

25 March 2009

The Secretary  
Senate Standing Committee on Economics  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600  
economics.sen@aph.gov.au



Dear Sir/Madam

### **Inquiry into exposure draft of the legislation to implement the CPRS**

The Australian Industry Greenhouse Network (AIGN) appreciates the opportunity to make a submission to the Senate Economics Committee on the draft exposure Bills for the CPRS.

It is generally agreed that the introduction of a greenhouse gas emissions trading scheme in the form of the CPRS will represent one of the most significant reforms to the economy ever attempted. It is at once encouraging that the Economics Committee is to review the draft Bills and disappointing that the Committee will report before the economic implications are able to be properly assessed by the Australian community.

AIGN affirms that the economic implications of the CPRS cannot be assessed at this time for two key reasons. First, most of the key elements that will determine the economic impacts are not evident in the draft Bills including:

- The economic implications for Australia are closely tied to the economy wide emission commitments Australia adopts relative to the commitments adopted by other countries. At this time, only a handful of advanced countries, where 'advanced' is defined as all countries with GDP per head at least as high as the Ukraine in line with Australia's submissions to the UNFCCC, have indicated their possible commitments. Most advanced countries are unlikely to identify their possible commitments before the UNFCCC negotiating session in Copenhagen in December 2009;
- A significant determinant of the level of impact on the economy will be the elements of the CPRS legislation designed to offset the loss of trade competitiveness of export and import competing industry during a period of transition to a coordinated and comprehensive global commitment to reduce emissions. The draft Bills devote just six pages to this vital element of design and provide no detail of substance. AIGN understands that all of the details that will determine the impacts on trade-exposed industry will be contained in regulations and the final set of these regulations will not be brought before Parliament until the first quarter of 2010, just three months before the scheme is scheduled to commence;

---

Australian Industry  
Greenhouse Network  
ABN 93 108 941 117

---

Unit 3,  
4 Kennedy St  
Kingston ACT 2604

---

PO Box 4622  
Kingston ACT 2604

---

T +61 2 6295 2166  
F +61 2 6232 6075  
E [info@aign.net.au](mailto:info@aign.net.au)

- Other significant elements of the legislation yet to be drafted include the auctioning scheme and the amendments to the Excise Tariff Act affecting transport fuel prices;
- Although the elements of the CPRS impacting on the electricity generation sector are more detailed in the draft Bills, because important elements will be set in regulations, the full impacts will also not be known until early in 2010;
- The CPRS Bills will be just one element of a balanced response to reduce emissions. In particular, to reap the economic efficiency rewards of an emissions trading scheme a strong publicly funded program of RD&D is required and, importantly, the plethora of Commonwealth and State schemes that impose additional costs on industry need to be removed. There is nothing in these draft Bills that address these issues and therefore a robust economic assessment is not yet possible; and
- AIGN notes that the modelling so far released by the Treasury provides very little insight into the likely economic impacts on Australia. None of the scenarios modelled by Treasury address one of the most likely outcomes from the Copenhagen negotiations, that being the Government's commitment to a minimum -5% below 2000 emission permit budget by 2020.

Second, the scope and longevity of deteriorating global economic conditions raises considerable uncertainty about the capability of industry and households to fund emission saving investments to respond to the price signal being created by the CPRS. For as long as these circumstances continue to prevail, industry and households will in effect be confronted with a tax that they cannot avoid, thereby limiting the emission reductions that can be effected. This will be a poor environmental outcome.

In the two weeks since the draft Bills have been released, AIGN members have been attempting to come to grips with what is, and what is not, included in the Bills. In the next few weeks, and before submissions are required by the Government on 14 April 2009, AIGN members will attend information sessions and workshops being conducted by the Department of Climate Change, the Treasury, and various law and accounting firms.

As a consequence, AIGN is not in a position at this time to give the Committee a considered submission addressing the detailed provisions of the draft Bills. AIGN has however responded to the White Paper, both in summary and in detail (see attached). If flaws in the White Paper are to be avoided, and in the context of a limited global agreement, then the CPRS legislation will need to:

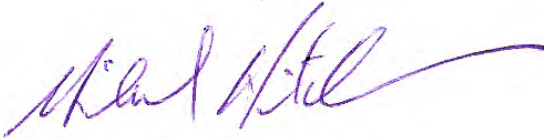
- Adopt a national permit budget to 2020 that is fair compared to the obligations of other countries. To illustrate, the current EU ETS at a permit price of €10/tCO<sub>2</sub> (about A\$20/t) adds about 8% to the EU wholesale electricity price. Since permit price is a good proxy for economic impact, then an equitable equivalent Australian permit price should also add 8% to Australian wholesale electricity prices – currently, that would translate into about \$4/tCO<sub>2</sub>.
- Cover 100% of emissions from the beginning so that arbitrary allocation of the national budget between the ETS and the rest of the economy can be avoided.

- Enable a sensible start to the scheme, which
  - allows for a moderate rise in consumer prices and business costs to avoid a sharp shock to the economy to 2020
  - fully compensates low income households
  - offsets the competitive loss of trade exposed industries and compensates strongly affected industries.
- Allocate the full budget of permits, with the actual trajectory of emissions within the budget period to be determined by the market.
- Set upper and lower ‘gateways’ for 15 years, and reviews, and rolls forward, the firm budget and gateways every 5 years, by 5 years. The proposals in the White Paper, to give 10 to 15 year budgets and gateways, are too short to support management of risk in ‘bankable’ investment, including investment in RD&D.
- Set a sensible ‘safety valve’ price trajectory to 2020 that caps the economic impact that the community is prepared to accept. This price trajectory could be abolished when the community had confidence in the maturity and stability of the domestic and international emissions markets.
- Establish a transparent and robust process for setting Australian emission budgets to 2050 that is reflective of, and assists progress in international negotiations, including the pursuit of an international agreement based on at least a 10 year forward basis, not the shorter periods contemplated for the Kyoto Protocol.
- Fully offset the loss of trade competitiveness of industry. AIGN estimates that non-agriculture industry accounts for over 200 million tonnes of emissions, whereas the White Paper estimates an allocation of perhaps 110 million tonnes. Amendments to the White Paper would include to
  - remove the zero, 60% and 90% rates – to be fully effective, trade exposed operations should receive up to 100% of scope 1 permits and up to 100% of permits needed to fully offset costs passed-through by non-trade exposed industry (typically in electricity prices, gas prices and feedstock prices)
  - remove allocation ‘decay’ of 1.3% per annum- allocate to existing operations based on fixed relationships between output and scope 1 and non-trade exposed cost pass-through measured in a typical recent year or average of years. Allocate to greenfield and brownfield projects based on international best practice at the time. Both these approaches will efficiently deliver the incentive for business to improve their emission productivity driven by the price of permits
  - if these design changes are made, then the complicated design elements involving ‘emission intensity’ tests and artificial definitions of ‘activity’ can be dispensed with
  - if the scheme cannot be designed to offset competitiveness loss of import and export industry, then consideration may need to be given to other scheme designs such as the consumption-based approach proposed by Geoff Carmody.

- Provide greater assistance to the electricity generators that will suffer significant asset value loss. The White Paper proposes assistance that is about one third that required.
- Provide for the abolition or phasing out of existing schemes, and a means to prevent the adoption of new schemes, that impose additional costs on industry.
- Set out a comprehensive, publicly funded program for RD&D into frontier emission reduction technologies.

AIGN would be pleased to elaborate its proposals to the Committee if required.

Yours sincerely



**Michael Hitchens**  
Chief Executive Officer

Overall, the White Paper is an improvement on the Green Paper, but offers considerable scope for further changes to deliver better economic and environmental outcomes that are fairer to all Australians. AIGN's concern is that the White Paper has been conceived in 'the good times', but is not robust for times of economic downturn, whether now or at some future date.

The following summarises the areas needing further significant improvement:

- AIGN endorses the White Paper test for setting Australia's emission budget at a level that is commensurate with "advanced economies taking on reductions comparable to Australia". However, both the -5% and the -15% targets the Government intends committing Australia to — representing a 25% to 35% reduction in emissions relative to expected trends and a 34% to 41% reduction from 1990 per capita emission levels — are stronger than other wealthier countries including the EU, the USA and the UK. Further, Treasury modelling estimates that these targets mean that Australians could incur wealth losses 3 to 4 times higher than the losses that Europeans and Americans bear by 2020. AIGN advocates that Australian's shoulder a fair share of the global burden, no more and no less.
- The White Paper emission trading design leaves the level of economic impact on the Australian economy to be determined by the global price of emissions as driven by the Clean Development Mechanism (CDM). This would be acceptable if the CDM was efficient and Australia negotiated an appropriate emission budget to compensate for the expected impacts on the economy. However, neither of these conditions is evident in the White Paper. AIGN notes that the Treasury modelling report does not model any scenarios for CDM permit prices and, hence, possible Australian permit price scenarios. The only effective means of limiting the economic impact of the emissions trading scheme is to adopt a 'safety valve' price cap. AIGN also notes that the Treasury modelling report does not model the economic implications of a \$40/tCO<sub>2</sub> 'safety valve' price (rising at 5% real per annum) as proposed by the White Paper.
- The White Paper proposes an improved program of permit allocations to emission intensive trade-exposed industry and Climate Change Action Fund (CCAF) grants for other industry. The proposed program, however, does not offset the competitive disadvantage of trade-exposed businesses, and losses of jobs and investment will be inevitable, for minimal environmental gain under the -5% unilateral target. Within the coverage of the proposed emissions trading scheme, and leaving aside agriculture, 45% of Australia's emissions are associated with potentially trade-exposed businesses. However, the White Paper asserts that just 25% of permits will be sufficient to ensure no loss of competitiveness, investment and jobs from these businesses.
- A key mischief promoted in this debate is that transitional assistance to trade-exposed businesses is a gift of taxpayers' money to 'rent seekers'. The White Paper estimates that at a price of \$25/tCO<sub>2</sub> the emission permits in the trading scheme will be valued at about \$11.5 billion in 2010-11. This \$11.5 billion is not a magic pudding of taxpayers' money created (from nothing). Rather it derives from the increased costs of living for consumers and the lost profits of businesses. In particular, most trade-exposed businesses are unable to pass-on any emission costs and no trade-exposed business will be able to recover all emissions costs. The result of the White Paper is that in 2010 the Government may impose over \$5 billion in costs on existing trade-exposed businesses, but is proposing to provide just \$3 billion in relief declining at a rate of 1.3% per annum for existing businesses — this is nothing more than a productivity tax.
- AIGN estimates, assuming a historical growth rate in trade-exposed industries of 1.5% per annum excluding agriculture, that there is between \$25 and \$30 billion worth of permits unallocated by 2020. Clearly there are sufficient permits to deliver a better outcome for all trade-exposed businesses without

reducing the compensation to households proposed in the White Paper.

