of course there are a significant number of other issues—I mentioned some of them earlier—

CHAIR—Yes, the register and all that stuff.

Mr Langman—including liability and other things that would need to be part of any whole agreement; any outcome would need to reflect the interests of a whole range of countries.

Mr Carruthers—Just to add to that, Chairman: bear in mind that what Christopher Langman described at the beginning of this session was in fact a series of discussions that were going on in different forums. Sometimes you had 30 ministers involved, which represented the umbrella group, the EU and developing countries, and certainly the issue of the developing country provisions had been an active subject of discussion and debate within that context. The reference to the early Saturday morning possible package for parts of an outcome was between umbrella ministers and EU ministers, and really related to those matters that were specific to the commitments of annex 1 parties, developed countries. There was never a sense that, had they even been successful with that, that would be the end point. Indeed, it was well recognised that—and Senator Hill was quite forceful—ministerial agreement would in fact only occur at the point that ministers were dealing with legal texts, which would have to occur beyond The Hague. But certainly there is no sense that the developing country engagement issue was in any way off the table in this process.

CHAIR—No doubt the minister would have issued a press release maintaining Australia's position publicly that this would be the case, and that we would not be the frog being slowly warmed up and then, by agreeing to all these other little things, when our crucial thing is later on not agreed to—that is, whether the Third World is in this or not—too late: we are already boiled! I am sure he must have issued a press release, but we will ask his office to follow up on that. Thank you kindly for your evidence here today.

[11.25 a.m.]

EYLES, Mr John, Executive Director, Australian Industry Greenhouse Network

CHAIR—Welcome. You were present at The Hague?

Mr Eyles—Yes, I was present as an industry adviser to the delegation.

CHAIR—Please make a few remarks, giving us your interpretation of what happened there, and then we will have questions in the same way as we did before.

Mr Eyles—I seek the indulgence a little of the committee to reflect on our submission to the treaties committee earlier this year, where we noted that, as a mechanism to restrain global emissions, the Kyoto Protocol has a fundamental omission in that it fails to require emission restraint in the first commitment period or any future one from non-annex 1 countries, and there has been some discussion of that this morning. We also raised the concern that many of the proposals under negotiation for implementation of the protocol are not least cost, and that any increase in cost of compliance will compound the adverse economic and environmental impacts of omitting non-annex 1 countries from the protocol.

We went on to say that this could result in simply relocating emissions from Australia to developing countries and could even increase emissions by encouraging continued operation of old and inefficient industries and energy supply systems in some non-annex 1 countries as they sought to meet world demand for energy intensive commodities. We noted that, in these circumstances, Australia would pay a very high price without any global gain in terms of emission reductions—which let us to our prime conclusion in that submission, where we said:

> AIGN believes that the significant lack of agreement in the international negotiations on implementation issues and the lack of progress on commitments for non-Annex I countries preclude any consideration of the merits of ratification at this time. We expect this situation will continue until at least COP7 in late 2001.

What occurred in The Hague has not changed our views there. In fact, I think it reinforces those views. This is clearly very difficult and is likely to be a long negotiation before we get to a satisfactory outcome. Turning to COP6 part 1, in particular, I would like to say that, despite the dramatic headlines that described the climate talks as ending in failure, there was some progress made and that in fact the decision was taken to suspend the conference, I believe, quite genuinely in the expectation of being able to make further progress at a reconvened COP6.

I would like to give you my perspective on the key issues that caused COP6 to stall. They do not differ greatly from those of the government representatives, but perhaps I have a slightly different perspective on it. The G77 and China arrived at COP6, insisting that a package would not be agreed unless there was agreement on their key priorities and the funding arrangements for those priorities. Their key priorities are capacity building and technology transfer, and financial assistance to deal with adverse effects of climate change and of annex 1 policies and measures to cut emissions. The negotiations proved very difficult in this area, particularly on the level of funding and the criteria governing its distribution.

