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The Secretary
Senate Standing Committee on Economics
P.O. Box 6100
Parliament House
Canberra, ACT 2600
Australia
Economics.sen@aph.gov.au

RE: Senate Economics Committee Inquiry into Exposure Draft of the Legislation to Implement the CPRS

Dear Sir/Madam:

BP has been a long-time advocate for climate change policy and action in Australia, and therefore we welcome the introduction of the Carbon Pollution Reduction Scheme (CPRS). We support the commitment to early action; the focus on emissions trading as the key policy instrument, supplemented by complementary measures to facilitate investment in and deployment of large-scale, low-carbon, step-change technologies; and the proposal to deal directly with economic risks. We are therefore pleased for the opportunity to make a submission to the Senate Economics Committee on the draft exposure Bills for the CPRS. The impact of the CPRS cannot be understated: it will lead to a significant structural adjustment of the Australian economy. We also believe it will be precedent-setting for subsequent national emissions trading systems around the world.

A key challenge to implementing an Australia emissions trading system now is the ability to achieve meaningful emissions reductions without disadvantaging Australia businesses which compete with others facing no such carbon constraint. Solving this transitional issue is fundamental to the scheme's success: it is a key enabler.

As BP stated in our Green Paper submission in September, and in our subsequent testimony to the Senate Select Committee on Fuel and Energy in February, we believe that the Carbon Pollution Reduction Scheme Green Paper largely "got it right" with respect to many of the emissions trading design issues. A key exception to this success, however, was the process for providing transitional assistance to affected industries via the Emissions Intensive Trade Exposed (EITE) process. We were therefore pleased to see improvements in the CPRS White Paper, especially related to the EITE issue—and this EITE assessment process is ongoing. The other primary interest areas for our business include design and implementation issues surrounding our obligation as a fuel supplier for transport (product) emissions and the permit auctioning process.

Although the exposure draft legislation provides more detail on many of the White Paper policies, it lacks additional, detailed information on some of our key interest areas, namely the EITE process, the excise carbon offset for motorists, and permit auction design. Accordingly, we will use this opportunity to re-state our positions on these issues, and offer specific comments on other business-relevant areas that are covered in the exposure draft legislation.

BP is happy to meet with your review team to discuss any of our views in more detail. Please contact my office if you would like to arrange this.

Yours faithfully,
BP Australia Pty Ltd

Mark A. Proegler

Attachment

BP Australia Submission

Senate Economics Committee Inquiry into Exposure Draft of the Legislation to Implement the CPRS

BP has been a long-time advocate for climate change policy and action in Australia, and therefore we welcome the introduction of the Carbon Pollution Reduction Scheme (CPRS) and its subsequent White Paper and draft legislation. We support the commitment to early action; the focus on emissions trading as the key policy instrument, supplemented by complementary measures to facilitate investment in and deployment of large-scale, low-carbon, step-change technologies; and the proposal to deal directly with economic risks. The impact of the CPRS cannot be understated: it will lead to a significant structural adjustment of the Australian economy. We also believe it will be precedent-setting for subsequent national emissions trading systems around the world.

As BP stated in our Green Paper submission in September, and in our subsequent testimony to the Senate Select Committee on Fuel and Energy in February, we believe that the Carbon Pollution Reduction Scheme Green Paper largely "got it right" with respect to many of the emissions trading design issues. A key exception to this success, however, was the process for providing transitional assistance to affected industries via the Emissions Intensive Trade Exposed (EITE) process. We were therefore pleased to see improvements in the CPRS White Paper, especially related to the EITE issue—and this EITE assessment process is currently ongoing. The other primary interest areas for our business include design and implementation issues surrounding our obligation as a fuel supplier for transport (product) emissions and the permit auctioning process.

Although the exposure draft legislation provides more detail on many of the White Paper policies, it lacks additional, detailed information on some of our key interest areas, namely the EITE process, the excise carbon offset for motorists, and permit auction design. Accordingly, this submission re-states our positions on these issues, and offers specific comments on other business-relevant areas that are covered in the exposure draft legislation.

EITE Transitional Support

Achieving a successful solution for providing transitional assistance to EITE industries—realising emissions reduction while maintaining economic growth—will be the key determinant of the scheme's success. Policies to support EITEs are not an opt-out from meaningful climate change action; they are an enabling pre-requisite.

Australia's climate change policy goals—which BP supports—to begin GHG emissions-reducing actions now, ahead of more global agreements to bind others, creates key challenges: to achieve meaningful emissions reductions while sustaining economic growth; and to not disadvantage Australian businesses who compete with others (either as imports or exports) who face no such carbon constraint. Solving this issue is fundamental to the scheme's success, and to Australia's ability to use this achievement to enhance its ability to effectively engage and lead global dialogue on post-2012 emissions reduction commitments. Accordingly, the treatment of EITE industries is an enabler to climate change policy success in Australia and beyond. In particular, a well functioning Australian emissions trading system could be precedent setting for similar policy developments in the United States, which is also an energy and resource intensive economy.