- Importantly, the White Paper proposes to allocate permits to coal-fired electricity generators that will suffer considerable asset value loss under the emissions trading scheme. However, the level of compensation offered is just \$3.7 billion, whereas modelling published in the White Paper shows losses around \$10 billion at a permit price of \$25/tCO<sub>2</sub>. In addition, there may be other non-trade exposed industries that could suffer significant asset value loss. A fairer outcome is needed.
- AIGN has a number of concerns around issues of governance and rights of appeal proposed in the White Paper. These are associated with the definition of 'activity' for the purposes permit allocation; the 5 year review of the emission intensive trade-exposed program by an expert panel; industry impact reviews to be undertaken by the Productivity Commission; and the general delineation of powers, and subsequent avenues for appeal, between the Minister and the regulator.
- AIGN has a number of concerns around the detail of regulations yet to be drafted across all areas of the scheme including permit allocation and acquittal, coverage, emission methodologies, auctioning, and taxation.

AIGN has other key areas of concern associated with the CPRS:

- It is not yet clear how the Government will use its R&D funds to assist the large scale demonstration of new technologies before they become commercially viable under the emissions trading scheme. AIGN supports funding of innovative elements of these projects on 'public good' grounds.
- The Government has proposed the 60,000GWh Renewable Energy Target (RET) scheme notwithstanding that it is displaced on policy grounds by the emissions trading scheme. The RET does not meet the COAG principles for climate change mitigation measures that are complementary to the CPRS. Every independent review undertaken, including by Professor Garnaut, the Productivity

Commission and the Treasury, has recommended that the current MRET scheme should not be expanded and should be phased out. AIGN also notes that the policy was to produce 20% of electricity from renewable sources by 2020, and that with the CPRS scheme and the resulting reduction in electricity demand, the result of the 45,000GWh target in the draft legislation released by the Government late last year will be a much tougher and more costly target of almost 25%.

- It is likely that the Federal Government decisions to retain and adopt new measures that do not meet COAG principles, as represented by the RET, will be influential on State and Territory governments. The proliferation of overlapping and costly policies will continue, removing any claims to economic efficiency that might remain for the proposed emissions trading scheme.

# SUMMARY OF POLICY DECISIONS: AIGN'S RESPONSE

## 1 The policy context

### Policy position 1.1

The Government accepts the key findings of the Garnaut Climate Change Review Final Report that:

- a fair and effective global agreement delivering deep cuts in emissions consistent with stabilising concentrations of greenhouse gases at around 450 parts per million or lower would be in Australia's interests
- achieving global commitment to emissions reductions of this order appears unlikely in the next commitment period
- the most prospective pathway to this goal is to embark on global action that reduces the risks of dangerous climate change and builds confidence that deep cuts in emissions are compatible with continuing economic growth and improved living standards.

### AIGN Response

AIGN agrees with the Government's assessment of the likely direction on international negotiations on mitigation of climate change.

## 4 National emissions trajectory and target

### Policy position 4.1

The Government accepts the key findings of the Garnaut Final Report that:

- a fair and effective global agreement delivering deep cuts in emissions consistent with stabilising concentrations of greenhouse gases at around 450 parts per million or lower would be in Australia's interests
- achieving global commitment to emissions reductions of this order appears unlikely in the next commitment period
- the most prospective pathway to this goal is to embark on global action that reduces the risks of dangerous climate change and builds confidence that deep cuts in emissions are compatible with continuing economic growth and improved living standards.

### AIGN Response

As above.



## Policy position 4.2

The target range for emissions reductions to be achieved by 2020 will be from 5 per cent to 15 per cent below 2000 levels.

The range represents:

- a minimum (unconditional) commitment to reduce emissions to 5 per cent below 2000 levels by 2020 (projected to be a 27 per cent reduction in per capita terms)
- a commitment to reduce emissions by up to 15 per cent below 2000 levels by 2020 (projected to be a 34 per cent reduction in per capita terms) in the context of global agreement under which all major economies commit to substantially restrain emissions and advanced economies take on reductions comparable to Australia.

The Government recognises that ambitious global action is in Australia's national interest.

In the event that a comprehensive global agreement were to emerge over time, involving emissions commitments by both developed and developing countries that are consistent with long-term stabilisation of atmospheric concentrations of greenhouse gases at 450 ppm CO<sub>2</sub>-e or lower, Australia is prepared to establish its post-2020 targets so as to ensure it plays its full role in achieving the agreed goal.

## AIGN Response

AIGN agrees with the objective of setting Australia's share of a global commitment consistent with "advanced economies taking on reductions comparable to Australia", where "advanced" is defined as the countries with a GDP per capita at least as high as the poorest country in Annex I (currently Ukraine) and "comparable" is measured in terms of potential economic costs of mitigation and per capita reductions in emissions relative to current trends.

Rather than proposing "comparable" commitments, in both the -5% and -15% cases the Government intends committing Australia to taking on targets that are stronger, in terms of reductions per capita, than other more wealthy countries including the EU, the USA and the UK. Further, Treasury modelling estimates that these targets mean that Australians could incur wealth losses 3 to 4 times higher than the losses that Europeans and Americans bear by 2020.

## Policy position 4.3

The national emissions trajectory will be an indicative trajectory.

The national emissions trajectory represents the national emissions reduction commitment over the period covered by the trajectory as a whole. It is not a projection of expected actual emissions for that period.

## AIGN Response

AIGN agrees with the setting of a budget of assigned amounts that match Australia's international commitments. The budget is the sum of annual assigned amounts for the commitment period. There is no need to set indicative annual trajectories within that budget period. Australia's current commitment period ends in 2011-12 with a total assigned amount budget over the 5 years of 2,957.579143 million tonnes CO<sub>2</sub>-e. Australia will likely enter into



another assigned amount budget commitment for the period 2012-13 to 2019-20, and this budget should be included in the legislation.

#### **Policy position 4.4**

The first indicative national emissions trajectory covers the financial years 2010–11 to 2012-13 inclusive.

In 2010, the Government will announce a further two years of the trajectory (financial years 2013–14 and 2014–15).

Thereafter, the Government will announce a further year of the indicative trajectory before 1 July each year, so that the indicative trajectory for the current financial year and at least four future financial years is always known.

Should Australia enter an international agreement beyond the Kyoto commitment period, the Government may announce an indicative trajectory to the end of that period.

The indicative national emissions trajectory will not be included in legislation.

#### **AIGN Response**

AIGN recommends that Australia's total assigned amount for the Kyoto period be included in the Bill and the allocation of all of the assigned amount be accounted for in the Bill.

When Australia enters into an international agreement beyond the Kyoto commitment period, the Government must include the total budget period assigned amount to the end of that period in the legislation and the allocation of all of the assigned amount among the emissions trading scheme and the sectors outside the scheme be accounted for in the legislation.

#### **Policy position 4.5**

The first indicative national emissions trajectory will be:

- in 2010–11, 109 per cent of 2000 levels
- in 2011–12, 108 per cent of 2000 levels
- in 2012–13, 107 per cent of 2000 levels.

#### **AIGN Response**

AIGN disagrees with annual trajectories. The indicative national trajectories identified in 4.5 leave perhaps 20-30mt of assigned amount worth up to \$1 billion in the Government's hands and unallocated. The trajectory for the last year of the Kyoto period (2011-12) can be 112% of 1990 and Australia will still meet its commitments from domestic action alone.

## **5 A framework for the Carbon Pollution Reduction Scheme**

### **Policy position 5.1**

The objective of the Carbon Pollution Reduction Scheme is to meet Australia's emissions reduction targets in the most flexible and cost-effective way; to support an effective global response to climate change; and to provide for transitional assistance for the most affected households and firms.

#### **AIGN Response**

AIGN broadly agrees with the position, but notes that assistance to strongly affected industry should be comprehensive and to trade exposed industry should be comprehensive for the full period of transition. Assistance to the poor should not be transitional.

### **Policy position 5.2**

Design options have been assessed against the following assessment criteria:

- environmental integrity
- economic efficiency
- minimisation of implementation risk
- policy flexibility
- promotion of international objectives
- implications for the competitiveness of traded and non-traded industries
- accountability and transparency
- fairness.

#### **AIGN Response**

AIGN notes the criteria.

## **6 Coverage**

### **Policy position 6.1**

All greenhouse gases listed under the Kyoto Protocol—carbon dioxide, methane, nitrous oxide, sulphur hexafluoride, hydrofluorocarbons and perfluorocarbons—will be covered from Scheme commencement.

#### **AIGN Response**

AIGN agrees.

### **Policy position 6.2**

In general, direct Scheme obligations will apply to entities with a facility that has direct (scope 1) emissions of 25 000 tonnes of CO<sub>2</sub>-e a year or more.