With respect to sinks, as has been pointed out, the US, Canada and Japan presented COP6 with a proposal for significant additional sinks under article 3.4 of the convention. It is my view that, without the additional sinks under article 3.4, these three countries have a much more challenging task than the EU does under the protocol. I believe that a realistic assessment of what emissions restraint can be achieved in the commitment period in these countries—and, for that matter, in the rest of annex 1—supports the need for these additional sinks to be included. Key EU countries, on the other hand, came to COP6 with fixed minds on sinks and failed to understand the significance of the commitment problem faced by the US, Canada and Japan.

With respect to supplementarity, again, I believe the EU arrived at COP6 with an absolute determination to get a quantitative formula for supplementarity. Although they were willing to redefine their formula in a way that made it less stringent, they seemed not to understand that numerical limits increase costs without any gain in emission reductions.

With respect to compliance, on this issue, Australia, Japan and Russia came to COP6 without any other support, unfortunately, for opposing a legally binding system of international law to be established under the protocol. This group failed to gain any additional support during the session, and I believe Australia needs to do some more homework prior to COP6 resuming on this point.

There appears, as was noted by the government people, to be support for making good any shortfall by subtraction from the next commitment period. However, there is concern with respect to the incentive factor that might be applied there. The US proposed a factor of 1.3—in other words, a 30 per cent mark-up—and that was considerably higher than 1.0 as proposed by Australia. On the other hand, the EU wanted a more punitive approach with a minimum penalty factor of 1.5, and suggested even a range up to 2.0. The problem is that a high factor would make any system-wide shortfall a crippling load on the following commitment period. I think we have to take for granted that parties would endeavour to meet their commitments; however, if it proved impossible across the whole system of annex 1 countries, then this multiplier effect would have the outcome of transferring into the second or a subsequent commitment period a much more difficult task. So it could easily become a recipe for the system to fail.

My overall view is that despite some last-minute attempts to find agreement, particularly between the US and the UK, who were working vigorously on ways and means to overcome the impasse, the EU proved to be incapable of arriving at a pragmatic deal. Key EU countries that opposed the compromise included France and Germany—with the French environment minister being the representative speaking for the EU. It is important to note that the deputy Prime Minister of the UK, John Prescott, was so frustrated with the lack of willingness to consider moving towards a negotiated agreement, he openly criticised his EU colleagues, and that has continued somewhat after The Hague.

My overall conclusions are that, although the all-night negotiations failed to produce an agreement, the following discussion in the informal, high level plenary, which occurred on the Saturday morning, was in fact quite measured and constructive, particularly when compared with interventions that had been made in the earlier sessions of the last week and even in the first week. While the constructiveness of the final sessions may not carry over, I think there were signs that this COP session achieved a new and deeper level of understanding of the

issues—their complexity, their significance and the importance of different cultural and national circumstances—than has been achieved in any previous COP session.

In addition, the COP President, Minister Pronk from the Netherlands, now has a second chance to achieve success, something that no other conference president has had. So I expect part 2 of COP6 may well result in a deal on the major issues, while leaving detail to be finalised at COP7. However, finally I would like to stress that I think the bigger challenge for Australia, the US and other like-minded umbrella group countries will be to find a way to gain agreement for all countries to progressively take on commitments to restrain emissions.

Senator TCHEN—Mr Eyles, we have a submission from the greenhouse network which appears to have been received by the committee in September. The submission states that the network supports Australia continuing to take cost-effective action and so on. Is that still your conclusion?

Mr Eyles—Yes. I think Australia needs to continue to take cost-effective action because, although the negotiations are proving to be very difficult—in the submission, I think we anticipated that they would—to continue to try and address the problem we need to do what we can on a cost-effective basis.

Senator TCHEN—Do you think that if Australia continues to take effective action that will strengthen our position in future negotiation?

Mr Eyles—I think it certainly improves the credibility if we can demonstrate that we are taking cost-effective actions while on the other hand being quite pragmatic about the need to protect our competitiveness. I do not see any other country in the negotiation willing to sacrifice competitiveness of their own industry. In fact, even the German environment minister, in arguing for their particular version on supplementarity, indicated that they felt that it was necessary in order to protect the competitiveness of German industry. I do not think there is any reason for us to resile from on one hand taking action that is cost-effective and on the other ensuring that we do not damage the competitiveness of Australian industry.