BP endorses many of the CPRS White Paper concepts for EITE support, and is actively working with the Department of Climate Change in the ongoing EITE Assessment Process. Our expected outcome is that our key energy and export infrastructure such as refining and LNG businesses will qualify for EITE treatment, and thus limit the additional costs that will not be faced by our international competitors.

Without significant transitional support, the Australian refining industry will become less viable, and will lose attractiveness as a future investment destination. The refining business is a high-revenue, low-margin activity that competes with imported product that sets the price (import price parity). Any additional costs—carbon or otherwise—cannot be passed on, which reduces profit and long-term viability. And, a viable domestic refining industry is needed for fuel supply diversity and energy security.

It is also important that the introduction of the CPRS does not disadvantage LNG relative to our international competitors and to coal, given its role in reducing carbon emissions and as a major source of current and future export revenue for Australia.

Fuel Tax Adjustment for Carbon Price

The CPRS White Paper proposes to offset the impact of carbon prices on some liquid fuel users for various periods of time by providing a reduction in the fuel excise rate for those liquid fuel users:

- Motorists will have fuel excise reduced by the amount of the carbon price for three years.
- Heavy vehicle road users whose effective excise is limited to the value of the Road User Charge (RUC) will be assisted by removing the impact of the carbon price from their fuel use for one year.
- Some industries (fishing and agriculture) which are not subject to a net excise will also be assisted by removing the impact of the carbon price from their fuel use for three years.
- The excise rate will be permanently reduced at the end of the three years by the prevailing carbon price at that time.

The CPRS White Paper indicated that these excise offsets will be introduced at the start of the CPRS (in mid 2010), and that further adjustments will be made at 6-monthly intervals thereafter if the average emissions permit price increases. The excise adjustments are to be based on the embodied carbon emissions in diesel.

BP is pleased with the White Paper guidelines for implementing this carbon offset, which we believe will maintain carbon market integrity and liquidity while meeting the policy objective of matching the excise tax offset to the product carbon price. However, we are concerned that additional details on how these excise changes will be calculated and applied are not included in the draft legislation. It is also important to note that, whatever the details, this process will not yield an exact "cent for cent" match since the basis for the excise offset will be historical carbon prices while the product carbon prices will be current carbon prices.

Auction Design

The CPRS White Paper provided design details for the permit auctioning process, for which little additional clarification is offered in the draft legislation. Although BP accepts most of the White Paper recommendations, we have a specific issue relating to restrictions on auction purchases that needs to be addressed. Namely, we do not accept the proposed parcel size limit of 25% on bidders for a particular auction. This places an unacceptable limitation on our ability to acquire permits, for which our needs are considerable, given our obligation to acquit permits for use of our liquid (transport) products.

SPECIFIC COMMENTS ON CPRS EXPOSURE DRAFT LEGISLATION

OTN (Part 3, Division 5)

1. It is of significant concern to BP that section 68(2) not only places the burden on the supplier, but that it is also a civil penalty provision. Section 68(2) effectively requires the fuel supplier to check the OTN register before supplying and if the customer's OTN is not on the register, the fuel supplier cannot supply the fuel. This provision places administrative burden on the fuel supplier and the risk of civil liability. Ordinarily, it would be the responsibility of the customer to provide (and contractually warrant) the correctness of any necessary information it supplies.

   If this provision is not removed, or at least reversed, so that the liability sits firmly with the customer who incorrectly quotes an OTN, then the OTN Register must be updated on a real-time basis and the quotation of the OTN must be in writing to ensure the fuel supplier has adequate record (s 51(2)(c)).

2. Section 51(2) provides for the timing of OTN quotations. If a contract is entered into before the start of the scheme, the OTN must be quoted before the start of the scheme. If a contract is entered into after the start of the scheme the statement must be made before the contract is entered into. This prescription precludes the parties from agreeing to flexible supply arrangements permitting some supply to be free of carbon cost over the term of the contract. Timing should be subject to the parties' commercial negotiation.

3. An OTN is issued to a person (s 42(1)). There is no provision for an OTN to be issued for the use by members of a corporate group. As liability within a group sits with the controlling corporation, there should be provision for members of a corporate group to use one OTN. This would provide maximum flexibility for corporate groups.

4. OTNs should not be necessary for intra-group transactions.

Liability transfer certificates (Part 3, Division 6)

1. The liable entity for direct emissions is the controlling corporation (s 17(3)). Within a corporate group, the controlling corporation ought to be able to assign its entire liability to another member of the group in one simple administrative task. The only way to assign is via the liability transfer certificate, and this is in respect of each

facility (ss 72(2), 76(2)). This poses an administrative burden for a corporate group that has several facilities.

2. The liable entity for eligible upstream fuels is the person who pays the excise or import duty (ss 31, 32). As acknowledged in the Guidelines, upstream fuel suppliers will often also be direct emitters. There needs to be an efficient mechanism to transfer the upstream fuel liability to the person's controlling corporation, so that scheme obligations can be easily aggregated in one entity. Similarly, the OTN holder should be able to assign its liability to the controlling corporation.