The Government will review thresholds as part of its strategic reviews of the scheme.

### **AIGN Response**

AIGN agrees.

### **Policy position 6.3**

Emissions from stationary energy will be covered from Scheme commencement.

### **AIGN Response**

AIGN agrees.

### **Policy position 6.4**

Transport emissions will be covered from Scheme commencement.

Scheme obligations will be applied to upstream suppliers of transport fuels.

### **AIGN Response**

AIGN agrees.

### **Policy position 6.5**

Transitional assistance will be provided to help households and businesses to adjust to the impact of the Scheme.

### **AIGN Response**

AIGN disagrees that the assistance to the poor should be transitional. AIGN recommends that the allocation of permits to trade exposed industry should be comprehensive for a transitional period. The allocation of permits to strongly affected industry should be comprehensive of asset value loss.

### **Policy position 6.6**

An administrative mechanism—the Obligation Transfer Number—will be established under the Scheme to enable Scheme obligations to be transferred with fuel supplies, from upstream fuel and synthetic greenhouse gas suppliers to downstream entities in some circumstances, and to enable upstream suppliers to net out fuels and gases supplied to downstream entities.

### **AIGN Response**

AIGN agrees, subject to the development of sensible administrative arrangements.

### **Policy position 6.7**

Scheme obligations for emissions from the domestic combustion of petroleum products will apply to upstream suppliers of liquid fuels. Scheme obligations will be administered on the same basis as fuel tax arrangements.

Certain users and suppliers of petroleum products may use an OTN to purchase fuel and directly manage any associated permit liabilities.

#### **AIGN Response**

AIGN agrees.

### **Policy position 6.8**

Scheme obligations for emissions from domestic combustion of LPG will apply to entities that first supply LPG for use in the domestic market.

Certain users and suppliers of LPG may use an OTN to purchase fuel and directly manage any associated permit liabilities. Note that LPG marketers will be required to use an OTN and that Scheme obligations will transfer, with LPG supplies, to these entities.

#### **AIGN Response**

AIGN agrees.

### **Policy position 6.9**

Scheme obligations for emissions from domestic combustion of synthetic fuels for stationary energy will apply to manufacturers of synthetic fuels.

Scheme obligations for domestic combustion of synthetic fuels for transport will apply to upstream fuel suppliers and will be administered on the same basis as fuel tax arrangements.

Certain users and suppliers of synthetic fuels may use an OTN to purchase fuel and directly manage any associated permit liabilities.

#### **AIGN Response**

AIGN agrees.

### **Policy position 6.10**

Scheme obligations for emissions from domestic combustion of products containing fossil fuels will be applied to entities with a facility that has direct (scope 1) emissions of 25 000 tonnes or more of CO<sub>2</sub>-e a year or more from all sources.

#### **AIGN Response**

AIGN agrees.

### **Policy position 6.11**

Scheme obligations for emissions from domestic combustion of natural gas and other gaseous fuels will apply to entities that first supply these gases for use in the domestic market.

Certain suppliers and users of natural gas may use an OTN when purchasing fuel and directly manage permit liabilities. Note that natural gas retailers will be required to use an OTN and that Scheme obligations will transfer, with natural gas supplies, to these entities.

#### **AIGN Response**

AIGN agrees.

### **Policy position 6.12**

The Government will apply Scheme obligations to entities that first supply coal and coal by-products for use in the domestic market.

Certain suppliers and users of coal may use an OTN to purchase fuel and directly manage any associated permit liabilities.

#### **AIGN Response**

AIGN agrees.

### **Policy position 6.13**

Carbon that is transferred to carbon capture and storage (CCS) facilities will not be counted towards the originating entity's gross emissions.

Scheme obligations for fugitive emissions from carbon capture, transport and storage activities will be imposed on the relevant CCS facility.

#### **AIGN Response**

AIGN agrees.

### **Policy position 6.14**

Scheme obligations will not apply to emissions from combustion of biofuels and biomass for energy, including CO<sub>2</sub>-e emissions from combustion of methane from waste landfill facilities; they will receive a 'zero rating'.

#### **AIGN Response**

AIGN agrees.

### **Policy position 6.15**

Industrial process emissions will be covered from Scheme commencement.

Scheme obligations for industrial process emissions will apply to entities with a facility that has direct (scope 1) emissions of 25 000 tonnes CO<sub>2</sub>-e a year or more.

### **AIGN Response**

AIGN agrees.

### **Policy position 6.16**

Fugitive emissions will be covered from Scheme commencement.

Scheme obligations will apply to entities with a facility that has direct (scope 1) emissions of 25 000 tonnes of carbon dioxide equivalent a year or more.

### **AIGN Response**

AIGN agrees, however there remains a significant amount of research to be carried out on coal mine emission measurement methodologies.

### **Policy position 6.17**

Emissions from landfill sites that closed prior to 30 June 2008 will not be covered.

Subject to participation thresholds, all other landfill facilities will be covered from Scheme commencement.

To ameliorate the impact of emissions from past waste streams (known as ‘legacy’ emissions), estimated emissions from waste deposited in the past will be excluded from the Scheme until 2018.

Methane that is captured will be allocated equally between legacy and new emissions.

Legacy emissions will be reported and counted towards participation thresholds.

### **AIGN Response**

AIGN agrees that landfills closed before 30 June 2008 should be excluded. In relation to other landfill sites, AIGN notes that a number of matters need to be resolved before coverage will be efficient:

- The White Paper ignores the fact that there is currently no valid method in place to accurately measure fugitive emissions from landfills. All current models, including the ones that are used by NGERS, have variances of up to 800%
- A working group needs to be established in 2009 to work on the measuring issue and answer the questions below:
  - Why is the allocation of methane equally applied to legacy waste and new waste?
  - From when is the carbon liability for legacy emissions calculated – 2008, 2009 or 2010?
  - How do landfills closing before 2018 (the date that legacy waste emissions are to be included in the carbon liability) and after 2010 (the start date for the

legislation) account for their legacy waste emissions, that is, legacy waste emissions after closure?

### **Policy position 6.18**

In general, the Scheme will cover landfill facilities that emit 25 000 tonnes or more of carbon dioxide equivalent a year.

However, to avoid waste displacement from covered to uncovered sites, a lower participation threshold of 10 000 or more of carbon dioxide equivalent a year will apply to landfill facilities that are operating in proximity to another operating landfill facility (within a distance to be determined).

This participation threshold will return to 25 000 tonnes or more of carbon dioxide equivalent a year, 10 years after the site closes.

### **AIGN Response**

AIGN agrees in principle, however, the carbon threshold and the proximity arrangements seem to overlook whether adjacent landfills operate in the same markets, for example, a C and D landfill does not compete with a putrescible landfill, but this is not addressed in the White Paper.

### **Policy position 6.19**

Emissions from waste water and waste incineration facilities will be covered from Scheme commencement.

Scheme obligations will apply to entities with a facility that has direct (Scope 1) emissions of 25 000 tonnes of CO<sub>2</sub>-e a year or more.

### **AIGN Response**

AIGN agrees in principle, however, consideration needs to be given to implications for emissions associated with waste treatment contained within other facilities.

### **Policy position 6.20**

Synthetic greenhouse gas emissions would be covered from Scheme commencement.

Scheme obligations will be applied to entities that import or manufacture (there are currently none) 25 000 tonnes of CO<sub>2</sub>-e a year or more.

Permits will be issued to entities that arrange for the destruction of used synthetic greenhouse gases in accordance with Scheme verification requirements.

### **AIGN Response**

AIGN agrees in principle, however, further consideration is needed on the treatment of existing gases versus new gases.



### **Policy position 6.21**

The Government is disposed to include agriculture emissions in the Scheme by 2015.

Commencing in 2009, the Government will undertake a work program in consultation with the agriculture industry to enable a decision in 2013 on coverage of agriculture emissions in 2015.

### **AIGN Response**

AIGN agrees. AIGN also recommends that a work program also be implemented in 2009 to examine alternative policies that place a cost on emissions from agriculture that could be developed and implemented from 1 July 2010, and continued beyond 2015 should it not be possible to cover agriculture in the ETS. Trade exposed agriculture activities should be treated the same as other trade exposed activities.

### **Policy position 6.22**

All reforestation (as defined for the first commitment period of the Kyoto Protocol) will be included, on a voluntary basis, from Scheme commencement in 2010.

The Scheme will cover only domestic emissions sources and sinks that are counted in Australia's Kyoto Protocol national account.

The Government will in general provide five years notice of changes to accounting rules that would materially affect the supply and demand of Scheme permits.

### **AIGN Response**

AIGN agrees. However, if it were the case that changes to international rules are agreed by Australia, then surely those rules should take effect in the emissions trading scheme as soon as they do internationally, rather than wait 5 years. For example, should the rules associated with emission liability for harvesting of trees change to account for carbon storage in wood products, then these rules should be reflected in the ETS in the next financial year. AIGN notes, however, that rule changes should not be retrospective.

### **Policy position 6.23**

Landholders, certain lease holders and certain carbon property rights holders will be able to apply to become accredited forest entities under the Scheme.

### **AIGN Response**

AIGN agrees.

### **Policy position 6.24**

Emissions and removals will be estimated using a prescribed methodology such as the National Carbon Accounting Toolbox.

### **AIGN Response**

AIGN agrees, however, notes that there are some unresolved issues associated with prescribed inputs.

### **Policy position 6.25**

An initial emissions estimation plan will be required.

Forest entities will be required to report at least once every five years, but will be able to report at shorter intervals of not less than 12 months.

Forest entities will be required to notify the regulator of any major changes to the emissions estimation plan as a result of changes to forest management or natural disturbances.

The regulator will publish information about all forest registrations.