Senator TCHEN—So this basic attitude that it is necessary to plug into national interests in terms of competitiveness is an accepted standpoint amongst the parties at this stage in the negotiation.

Mr Eyles—As I said, I have not seen any evidence of other parties willing to sacrifice competitiveness and I have heard a number. The German environment minister in this particular session put forward as a main line of argument on supplementarity that they were concerned about competitiveness of German industry in that, if other countries were not taking domestic action to the same extent as they were in Germany, that would disadvantage German industry.

Senator TCHEN—The reason I asked that is that evidence has been given to this committee that Australia needs to go to an international conference like this with a high moral performance, if you like, which will place Australia in the lead position, win the admiration of the international community and carry our ideas through. Do you think that that would actually work?

Mr Eyles—I think we need to carry out cost-effective and credible actions and that will give us a basis to talk in these sessions from a position of responsible action. I would counsel against trying to take the high moral ground. I think the EU has a mortgage on that and demonstrated at this meeting that they are willing to defend their high moral position to the ultimate extent.

Mr ADAMS—Do you think the other umbrella countries will take the same view?

Mr Eyles—The countries of the umbrella group do not agree on all issues, particularly when you get down to the detail level, but in a general sense there is a high degree of common understanding and agreement, particularly that the best way for this to move forward is for least cost provisions to prevail and for the inclusion of sinks that can be scientifically supported and taken into account. We agree on all of the things that will mean that the cost of compliance is not going to be excessive, particularly in the first commitment period. Although I think we would all want to see developing countries commitments come through in the future, realistically that is not going to come into effect in the first commitment period. That makes it essential that the international price of emissions is at quite a low level—otherwise it creates such a big driver to simply move energy intensive industries away from annex 1 countries and into the non-annex 1 countries.

Mr ADAMS—Do you think there would have been some advantages to the EU if these protocols had been picked up in the way that they were pushing?

Mr Eyles—I think they believe that there is some advantage to them if the protocol increases costs—particularly in countries like the US where they have a view that energy prices in the US are lower than the EU, primarily because they are not taxed to the same extent. I suspect that they see this as a way of trying to even up the competitiveness with the US, but I think it is a flawed set of logic that is being applied.

CHAIR—I would like to ask you industry's view of the liability issues because, presumably where emissions trading schemes and arrangements are mooted, it is industry that is supposed to be the purchaser of these credits. First of all, how do you think progress on that issue went at The Hague?

Mr Eyles—I think it is progressing with difficulty. We basically support an 'issue' liability system, where if a sovereign nation issues an assigned amount unit—to use the jargon—we believe that we should be able to take that as not having any risk associated with it, and we should be able to trade in that without needing to take out insurance or whatever, as would be implied under mixed or buyer-liability type systems. We believe that can be made to work through the reporting, reviewing and compliance mechanisms that are being talked about. There are conditions that are in the detailed papers for parties to participate in emissions trading that require them to have systems and processes in place to ensure that the risks under issuer liability are minimised.

The issue that keeps on getting raised is the possibility of some countries overselling. Our view is that, provided those other systems are adequate, the risk of that should be able to be minimised. Of course, this also links to the question of the overall compliance system where Australian industry believes that we should not be setting up under this protocol a new system of international law that would somehow be a court for sovereign nations to have to appear in,

and be subject to, rulings from the compliance committee. Our view is that this is best implemented through national law and through the goodwill of sovereign nations to make it work because, at the end of the day, if there isn't the political will of sovereign nations to make this work, then it is going to fail in any case. There is provision in the protocol, for instance, for nations to withdraw from the protocol. I think it has to be on the assumption that, if this protocol is ratified, the nations intend to make it work.

CHAIR—In that sense you do not like the smell of this compliance and enforcement branch. I assume that—

Mr Eyles—No. We agree with the two-track approach in the compliance system of, first of all, a facilitation branch and then a compliance branch. But, in terms of the ultimate sanction in this, we are quite concerned about those parties who want to have an amendment to the protocol that makes it binding in international law. No-one has fully set out how this will be set up. Do we have a new international court on climate change established under the UN, and will the compliance mechanisms branch become some sort of international judicial system? That has not been explained, but we do not think it is necessary and we can see that it could be very problematic.

