

**AMENDMENT OF ANNEX 1 TO THE 1996 PROTOCOL TO THE
CONVENTION ON THE PREVENTION OF MARINE POLLUTION BY
DUMPING OF WASTES AND OTHER MATTER, 1972
(LONDON, 2 NOVEMBER 2006)**

Documents tabled on 6 December 2006:

**National Interest Analysis [2006] ATNIA 42
with attachment on consultation**

Text of the proposed treaty action

Regulation Impact Statement

Background information:

Current status list of Parties

NATIONAL INTEREST ANALYSIS: CATEGORY 1 TREATY

SUMMARY PAGE

Amendment to Annex 1 to the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 (London, 2 November 2006)

Nature and timing of proposed treaty action

1. Australia is a Party to the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 [2006] ATS 11 (the London Protocol), which entered into force generally, and for Australia, on 24 March 2006.
2. In April 2006 Australia proposed the amendment of *Annex 1 – Wastes or other matter that may be considered for dumping*, to expand the list of ‘wastes or other matter’ to include carbon-dioxide streams sequestered in subseabed geological formations, otherwise known as offshore geosequestration.
3. The proposed amendment was considered at the First Meeting of Contracting Parties to the London Protocol, from 30 October to 3 November 2006. On 2 November 2006, the proposal was adopted unanimously, under the Rules of Procedure for the Protocol.
4. Pursuant to Article 22(4) of the Protocol, Parties wishing to declare that they are not able to accept the amendment are able to do so within 100 days after the date of its adoption that is, by 10 February 2007. Otherwise, the amendment will enter into force for all Parties on 11 February 2007.

Overview and national interest summary

5. The London Protocol obliges Parties to take effective measures to prevent, reduce and where practicable eliminate pollution caused by dumping at sea. The Protocol limits the types of materials that may be considered for dumping to those listed in Annex 1 of the Protocol.
6. The amendment of Annex 1 to include ‘carbon-dioxide streams’ allows Australia to permit offshore geosequestration in accordance with the requirements of the London Protocol.
7. Offshore geosequestration is an important option to be considered for the mitigation of climate change and ocean acidification.

Reasons for Australia to take the proposed treaty action

8. The Australian Government's climate change and energy policies clearly identify the future potential of Carbon Capture and Storage (CCS) technologies, such as offshore geosequestration, as one important mitigation technology. The amendment of Annex 1 to allow offshore geosequestration is consistent with government policy to modify and augment our existing legislation relating to CCS assessment and approval processes.

9. CCS is a reality for Australia now, with several projects proposed to commence within the next few years. The amendment of Annex 1 will support Australia's efforts to remain at the forefront of the development and deployment of this important climate change mitigation technology.

10. The amendment also allows Australia to actively engage in technological developments in this field, and encourages other nations to adopt best-practice in the interests of climate change objectives and marine environment protection.

11. By adopting the amendment of Annex 1, the Parties to the London Protocol have acknowledged that geosequestration has a role to play, as part of a suite of measures to address climate change and related impacts on ocean acidification, and that the Protocol is an appropriate instrument to address the implications for the marine environment.

Obligations

12. The amendment of Annex 1 places no additional obligations on Australia above those already existing under the London Protocol. The amendment adds carbon dioxide streams to the list of allowable materials at Annex 1, and provides Australia with the option of permitting carbon-dioxide stream sequestration in sub seabed geological formations.

Implementation

13. Australia meets its obligations under the London Protocol through the *Environment Protection (Sea Dumping) Act 1981* (Sea Dumping Act). In accordance with Section 19(5)(a) of the Sea Dumping Act, a permit may only be granted for material that is listed in Annex 1 to the Protocol. Section 19(5)(b) of the Sea Dumping Act requires that permits only be granted in accordance with the assessment and permitting process set out in Annex 2 to the Protocol. The amendment ensures that Australia, and other Parties to the Protocol, may permit offshore geosequestration in accordance with the requirements set out in Annex 2.

14. No new legislation is required to implement the amendment.

Costs

15. There are costs associated with assessing permit applications and the ongoing regulation of approved permits. The amendment will not result in additional costs to the Commonwealth or State/Territory Governments.

16. The London Protocol and the Sea Dumping Act adopt a polluter pays approach to sea dumping. As such, and in line with the Australian Government's cost recovery policy, the *Environment Protection (Sea Dumping) Regulations 1983* prescribe fees for permit applications for the materials that may be dumped, which currently equal \$16,500.00 for large-scale activities. The permit process is expected to be similar for geosequestration proposals.

Regulation Impact Statement

17. A Regulation Impact Statement (RIS) is attached.

Future treaty action

18. No future treaty action or amendments are anticipated as a result of this amendment. Any future amendments to the Protocol would be subject to Australia's domestic treaty processes, including prior consideration by JSCOT.

Withdrawal or denunciation

19. Australia may lodge a declaration of non-acceptance of the amendment within 100 days of the date of adoption at the Meeting, that is, by 10 February 2007, pursuant to Article 22(4) of the Protocol.

20. Australia may withdraw from the Protocol at any time after two years from the date on which the Protocol entered into force, which was 24 March 2006, pursuant to Article 27 of the Protocol. A withdrawal would take effect one year after receipt of the instrument of withdrawal by the International Maritime Organization.

Contact details

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CONSULTATION

Public consultation has principally been through the development of a COAG Regulation Impact Statement and *Regulatory Guiding Principles*. These were endorsed by the Ministerial Council on Mineral and Petroleum Resources (MCMPR), following public consultation and direct consultation with State and Territory governments, non-government organisations and industry.

Public comments on the COAG RIS were sought from 8 October 2004 to 29 November 2004. Comments were received from the following parties:

- Anna Tredwell (Eco Property Pty Ltd)
- Australian Coal Association (ACA)
- Australian Conservation Foundation (ACF)
- Australia Petroleum Production and Exploration Association (APPEA)
- Australian Power and Energy Limited (APEL)
- BHP Billiton
- Baker McKenzie
- Conservation Council of Western Australia (CCWA)
- Cooperative Research Centre for Greenhouse Gas Technologies (CO2CRC)
- Cooperative Research Centre for Coal in Sustainable Development (CCSD)
- Climate Action Network Australia (CANA)
- EWN Publishing
- Friends of the Earth (FoE)
- National Generators Forum (NGF)
- New South Wales Minerals Council (NSWMC)
- Origin Energy
- PricewaterhouseCoopers Legal (PWC Legal)
- Rising Tide
- Stanwell Corporation
- Western Australian Government
- Woodside
- Xstrata Coal

Comments addressed a range of issues including, in relation to the natural environment, the need to adequately address environmental risks and uncertainties and to consider the use of alternate, 'clean' technologies.

Stakeholder consultation, comments from the COAG RIS submissions and further advice commissioned by the MCMPR were used to revise the *Regulatory Guiding Principles* and the COAG RIS for MCMPR endorsement. The Principles were endorsed by the MCMPR on 25 November 2005.

CURRENT STATUS LIST OF CONTRACTING PARTIES TO THE LONDON PROTOCOL

Note: The Amendment adopted on 2 November 2006 will be binding on all Parties that do not lodge a declaration of non-acceptance by 10 February 2007.

Angola	Luxembourg
Australia	Mexico
Barbados	New Zealand
Belgium	Norway
Bulgaria	Saudi Arabia
Canada	Slovenia
China	South Africa
Denmark	Spain
Egypt	St. Kitts and Nevis
France	Sweden
Georgia	Switzerland
Germany	Tonga
Iceland	Trinidad and Tobago
Italy	United Kingdom
Ireland	Vanuatu