### **AIGN Response**

AIGN agrees.

### **Policy position 6.26**

The regulator will issue permits up to a limit, incorporating a risk of reversal buffer.

The regulator will issue permits from Scheme commencement once carbon stocks are greater than in 2008.

The regulator will enforce Scheme liabilities for a defined period of time following the issue of the last permit for an individual forest stand.

Forest entities will not be required to surrender more permits than have been issued for an individual forest stand.

### **AIGN Response**

AIGN agrees.

### **Policy position 6.27**

The Government will not include deforestation in the Scheme.

### **AIGN Response**

AIGN agrees.

### **Policy position 6.28**

The Government will consider the scope for domestic offsets in 2013.

The Scheme will not include domestic offsets from agriculture emissions in the period prior to coverage of these emissions.

The Government will facilitate the participation of Indigenous land managers in carbon markets and will further investigate the potential for offsets from reductions in emissions from savanna burning and will consult with Indigenous Australians on forestry opportunities under the Scheme.

### **AIGN Response**

AIGN agrees.

## **7 Reporting and compliance**

### **Policy position 7.1**

The National Greenhouse and Energy Reporting System will be the starting framework for monitoring, reporting and assurance under the Scheme. Specific elements of the National Greenhouse and Energy Reporting System will be strengthened to support the Scheme.

#### **AIGN Response**

AIGN agrees.

### **Policy position 7.2**

In general, an operational control test will be used to allocate emissions obligations arising from a covered facility.

#### **AIGN Response**

AIGN agrees. AIGN notes however that the matching of emission acquittal liabilities with the rules for permit allocations, either under the EITEs or SAI programs, needs to be aligned.

### **Policy position 7.3**

With the approval of the Scheme regulator, entities with financial control over a covered facility will have some flexibility to take on Scheme liabilities where specified criteria are met.

In cases where the Scheme regulator approves a transfer of liability to an entity with financial control over a covered facility, the entity taking on liabilities under the Scheme will also be required to take on reporting obligations for that facility under NGERS.

#### **AIGN Response**

AIGN agrees.

### **Policy position 7.4**

In general, Scheme obligations will fall on the controlling corporation of a corporate group where either the controlling corporation or a member of the controlling corporation's group has control over a covered facility.

Entities included in the controlling corporation's group will include the controlling corporation and its subsidiaries.

#### **AIGN Response**

AIGN agrees.

### **Policy position 7.5**

With the approval of the Scheme regulator, controlling corporations will have some flexibility to shift Scheme obligations to another legal entity within their group where certain criteria are met, and with the caveat that Scheme obligations would revert back to the controlling corporation if the subsidiary fails to meet its obligations under the Scheme.

In cases where the Scheme regulator approves a transfer of liability for a covered facility to another entity within a controlling corporation's group, the entity taking on liabilities under the Scheme will also be required to take on reporting obligations for that facility under NGRS.

#### **AIGN Response**

AIGN agrees.

### **Policy position 7.6**

Liability will apply to Commonwealth, state and territory governments, statutory corporations and local councils where they have operational control over a covered facility.

#### **AIGN Response**

AIGN agrees.

### **Policy position 7.7**

Where a covered facility is operated under an unincorporated joint venture agreement, the legal entity with operational control over the facility will be the liable entity under the Scheme.

The participants to unincorporated joint venture agreements will be free to break up the task and cost of purchasing compliance permits according to their specific agreements, with the entity with operational control being finally liable to surrender the correct number of compliance units for the covered facility.

If a single legal entity does not have operational control over a covered facility, a single legal entity will be required to be nominated by the participants to the joint venture to meet Scheme obligations.

#### **AIGN Response**

AIGN agrees.

### **Policy position 7.8**

Where a single legal entity is identified as having operational control over a covered facility, that entity would be the liable entity under the Scheme.

If a single legal entity does not have operational control over a covered facility, a single legal entity (a trustee, partner or member of the management committee of an unincorporated association) will be required to be nominated to meet Scheme obligations.

### **AIGN Response**

AIGN agrees.

### **Policy position 7.9**

Where an entity has obligations under the Scheme in relation to a facility for a number of, but not all days in a financial year, that entity's obligations under the Scheme will be determined on a pro-rata basis.

In applying the pro-rata approach, the Scheme regulator will also have discretion to consider the actual pattern of annual emissions.

### **AIGN Response**

AIGN agrees.

### **Policy position 7.10**

Emissions estimation methodologies under the Scheme will be those set out under the National Greenhouse and Energy Reporting System.

The legislative package introducing the Scheme, including consequential amendments to the *National Greenhouse and Energy Reporting Act 2007*, will require that emissions data on all sources and sinks to be covered by the Scheme be reported to the Scheme regulator.

### **AIGN Response**

AIGN agrees.

### **Policy position 7.11**

Electricity generators will be required to use National Greenhouse and Energy Reporting System Methods 2–4 for estimating and reporting carbon dioxide emissions that are covered under the Scheme (as required for the National Greenhouse and Energy Reporting System and the Generator Efficiency Standards program).

### **AIGN Response**

AIGN agrees.

### **Policy position 7.12**

Liable entities reporting PFC emissions from aluminium smelting processes will be required to use National Greenhouse and Energy Reporting System Methods 2–4 for estimating these emissions under the Scheme.

### **AIGN Response**

AIGN agrees.

### **Policy position 7.13**

Entities reporting fugitive emissions from underground coal mines will be required to use National Greenhouse and Energy Reporting System Methods 2–4 for the estimation of emissions under the Scheme.

#### **AIGN Response**

AIGN recommends that a work program be implemented in 2009 to improve estimation methodologies.

### **Policy position 7.14**

Solid waste landfill sites will be required to use National Greenhouse and Energy Reporting System Methods 1–3 to estimate the proportion of legacy emissions arising from landfill sites.

#### **AIGN Response**

AIGN agrees.

### **Policy position 7.15**

Staged increases in the accuracy of emissions estimates over time will be pursued by imposing increasing minimum methodologies for certain sources, where the benefits to the efficiency of the Scheme outweigh the compliance costs of implementing more accurate monitoring methods.

The responsible Minister will use existing powers under the *National Greenhouse and Energy Reporting Act 2007* to set minimum estimation methodologies. The Minister will consult with affected parties on the implementation costs and on the adequacy of notice before imposing new minimum standards for emissions estimation methodologies for a source or activity.

#### **AIGN Response**

AIGN agrees, however, the Minister should not be able to set new methodologies unless a study by the Productivity Commission has found clear net benefits.

### **Policy position 7.16**

Additional sources will be investigated for the possible imposition of minimum standards for emissions estimation methodologies soon after the Scheme begins, but not in the first two years of the Scheme. The Government will give priority to considering the following sectors for possible inclusion following the commencement of the Scheme:

- emissions from coal use (non-electricity, such as steel production)
- emissions from solid waste deposited at landfills
- natural gas combustion emissions (non-electricity)
- fugitive emissions from open-cut coal mines.



## **AIGN Response**

AIGN agrees, however, the work on waste and coal mine methodologies should be undertaken in 2009 for possible implementation when the scheme begins.

### **Policy position 7.17**

The NGER legislation will be amended to implement reporting obligations and methodologies for upstream entities that will have obligations under the Scheme.

Legislation implementing the Scheme will amend the NGER legislation to best utilise:

- methodologies and guidance issued by the Australian Tax Office and the Australian Customs Service relating to the measurement of quantities of liquid fuels subject to excise and customs duty;
- section 46 of the *Ozone Protection and Synthetic Greenhouse Gas Management Act 1989* and regulation 900 of the Regulations dealing with quantities of synthetic greenhouse gases imported into, and manufactured in, Australia.

The NGER Measurement Determination will be amended to provide national average emission factors to be applied to measured quantities of fuels to be reported under the Scheme, to help determine the obligations of upstream liable entities.

## **AIGN Response**

AIGN agrees.

### **Policy position 7.18**

Significant revisions to emissions estimation methodologies that affect the majority of stakeholders, such as amendments to global warming potentials of certain gases, or the inclusion of new gases, will be implemented after five years notice.

The Government is providing notice now that, if necessary, global warming potentials for gases covered under the Scheme will be revised at the beginning of the next commitment period (2013) to align with those agreed at the international level for the purposes of determining Australia's national emissions obligations.

## **AIGN Response**

AIGN agrees.

### **Policy position 7.19**

Where an entity has elected to use Method 2 or above for a particular emission source, that methodology will be the minimum standard for that source, for that entity, for a period of four years.

## **AIGN Response**

AIGN agrees.

### **Policy position 7.20**

Provisions relating to documentation and record keeping under the Scheme would be those set out under the NGER Act.

Entities with reporting obligations under the Scheme will be required to keep records for five years to substantiate emissions reports submitted to the Scheme regulator.

#### **AIGN Response**

AIGN agrees.

### **Policy position 7.21**

A single emissions report will satisfy an entity's obligations under both the National Greenhouse and Energy Reporting System and the Carbon Pollution Reduction Scheme. Reports for each reporting period will be required to be submitted by 31 October following each financial year.

The Government will consider the need to require entities to report emissions more frequently than annually following initial experience with the Scheme.

#### **AIGN Response**

AIGN agrees.

### **Policy position 7.22**

The Scheme regulator will publish emissions obligations under the Scheme, the types of estimation methodologies used and any uncertainty estimates reported by liable entities on the internet as soon as is feasible after reports are submitted.

The Government will publish this information for liable entities, consistent with the level of disclosure set out under the NGER Act, rather than at the facility level.

The Government may review this level of publication based on the initial experience of the Scheme.

#### **AIGN Response**

AIGN agrees.

### **Policy position 7.23**

A common reporting timeline between financial and Scheme reporting will mean that most liable entities will be able to prepare financial and emissions reports at the same time with respect to the same periods, and for this information to be communicated to the market in a consolidated fashion.