CHAIR—If you take the approach in this international sphere that there should there be some sort of system that is buttressed or backed up by agreement between nations but without sanctions that are enforceable, then presumably you would be happy to do away with, in a domestic sense, any specific performance of contracts or any compliance measures that our domestic courts might impose if there is a dispute?

Mr Eyles—No. In fact, there is a need for strong national laws to be part of what is required by nations participating in emissions trading. It is through those national laws that I believe the integrity of the trading system can be maintained. From industry's point of view, we certainly do not want a system that is going to run along for several years and then suddenly collapse into total disrepute: industry will have made investment decisions and will have acquired credits, and to see those dissolved to zero value because the system fails would be of great concern. Our point really is that we believe that that can be best done through national laws and through the reporting review procedures and the two-stage compliance process.

CHAIR—True. If these national laws are established—in much the same way as, say, obligations with bonds or equities are enforced—which jurisdictions among the G77 group would you be happy to litigate in, to protect your rights under an emissions trading scheme?

Mr Eyles—This would only apply to annex 1 countries, because it is only those countries that have an assigned amount to issue. In terms of developing countries, the credits arising from projects in developing countries will go through the CDM executive board process, and that will be the process that will certify and verify those credits.

CHAIR—But, if they are cheating, do you not want a compliance—

Mr Eyles—As far as the developing countries are concerned, the executive board and the verification process will take care of that, and it is an ex-post verification. So the savings will have to have been made before the credits will be issued by that executive board. I do not

believe that there is a particular concern about underdeveloped countries with legal systems that may not be the equivalent of our own.

CHAIR—So you are happy to see a supranational authority set up to issue these credits under the CDM mechanism?

Mr Eyles—I think it is a realistic compromise, given that CDM projects will be going into some countries that do not have the same sorts of legal systems, monitoring and assessment capabilities that exist in the advanced economies around the world.

CHAIR—We had better leave it there. Did you issue a press release at the end of the meeting, or since, encapsulating these views?

Mr Eyles—No, I did not. I prepared some notes for coming along this morning. I would be happy to leave a copy with the committee.

CHAIR—We would be grateful for that.

Mr ADAMS—You say that the regime should be run through the state laws and national sovereign laws for each country. How do we reconcile that with the WTO situation, where we have got world umpires?

Mr Eyles—Some people have suggested that perhaps a similar regime could be established as the WTO, or even that the WTO and the use of trade sanctions could be a way of enforcing this.

Mr ADAMS—We have this public debate where the WTO can operate independently and individually, but there are these other issues that have got to be dealt with.

Mr Eyles—Sorry, I think I misunderstood your question. In terms of the WTO, there are a lot of differences about how that has evolved. It is a much more global scheme; it does not artificially divide countries into annex 1 and non-annex 1; and the mechanisms that have been set up to make the WTO work are quite specific to its function as a trade agreement. In the longer term perhaps this could be developed into a similar structure, but it is not the way I would like to see it start from the outset. The whole process is far too immature at the moment. If there is not the trust between the annex 1 countries to put in place a system and make it work under national law, then I would have serious doubts about the ability of a new body of international law to be set up to deal with that problem.

Mr ADAMS—But you can see the contradiction, can't you? We have got the WTO operating in trade; we have people who argue very passionately that you cannot just do trade on its own; and here we are dealing with some pretty big environmental—

Mr Eyles—Yes. I would note, though, that I have not heard any parties—delegations speaking for their countries—talk about linking this with the WTO. My observation would be that they probably recognise that the WTO is complicated and difficult enough as it is, without tying it together with something as difficult and problematic as this issue.

CHAIR—We had better not go down that path. Thanks kindly for your evidence this morning. If in the new year we have other hearings and there are more developments, you would be welcome back to comment on those.

Committee adjourned at 11.51 a.m.