3. A 4-year minimum term on transfer liability certificates is unreasonable (s 78(4)(c)). There should be a shorter period to allow a group greater flexibility

Publication of Information

1. Part 12, Division 2, clause 266 of the CPRS Bill – Exposure Draft indicates that the details of the number and types of units surrendered by each liable entity should be included in the database. BP is concerned that public availability of this detailed information will reveal commercially sensitive information related to our proprietary trading strategy. As an alternative, BP recommends that this information should be provided on an aggregated basis, i.e. the types and number of units surrendered by the entire market. This would meet DCC's requirements for availability of overall "unit demand" information while maintaining the confidentiality of each company's data.

2. Paragraph 11.17 of the Guidelines advises that the unit holding of a liable entity will not be published. BP supports this given the commercially sensitive information comprised in holdings. BP would like to see this restriction expressed in the legislation. As Part 12 of the Exposure Draft is currently drafted, the information is not published on the database only through omission from the legislation. It is also of some concern that despite this restriction on publication, Part 16 requires publication of significant holdings. In our view, this is inconsistent with the apparent restriction of publication of holdings and it should be removed. BP is agreeable to notifying significant holdings but does not agree that such information should be publicly available.

BP Background Information

BP in Australia

BP Australia has been operating here since 1920. We're involved in a range of activities, such as exploring natural gas and crude oil resources. We also refine and market petroleum products, produce lubricants, and help to generate a significant amount of solar power. We have two crude oil refineries, our Kwinana refinery in Western Australia and our Bulwer Island refinery in Queensland. We produce some of the cleanest fuels in Australia, and have sold over 500 million litres of biofuels to date; by the end of 2008, over 200 stores will be offering BP Unleaded 91 + ethanol as a replacement fuel for regular unleaded 91. We also have a network of almost 1,400 BP branded service stations throughout Australia, and we make and market BP and Castrol lubricants. Our exploration business is focused on the Northwest Shelf (NWS), where we're one of six participants in Australia's largest resource development. This produces a range of hydrocarbon products: natural gas, liquefied natural gas (LNG), liquefied petroleum gas, crude oil, and condensate. In addition, BP Solar has been operating in Australia for over 20 years.

BP views on Climate Change

Since the late 1990's, BP has supported precautionary action to limit greenhouse gas (GHG) emissions and has worked to combat climate change in several ways, even though aspects of the science are still the subject of expert debate. Our position on climate change is well defined:

<u>Sustainable emissions reduction</u> We believe that climate change is a long-term issue, which needs to be tackled over the next 50 years or more. We support urgent but informed action to stabilize GHG concentrations through sustainable long-term emissions reductions at the lowest possible cost. Large-scale reductions in emissions will require the use of both existing and emerging technologies.

<u>Government and business working together</u> Governments and businesses need to work together to create a policy framework or 'space' that drives economic progress and provides energy security while delivering significant emissions reductions. Such a 'space' can be defined by appropriate policy and regulation, while activity within it will be driven by market mechanisms. We believe that the policy and regulatory interventions must support the development and implementation of appropriate technological solutions and also enable the amendment of market mechanisms as new knowledge around climate change emerges.

<u>Emissions trading</u> We advocate the introduction of emission caps and that market mechanisms, such as emissions trading, be used to enable economies to adjust to a carbon-constrained world. In a cap-and-trade system, a cap is set on the total emissions from a group of emitters – whether companies, plants, countries or regions – and participants can trade emissions permits within that limit. Our major European assets already operate within the EU's Emissions Trading Scheme (EU ETS), currently the world's largest cap and trade system, and we support its extension and development. While our preference is for a global trading system, realistically this will begin with national systems such as the EU—and soon, Australia.

We also argue that wherever possible policy should create a level playing field to encourage different means of achieving emissions reductions, such as renewables and carbon capture and storage (CCS). BP participates in several groups to help provide a strong business voice for policy development.

Recognizing the role of fossil fuels With fossil fuels currently the source of 80% of the world's primary energy and likely to remain vital to global energy supply for at least 20 to 30 years, innovation to reduce carbon emissions from fossil fuels can make a major contribution to stabilization. Consequently, energy companies like ours have an important role to play in contributing to policy and education, enabling market mechanisms, developing and deploying new technological and commercial solutions based on both fossil fuel and new energy sources at large scale.

Australian Actions on Climate Change

BP has been at the forefront of efforts to raise awareness of the significance of climate change in Australia, working to highlight the economic and physical risks to the country of failing to take appropriate action. We were an early supporter of emissions trading in Australia, drawing on our experience of BP's internal trading system in the late 1990s and our involvement in the European Emissions Trading Scheme (EU ETS). In 2006, we were a part of the Australian Business Roundtable on Climate Change which highlighted Australia's physical and economic vulnerability to climate change and argued for early action. Since then we have been an active contributor to the policy debate on the development of a national emissions trading scheme. These efforts to increase awareness and develop appropriate policy mechanisms have been underpinned by action. We believe that minimizing GHG and other emissions is a fundamental part of operating responsibly and have taken steps over many years to reduce emissions