In relation to disclosure, Australia's principles-based approach to non-financial reporting currently allows for the disclosure of information on emissions in directors' reports. Strategies

to clarify and further emphasise non-financial disclosures are currently being considered by the Australian Government Treasury.

### **AIGN Response**

AIGN agrees, but notes that a significant number of entities do not report on a financial year basis. AIGN recommends that a wide range of reports (eg sustainability reports) be acceptable for public disclosure.

### **Policy position 7.24**

Large emitters (those with obligations under the Scheme for greenhouse gas emissions of 125,000 tonnes of carbon dioxide equivalent or more) will be required to have their annual emissions reports audited by an independent third party before submitting them to the Scheme regulator. The Government will consider the need to extend this requirement on the basis of initial experience, developments relating to international linking and the compliance burdens on small entities.

The Scheme regulator will conduct, or require the appointment of external auditors to conduct, external audits using either a risk management approach or on suspicion of non-compliance.

### **AIGN Response**

In order to engender confidence in the scheme, AIGN agrees that third party audits for large emitters be carried out in a staged manner over the first 5 years of the scheme. After 5 years, there should be no mandatory requirement for third party audits. AIGN notes that company Directors may decide, irrespective of emission levels, to carry out third party audits. AIGN supports an external audit approach determined by the Regulator based on risk and suspicion of non-compliance, as opposed to a blanket third party mandatory approach.

### **Policy position 7.25**

Audits under the Carbon Pollution Reduction Scheme will be carried out in accordance with guidelines made under the *National Greenhouse and Energy Reporting Act 2007*. The Government will finalise the standards (if any) to be referenced in these guidelines after considering submissions made in response to its public consultation paper, *National Greenhouse and Energy Reporting Act 2007 and Carbon Pollution Reduction Scheme—external audit consultation paper*.

### **AIGN Response**

AIGN agrees.

### **Policy position 7.26**

All third-party emissions auditors will be registered to ensure the development of a pool of properly trained and qualified providers. The form and nature of registration (including whether it is conducted by the Government or a non-government body) will be finalised following the consideration of submissions in response to the public consultation paper *National Greenhouse and Energy Reporting Act 2007 and Carbon Pollution Reduction Scheme—external audit paper*.

### **AIGN Response**

AIGN agrees and repeats the concerns it raised in its submission to the external audit paper.

### **Policy position 7.27**

The Scheme will operate on an Australian financial-year basis, commencing on 1 July 2010.

### **AIGN Response**

AIGN agrees.

### **Policy position 7.28**

The types of eligible compliance permits that will be accepted from the commencement of the Scheme are:

- carbon pollution permits
- certified emission reduction units (except temporary and long-term certified emission reduction units)
- emission reduction units
- removal units.

### **AIGN Response**

AIGN recommends that any unit that is legal under international rules should be eligible for compliance in Australia, including AAUs from other countries.

### **Policy position 7.29**

Liable entities will be required to report emissions to the Scheme regulator by 31 October each year following the reporting (financial) year.

The final date for the annual surrender of permits for an entity will be 15 December each year.

Liable entities will be permitted to surrender permits at any time before the annual surrender deadline to meet their end-of-year obligations.

If an entity surrenders more permits than required to meet its obligation in a compliance year, these permits will be carried over to help meet the entity's obligation in the next compliance year. Under all circumstances, permits, once surrendered, will not be able to be 'revived' from their surrendered status for the purpose of holding or transfer.

### **AIGN Response**

AIGN agrees.

### **Policy position 7.30**

The Scheme regulator will have a range of compliance, investigative and enforcement powers and a range of mechanisms, including civil penalty and criminal provisions, to respond proportionately to non-compliance with the Scheme.

In addition to the administrative penalty, the obligation to surrender permits to meet any shortfall will continue under a 'make-good' requirement, with permits to be surrendered in the next compliance year.

#### **AIGN Response**

AIGN agrees.

### **Policy position 7.31**

Any entity or individual will be allowed to voluntarily surrender carbon pollution permits or eligible international units regardless of whether they have obligations under the Scheme.

Where an entity voluntarily surrenders an eligible international unit in the national registry, that permit will be cancelled and not used by the Australian Government to meet its international obligations under the Kyoto Protocol.

Where an entity voluntarily surrenders a carbon pollution permit, the Government will cancel an eligible international unit held by the Government by the end of the Kyoto true-up period.

No quantitative limit will be imposed on voluntary surrender at this time.

Permits other than carbon pollution permits and eligible international units will not be accepted for voluntary surrender.

#### **AIGN Response**

AIGN agrees.

### **Policy position 7.32**

To hold a carbon pollution permit or an eligible international unit, companies and individuals will need to open an account in the registry.

To open an account, companies and individuals will have to apply to the Government (providing relevant information to establish their identity) and pay any relevant fees.

#### **AIGN Response**

AIGN agrees.

## **8 Carbon markets**

### **Policy position 8.1**

Carbon pollution permits will be personal property.

Each permit can be surrendered to discharge Scheme obligations relating to the emission of one tonne of carbon dioxide equivalent of greenhouse gas.

Each permit will be surrendered under the Scheme only once.

There will be no power in the legislation to involuntarily extinguish or for a court to order the relinquishment of permits without compensation, except where the permits have been obtained through misrepresentation or fraud.

Permits, other than those issued under the price cap arrangements, will be transferable.

Permit holders will be entitled to surrender only permits that are entered on the national registry. Legal title will be transferred only by entry in the registry.

The creation of equitable interests in permits will be permitted, as will taking security over them.

Each permit will have a unique identification number and will be marked with the first year in which it can validly be surrendered (its 'vintage'). It will not have an expiry date.

The permit will be represented by an electronic entry in the registry, rather than by a paper certificate.

### **AIGN Response**

AIGN agrees.

### **Policy position 8.2**

Unlimited banking of permits will be allowed under the Scheme (except those accessed under the price cap arrangements).

### **AIGN Response**

AIGN agrees. However, AIGN notes that unless there is also the option for long-term borrowing, the scheme will not produce an economically efficient outcome.

### **Policy position 8.3**

The Scheme will permit short-term borrowing.

### **AIGN Response**

AIGN agrees that short-term borrowing should be allowed to meet underestimates of emissions coming to light in the true-up period of compliance.

### **Policy position 8.4**

Borrowing will take the form of allowing liable entities to discharge up to a certain percentage of their obligations by surrendering carbon pollution permits dated from the following year.

### **AIGN Response**

AIGN agrees.

### **Policy position 8.5**

The Scheme will allow liable entities to discharge up to 5 per cent of their obligations by surrendering carbon pollution permits dated from the following year.

### **AIGN Response**

AIGN agrees. However, there should be no limit on the vintage of permit that could be used..

### **Policy position 8.6**

The Scheme will have a compliance period of one financial year.

### **AIGN Response**

AIGN agrees.

### **Policy position 8.7**

The permit and eligible international units will be regulated as financial products for the purposes of the *Corporations Act 2001* and the *Australian Securities and Investments Commission Act 2001*, but with some adjustments to that regime to fit the characteristics of permits and to ensure no unnecessary compliance costs. The Government will consult further on those adjustments.

### **AIGN Response**

AIGN agrees. Entities should be able to trade in permits without holding a financial products licence up to the amount of their liability or permit allocation, whichever is the greater.

### **Policy position 8.8**

Permits may be held and traded by any legal or natural person (subject to verification of identity and measures to prevent criminal activity).

There will be no restriction on foreign ownership of permits, apart from any that might apply under a law other than the Scheme legislation.

### **AIGN Response**

AIGN agrees.

### **Policy position 8.9**

The Scheme will have a price cap for the period from 2010–11 to 2014–15.



## **AIGN Response**

AIGN agrees with a 'safety valve' price cap until there is a comprehensive global agreement covering 'advanced' countries as defined by Australia's submission to the Poznan COP. The scheme as currently designed will import the international price from day one via the CDM, and AIGN asserts that the risks and economic costs associated with this uncertain price level and volatility are not yet well understood. Further, there are concerns about the current efficiency of the CDM which caution against using the CDM as a de-facto 'safety valve' price.

### **Policy position 8.10**

The Scheme will have a price cap in the form of access to an unlimited store of additional permits, issued by the Government at a fixed price. Liable entities will have the option of purchasing these permits from the time of the final reporting date for the Scheme up until the final surrender date for the Scheme to use for the purpose of meeting their obligations under the Scheme. These permits would not be able to be traded or banked for future use.

## **AIGN Response**

AIGN agrees.

### **Policy position 8.11**

The price cap will be set at \$40 and will commence in 2010–11.

## **AIGN Response**

AIGN recommends that the price cap be set at a level that is reflective of the expected international price that would likely emerge when there is a comprehensive and coordinated global agreement. AIGN notes that \$40/tonne is not such a price, according to Treasury modelling. AIGN suggests that the negotiations at Copenhagen are more likely to be useful in determining an appropriate 'safety valve' price.

### **Policy position 8.12**

The level of the price cap will rise in real terms by 5 per cent per year.

## **AIGN Response**

AIGN disagrees. There is no basis for choosing 5% real explained in the White Paper. The level of increase should be chosen in association with decisions under 8.11 above.

## **9 Auctioning of Australian carbon pollution permits**

### **Policy position 9.1**

Allocations will, over the longer term, progressively move towards 100 per cent auctioning as the Scheme matures, subject to the provision of transitional assistance for emissions-intensive trade-exposed industries and strongly affected industries.

## **AIGN Response**

AIGN agrees and notes that the definition of the 'longer-term' is determined by the progress of competitor nations for each activity taking on 'comparable commitments'.

### **Policy position 9.2**

- The responsible minister will be empowered to determine in a legislative instrument the auction policy and auction operation rules for calendar years 2010 and 2011.
- The regulator will be empowered to determine in a legislative instrument the auction policy and auction operation rules from 1 January 2012 onwards.
- The minister's determination will continue to have effect until it is replaced by an instrument made by the regulator.

## **AIGN Response**

AIGN agrees.

### **Policy position 9.3**

Auctions will be held 12 times throughout the financial year.

## **AIGN Response**

AIGN agrees.

### **Policy position 9.4**

The Government will consult with industry on possible deferred payment arrangements for auctions of future vintage permits of a strictly limited and transitional nature. Options that involve the delivery of permits before final payment has been received, or that do not incorporate the payment of a deposit, will not be considered.

## **AIGN Response**

AIGN agrees.

### **Policy position 9.5**

At least one auction of the year's vintage will be held after the end of the financial year in the lead-up to the final surrender date. This will be within one month prior to the final surrender date.

## **AIGN Response**

AIGN agrees.

### **Policy position 9.6**

The first auction will take place as early as is feasible in 2010, before the start of the Scheme.

### **AIGN Response**

AIGN agrees.

### **Policy position 9.7**

The Government will advance auction future vintages.

### **AIGN Response**

AIGN agrees.

### **Policy position 9.8**

Four years of vintages will be advance auctioned (current vintage plus advance auctions of three future vintages).

### **AIGN Response**

In the context of Australian permit prices being determined by international CDM prices and 10 year forward markets in CDM prices emerging, AIGN agrees. However, in circumstances where Australian permit prices are set within Australia, then 10 years of vintages should be advanced auctioned to promote a least-cost forward market.

### **Policy position 9.9**

Advance auctions for each future vintage will be held annually.

### **AIGN Response**

AIGN agrees.

### **Policy position 9.10**

Subject to the lodgement of any required deposit and having a registry account, universal participation will be permitted at auctions.

### **AIGN Response**

AIGN agrees.

### **Policy position 9.11**

Simultaneous ascending clock auction is the preferred auction type with bidders having the option to submit proxy bids in 'sealed bid format' for convenience.

### **AIGN Response**

AIGN agrees.

### **Policy position 9.12**

Simultaneous ascending clock auctions will be used for multiple vintage auctions.

### **AIGN Response**

AIGN agrees.

### **Policy position 9.13**

Entities receiving free permits will be able to sell these at auctions (double-sided auction design) occurring in calendar years 2010 and 2011.

### **AIGN Response**

AIGN agrees.

## **10 Setting Scheme emissions caps**

### **Policy position 10.1**

The Government will provide Scheme caps to the end of five years and have the option to extend this certainty period to the end of any existing international commitment period, if longer.

### **AIGN Response**

AIGN disagrees. The Bill should provide for scheme budgets to the end of an international commitment period or 5 years whichever is the greater.

### **Policy position 10.2**

By using gateways, the Government will provide guidance on future Scheme caps beyond the period of fixed Scheme caps.

### **AIGN Response**

AIGN agrees.

### **Policy decision 10.3**

The Government intends to provide up to 10 years of gateways beyond the minimum five years of certain Scheme caps, taking into account progress in international negotiations.

### **AIGN Response**

AIGN agrees.

### **Policy position 10.4**

The Government will provide guidance on future Scheme caps beyond the initial certainty period through the use of a gateway in each of the following years, to the end of the gateway period.

### **AIGN Response**

AIGN agrees.

### **Policy position 10.5**

Scheme caps will be extended by one year, each year, as required to maintain a minimum five-year certainty period.

### **AIGN Response**

AIGN agrees.

### **Policy position 10.6**

As part of a five-yearly strategic review, existing gateways will be extended by five years every fifth year from 2010–11.

### **AIGN Response**

AIGN agrees. AIGN notes, however, that where the next 'firm' period ends in say 2020, then the gateways extending to 2030 should be set in 2012.

### **Policy position 10.7**

As part of a five-yearly strategic review, existing gateways will be narrowed every fifth year from 2010–11.

### **AIGN Response**

AIGN agrees. (see above)

### **Policy position 10.8**

Scheme caps will be set equal to the indicative national emissions trajectory in the relevant year, less the projected emissions from those sources not covered by the Scheme. Where this would lead to Scheme caps that lie outside the bounds of the relevant gateway, the Scheme cap will be set equal to the closest bound (upper or lower) of that gateway.

## **AIGN Response**

AIGN disagrees. The Bill should specify the emission budgets of the emissions trading scheme and the budgets for each uncovered sector. The budgets for the uncovered sectors should include emission reductions equivalent to those imposed on the emissions trading scheme.

### **Policy position 10.9**

The difference between the Scheme cap and the national emissions target will be explicitly and transparently reconciled through notional allocation (and retirement) of permits for sources of emissions not covered by the Scheme.

## **AIGN Response**

AIGN agrees.

### **Policy position 10.10**

In line with the methodology for setting Scheme caps generally, the approach for expanding caps to accommodate increases in Scheme coverage will be that the Scheme cap will be set equal to the indicative national emissions trajectory in the relevant year, less the projected emissions from remaining uncovered sources of emissions, taking into account any alternative mitigation measures applying to those uncovered emissions.

## **AIGN Response**

AIGN agrees (noting AIGN's earlier comments on indicative trajectories). The alternative mitigating measures should be assumed to reduce emissions by the equivalent amount expected in the emissions trading scheme.

### **Policy position 10.11**

The Scheme cap will not be adjusted in the event that it is not aligned with internationally negotiated national targets and, if necessary, the Government will make up any shortfall in internationally agreed targets by purchasing eligible international units.

## **AIGN Response**

AIGN agrees in the context of Australia's total national commitment, not simply the Scheme cap. Where the national cap has been set below Australia's assigned amount, or equivalent international commitment, additional permit allocations should be made under the Scheme.

### **Policy position 10.12**

Scheme caps and gateways will be set in regulations, taking into account current and anticipated international obligations.

## **AIGN Response**

AIGN agrees, except for the known Kyoto Budget, which should be included in the Bill, and the agreement Australia enters into in Copenhagen which should be included in legislation when known.

### **Policy position 10.13**

If regulations for the Scheme cap are not in place at 1 July each year, a default Scheme cap equal to the previous year's Scheme cap multiplied by 0.99 will be added to the end of the set Scheme cap period to maintain five years of Scheme caps at all times. This provision will be in the Scheme legislation.

## **AIGN Response**

AIGN disagrees. If the regulations are not in place then it can either be because of government incompetence or disallowance by Parliament. The default should allow the cap to be multiplied by 1.

### **Policy position 10.14**

In early 2010, before Scheme commencement and after the passage of legislation through parliament, the Government:

- will announce Scheme caps for the first five years, or, to the end of any new international commitment period if the Government elects to do so; and
- intends to announce up to 10 years of Scheme gateways beyond the minimum five years of Scheme caps.

## **AIGN Response**

AIGN disagrees (as above). The announcements should be compulsory and the 10 year gateways should extend beyond the end of a new international commitment period.

## **11 Linking the Scheme to international markets**

### **Policy position 11.1**

The Scheme is designed so that it can link with international markets and schemes, with a preference for open trade within an effective global emissions constraint.

Australia's emissions reduction targets are based on net national emissions; that is, imported units will be counted as contributing to meeting the national target, and exported units will not be counted.

Any restrictions placed on linking will be to ensure:

- the stability and ongoing credibility of the Scheme
- the environmental integrity and effectiveness of the Scheme
- the Scheme's consistency with international objectives and obligations.



### **AIGN Response**

AIGN agrees.

### **Policy position 11.2**

The Scheme will create carbon pollution permits, which will be distinct from Australia's international (Kyoto Protocol) units.

### **AIGN Response**

AIGN agrees.

### **Policy position 11.3**

The use of eligible international units for compliance in the Scheme will not be subject to any quantitative limitations.

### **AIGN Response**

AIGN agrees.

### **Policy position 11.4**

The Scheme will link internationally via the Kyoto Protocol's flexibility mechanisms from its commencement.

Liable entities will be able to surrender eligible Kyoto units for compliance in the Scheme.

### **AIGN Response**

AIGN agrees, provided a rational 'safety valve' is set at the expected efficient price.

### **Policy position 11.5**

Certified emission reductions (CERs) generated under the Kyoto clean development mechanism will be accepted for compliance in the Scheme, with the exception of those that have associated contingent obligations and high administrative costs (currently, temporary CERs and long-term CERs).

In accordance with the rules set out in the Kyoto Protocol and any restrictions that apply to the use of international units in the Australian Scheme:

- CERs issued in the first commitment period of the Kyoto Protocol will be recognised for compliance in the Scheme in 2012–13 and in subsequent years
- CERs issued for abatement that occurs from 2013 onwards, by projects established in the first commitment period, will be recognised for compliance in the Scheme in 2012–13 and subsequent years.

### **AIGN Response**

AIGN agrees.

### **Policy position 11.6**

Assigned amount units will not be accepted for compliance in the Scheme. This position will be reviewed for the post-2012–13 period in the light of developments in international negotiations.

### **AIGN Response**

AIGN disagrees, as all legal international units should be acceptable.

### **Policy position 11.7**

Emission reduction units (ERUs) created under the Kyoto Protocol's joint implementation mechanism will be recognised for compliance purposes in the Scheme.

ERUs issued in the first commitment period of the Kyoto Protocol will be recognised for compliance in the Scheme in 2012–13 and in subsequent years, in accordance with the rules set out in the protocol and any restrictions that apply to the use of international units in the Australian Scheme.

ERUs converted from removal units in the first commitment period will not be recognised for compliance purposes in the Scheme from 2012–13.

### **AIGN Response**

AIGN agrees. However, the relevant year should be 2011-12 as AIGN understands this to be the last year of Australian compliance with the Protocol.

### **Policy position 11.8**

Removal units (RMUs) will be recognised for compliance purposes in the Scheme.

RMUs issued in the first commitment period will not be accepted for compliance in the Scheme beyond 2012–13.

### **AIGN Response**

AIGN agrees. However, the relevant year should be 2011-12.

### **Policy position 11.9**

International non-Kyoto units will not be accepted for compliance in the Scheme for the period from 2010–11 to 2012–13. This position will be reviewed for the post-2012–13 period in the light of future developments in international negotiations.

Australia will continue to support the development of robust, internationally accepted methodologies for assessing avoided emissions from deforestation and forest degradation in developing countries. Such methodologies are currently not recognised under the CDM.

## **AIGN Response**

AIGN agrees. However, the relevant year should be 2011-12.

### **Policy position 11.10**

The Government will retain the right to disallow the use of a given type of international unit for compliance in the Scheme at any time to ensure the environmental integrity of the Scheme and consistency with Australia's international objectives.

If a type of unit was accepted but a subsequent decision is made to disallow it, liable entities will be able to use that type of unit for compliance in that compliance period but not thereafter.

The Government may add to the types of international units that are recognised for compliance under the Scheme, where:

- the addition does not compromise the environmental integrity of the Scheme
- the addition is consistent with the objective of the Scheme, including Australia's international objectives
- there has been consultation with stakeholders, analysis of the expected impact on the permit price by an independent review, and notification to the market.

The Government's general approach will be to give five years notice of the acceptance of new types of units that are expected to have a significant impact on the permit price.

## **AIGN Response**

AIGN agrees.

### **Policy position 11.11**

The sale and transfer of Australian permits to international markets will not be permitted in the initial years of the Scheme.

When allowed, exports of permits to international markets and other countries will be achieved either:

- by allowing permit holders to convert a carbon pollution permit into a Kyoto unit for subsequent sale and transfer to international markets; or
- by allowing the direct transfer of permits, where a bilateral link with another country's Scheme is established and there is an agreement that a shadow transfer of international units will occur at the government level.

## **AIGN Response**

AIGN agrees.

### **Policy position 11.12**

The Government will give a minimum of five years' notice of a decision to allow the sale and transfer of Australian permits to international markets, except when establishing a bilateral link and:

- an independent review, including stakeholder consultation, finds that establishing the bilateral link will not have a significant impact on the permit price in the Scheme
- the responsible minister decides to waive or shorten the notice period.

### **AIGN Response**

AIGN agrees. However, the review should be conducted by the Productivity Commission and the criterion should be that 'the bilateral link will not increase the permit price in the scheme'.

### **Policy position 11.13**

Australia will not host JI projects in sectors that are covered by the Scheme.

Decisions on JI projects in uncovered activities will be aligned with decisions on domestic offsets.

The Scheme will not include JI projects from agricultural emissions during the period before a decision about coverage of that sector's emissions.

A decision on the scope for offsets and JI projects relating to sources of emissions that cannot be included in the Scheme will be made in 2013.

In 2013, the Government will consider the scope for offsets and JI projects in sectors that cannot be included in the Scheme.

### **AIGN Response**

AIGN agrees.

### **Policy position 11.14**

Linking arrangements will be subject to review in the light of ongoing international negotiations and market development. The Government's policy intent is to relax restrictions on linking with credible schemes and mechanisms as the Australian Scheme matures.

Future international links will be considered only where they are consistent with the objective of the Scheme, which will include consistency with Australia's international objectives.

The effect of, and potential for, enhancing international linking will be covered by the Scheme's strategic reviews, which will be undertaken by the independent advisory committee. In addition, the Government may at any time establish an independent review to consider potential linking opportunities.

The Government will provide the maximum feasible level of certainty about future linking arrangements, consistent with retaining enough flexibility to respond to changing international arrangements.

Future linking arrangements will be determined and announced in conjunction with decisions on the national trajectory and Scheme caps.

### **AIGN Response**

AIGN agrees.

### **Policy position 11.15**

Direct bilateral linking opportunities, including mutual recognition of compliance units and harmonisation with the schemes of other countries and regions, will be considered on a case-by-case basis after the Scheme has been established.

Future bilateral links would only be considered with schemes that are of a suitable standard, based on a range of criteria including:

- an internationally acceptable (or, where applicable, a mutually acceptable) level of mitigation commitment
- adequate and comparable monitoring, reporting, verification, compliance and enforcement mechanisms
- compatibility in design and market rules.

In deciding whether to link bilaterally, the Government will take into account existing indirect links.

A minimum of five years' notice will be given before a bilateral link with another country's Scheme is established, except where:

- an independent review, including stakeholder consultation, finds that establishing the link will not have a significant impact on the permit price in the Scheme
- the responsible minister decides to waive or shorten the notice period.

### **AIGN Response**

AIGN agrees with the same conditions above related to increase in permit prices.

## **12 Assistance to emissions-intensive trade-exposed industries**

### **Policy position 12.1**

The key rationale for providing assistance which addresses some of the competitiveness impacts of the Scheme on emissions-intensive trade-exposed (EITE) industries is to:

- reduce the likelihood of carbon leakage in the period before broadly comparable carbon constraints are applying internationally
- provide transitional support to these industries.

The provision of assistance to EITE industries will support production and investment decisions that would be consistent with a global carbon constraint.

### **AIGN Response**

AIGN disagrees. In addition to carbon leakage, a key rationale is to maintain the competitiveness of trade exposed industry for a period of transition until a global agreement includes competitors of defined activities.

### **Policy position 12.2**

The Government's support for EITE industries will be:

- targeted towards industries that produce traded goods and have the most significant exposure to a carbon price
- designed to maximise the incentives for EITE industries to adjust to a carbon-constrained future by:
  - assessing eligibility and providing assistance on the same basis to all entities, new and existing, conducting a given activity
  - providing assistance on the basis of historical information on the emissions from these activities
- directly linked to production and contingent on production continuing in Australia
- balanced against its objectives for non-assisted sectors and households
- consistent with Australia's international trade obligations.

### **AIGN Response**

Within the coverage of the proposed emissions trading scheme, and leaving aside agriculture, 45% of Australia's emissions are produced by potentially trade-exposed businesses. However, the White Paper design currently estimates that just 25% of permits will be sufficient to ensure no loss of competitiveness, investment and jobs from these businesses.

The result of the White Paper is that in 2010 the Government may impose over \$5 billion in costs on trade-exposed businesses, but is proposing to provide around \$3 billion in relief declining at a rate of 1.3% per annum for existing businesses.

AIGN estimates, assuming a historical growth rate in trade-exposed industries of 1.5% per annum excluding agriculture, that there is between \$25 and \$30 billion worth of permits unallocated by 2020. Most of these permits should be allocated to trade-exposed businesses to offset the competitive disadvantage suffered in the period of transition.

If alternative approaches need to be considered, then these should be explored. For example, Geoff Carmody has proposed a 'consumption-based' approach that would be trade-neutral in

relation to investment and jobs, encourage emission reductions in those businesses and transparently show consumers the costs of the emissions they are responsible for.

### **Policy position 12.3**

EITE assistance will be provided to emissions-intensive trade-exposed industries in the form of an administrative allocation of carbon pollution permits at the beginning of each compliance period.

The regulator will publish details of permits that are allocated as EITE assistance in terms of:

- the recipients of EITE assistance, the numbers of permits allocated to each and the provision under which they were allocated
- the total permits allocated for the EITE assistance program
- the total for each activity within this program.

### **AIGN Response**

AIGN agrees. In addition, to provide more liquidity in forward markets, a percentage of future vintage permits should also be allocated.

### **Policy position 12.4**

EITE assistance will be provided on an activity basis to ensure that assistance is well targeted and is equitably distributed within and across industries.

The following principles will be used to determine activities and the boundaries around each activity:

- an activity consists of the chemical or physical transformation of inputs to produce a given set of outputs
- activities should not be differentiated by the technology employed, the fuel used, the age of the plant or the quality and types of feedstock used
- boundaries around activities should be consistently and equitably applied across industries
- the approach to establishing boundaries around activities should have minimal impact on business investment, location and structure decisions
- in determining the boundaries around activities, consideration is given to the scope for intermediate inputs produced within the activity to be substituted for bought-in inputs
- there should be no overlap between different activity definitions to ensure that it would not be possible to receive assistance more than once for a given quantum of emissions.

### **AIGN Response**

AIGN disagrees. Permits should be allocated on a facility basis where more than one activity takes place, notwithstanding that one of the activities does not meet the threshold. AIGN also

- recommends that the first principle be reworded so that it cannot be interpreted to exclude mining activities;
- agrees with the third principle and given that integrated iron and steel operations will qualify, all other integrated operations in other industries should also qualify;
- agrees with principle 4, and consequently integrated investments in facilities should qualify for allocation
- disagrees with the arbitrary exclusion of export coal from the EITE program.

AIGN has previously proposed a simpler approach to determining eligibility for allocation related to exposure to international competition. All exports and imports that readily trace an association between domestic prices and import parity pricing should qualify for 100% allocation. For other import competing activities, the Productivity Commission could be engaged to establish rates of allocation commensurate with cost pass-through.

### **Policy position 12.5**

Assistance will be provided to entities conducting EITE activities in relation to:

- the direct emissions associated with an activity for which a Scheme obligation will be incurred
- the emissions associated with the use of steam by an activity
- the cost increase associated with the use of electricity by an activity, which is assessed as resulting from the introduction of the Scheme
- the cost increase related to the upstream emissions from the extraction, processing and transportation of natural gas and its components, such as ethane and methane, used as feedstock by an activity.

Assistance will not be provided in relation to other indirect emissions (upstream or downstream) associated with an activity.

Assistance will be provided only in relation to emissions that are covered under the Scheme.

### **AIGN Response**

AIGN agrees. However, the allocation associated with use of steam purchased should have regard to cost pass-through and fuel source. Further, there should be an allowance for natural gas cost pass-through where the gas is also used as fuel.

### **Policy position 12.6**

The trade exposure of activities will be assessed on either:

- a trade share (defined as the ratio of the value of imports and exports to the value of domestic production) greater than 10 per cent in any one of the years 2004–05, 2005–06, 2006–07 or 2007–08; or



- a demonstrated lack of capacity to pass through costs due to the potential for international competition.

### **AIGN Response**

AIGN agrees.

### **Policy position 12.7**

The assessment of emissions intensity for the purposes of determining eligibility of an activity will be based on either:

- weighted average emissions per million dollars of revenue generated by entities conducting the activity; or
- entities may request to Government that the eligibility assessment for an activity is made on the basis of the weighted average emissions per million dollars of value added generated by entities conducting the activity, in which case, the entity and Government will need to agree on which input costs will be adjusted to calculate the proxy for value-added for the activity.

The estimates of the weighted average for each activity will be determined on the emissions per unit of production in 2006–07 and 2007–08 combined with estimates of revenue or value added per unit of production in 2004–05, 2005–06, 2006–07, 2007–08 and the first half of 2008–09, where the average is calculated as the weighted average of the lowest four estimates.

### **AIGN Response**

AIGN agrees, but has a number of issues associated with how this policy proposal is implemented in practice. In particular the definition of Value Added is not adequate. The proposed definition will discriminate against businesses with many less individually significant input costs. The definition should be as close to EBITDA plus employment costs as possible. If an estimate of value add is to be used then the eligibility thresholds relating to value add need to be adjusted down to account for fewer costs being included in the denominator (see also 12.10)

### **Policy position 12.8**

The review of the EITE assistance program will determine whether activities that were initially ineligible for EITE assistance or were assessed as eligible at a 60 per cent assistance rate, should be reassessed either:

- in light of commodity price movements, where any such reassessment uses emissions data from 2006-07 and 2007-08 or best practice benchmarks to ensure incentives to reduce emissions are not muted. Assistance that would be provided to reassessed activities may be adjusted from initial levels to reflect an assessment of the EITE assistance program in achieving its objectives to date
- in light of extension to Scheme coverage to cover agricultural emissions, in which case the assessment of eligibility and determination of allocative baselines would be conducted in the process leading up to the 2013 decision on agriculture's inclusion. The Government's

disposition is that decisions would be based on emissions from 2006-07 and 2007-08, as for all other potential EITE activities, or based on benchmarks that are unrelated to the behaviour of individual entities conducting the activity, to provide ongoing incentives for abatement activities.

### **AIGN Response**

AIGN agrees, subject to a redefinition of the objectives and TOR (see below).

### **Policy position 12.9**

The eligibility of a completely new activity, that is an activity that is new to Australia after the commencement of the Scheme, will be considered by the Government with reference to international best-practice emissions-intensity benchmarks for producing the primary output of the activity.

### **AIGN Response**

AIGN agrees. This provision should also extend to activities that are not new but were inadvertently not initially considered or not initially eligible.

### **Policy position 12.10**

The EITE assistance program will:

- require all entities conducting activities to bear a proportion of the carbon cost they face
- provide assistance at two different rates, reflecting the need to provide relatively more assistance to relatively more emissions-intensive activities to reduce the likelihood of carbon leakage

Eligibility for EITE assistance will be based on the industry-wide weighted average emissions intensity of an activity being above a threshold of:

- 1000 tonnes of carbon dioxide equivalent (CO<sub>2</sub>-e) per million dollars of revenue; or
- 3000 tonnes of carbon dioxide equivalent (CO<sub>2</sub>-e) per million dollars of value added.

Initial assistance to eligible activities will be set at:

- 90 per cent of the allocative baseline for activities that have an emissions intensity above 2000 t CO<sub>2</sub>-e/\$million revenue or 6000 t CO<sub>2</sub>-e/\$million value added in the specified assessment period
- 60 per cent of the allocative baseline for activities that have an emissions intensity between 1000 t CO<sub>2</sub>-e/\$million revenue and 1999 t CO<sub>2</sub>-e/\$million revenue or between 3000 t CO<sub>2</sub>-e/\$million value added and 5999 t CO<sub>2</sub>-e/\$million value added in the specified assessment period.

The coal mining industry will not be eligible for EITE assistance at Scheme commencement since the majority of coal mines have an emissions intensity well below the eligibility threshold. A Coal Sector Adjustment package is included within the Climate Change Action Fund to assist the most emissions-intensive mines following the introduction of the Scheme.

## **AIGN Response**

AIGN disagrees and continues to recommend 100% allocation to all trade exposed industries unable to pass-on costs to consumers. Should the White Paper eligibility criteria remain in place, the ratio of 3:1 for value add to revenue in setting the value add threshold needs to be reduced to reflect the likely limitation of costs to be taken into account in determining the denominator of the metric.

### **Policy position 12.11**

At the start of the Scheme it is estimated that EITE industries will be allocated around 25 per cent of total carbon pollution permits (equivalent to around 35 per cent if agricultural emissions were included in the Scheme).

The Government does not intend to readjust or recalibrate the eligibility thresholds or initial rates of assistance in light of any subsequent information about the quantum of assistance likely to be provided as EITE assistance.

## **AIGN Response**

AIGN agrees that the quantum a permits allocated to EITEs should not be restricted by legislation.

### **Policy position 12.12**

Over time, the Government will reduce the rates of assistance (90 or 60 per cent) accorded each EITE activity at a pre-announced rate, the carbon productivity contribution, of 1.3 per cent a year, to broadly ensure that EITE activities share in the national improvement in carbon productivity.

The same carbon productivity contribution will be applied to all EITE activities.

Between 2010 and 2020, the carbon productivity contribution will not be recalibrated for variations in the share of permits allocated to the EITE sector from expected levels except in the circumstance where assistance is withdrawn

## **AIGN Response**

AIGN disagrees with this productivity tax. The incentive to reduce emissions is efficiently delivered through the method of allocation based on activity emission intensity averages, having allocation based on production, and higher permit prices over time.

### **Policy position 12.13**

Allocations will be determined taking into account:

- the weighted average direct emissions (including steam) per unit of production across all entities conducting the specified activity in 2006–07 and 2007–08
- international evidence on the emissions per unit of production, particularly for activities in which there is only one entity conducting the activity in Australia

- the quantum and quality of information provided to Government in response to the release, in early 2009, of a guidance paper for the determination of assistance to emissions-intensive trade-exposed activities
- estimates of the average electricity use per unit of production across all entities conducting the specified activity in 2006–07 and 2007–08
- estimates of the average use of natural gas (and its components) as feedstock per unit of production across all entities conducting the specified activity in 2006–07 and 2007–08

The electricity allocation factor will be set at one permit per megawatt-hour, which is a generous estimate of the average likely national impact of the Scheme on electricity prices

The natural gas allocation factor will be set on a state-basis for the extraction, production and transportation of natural gas and its components and will be determined with reference to the relevant emissions factors published in the National Greenhouse Accounts Factors (November 2008).

Baselines for allocations will not be updated over time for changes in the emissions intensity of entities conducting EITE activities in order to maximise abatement incentives, and will be used to determine allocations to new and existing entities conducting a given activity.

### **AIGN Response**

AIGN disagrees with several elements of the policy position, and notes there are many issues to be resolved in implementation:

- international benchmarks are not needed for single activities (or any others). The policy is that the allocation is based on the average intensity of the activities, with no reference to international benchmarks needed
- industries should not be penalised on the basis of the quantum and quality of data.
- State based averages for natural gas are not adequate for ethane where field-by-field estimates need to be made.
- financial year data should not be mandatory. Actual corporate financial years should be allowed for the determination of revenue and value add.
- the timeframe to produce audited data around boundaries that are not yet revealed to industry and the need to provide audits cannot be achieved by Mar 09 in an environment where industry is shedding resources, where data are contained in legacy systems now shut down. The DCC has unrealistic expectations about what industry can actually deliver in this time frame. Given that carbon data may not have been audited at all may also create difficulties with first approaches.

### **Policy position 12.14**

For large electricity users that consume more than 2000 gigawatt-hours a year at a single facility, contractual arrangements will be considered by the regulator to determine an entity-specific electricity allocation factor if those contracts were entered into before 3 June 2007 and remain in force on 1 January 2010.

No other contracts concerning electricity, steam and natural gas and its components used in feedstock will be considered in determining allocations of EITE assistance.

### **AIGN Response**

AIGN disagrees. All relevant electricity contracts that impact on the pass-through of costs should be assessed for the purposes of determining allocation levels.

### **Policy position 12.15**

Allocations of assistance to entities conducting EITE activities will be directly linked to the level of production of individual entities conducting an activity.

The previous year's production of the activity by the entity will be used to determine a given year's allocations, with the following exceptions:

- in the first year of the Scheme, the average production of the highest two of the last three years will be used
- with regard to new entrants and significant expansions, the Scheme regulator will be afforded the discretion to determine the first few years' allocations, to allow for a 'ramp up' period before capacity production levels are achieved.

If an entity ceases operating an EITE activity, it will be required to relinquish permits that had been allocated to it for production that did not occur.

Where an EITE activity is carried out at a single facility, the entity which has, or would have, liability under the Scheme for direct emissions from the facility may apply for assistance.

Where more than one entity has liability or potential liability under the Scheme (such as where more than one facility is involved), there must be a joint application from those entities, and that joint application must specify how they want the assistance allocated.

### **AIGN Response**

AIGN agrees except in the first year where exceptional circumstances make the use of the last two years not representative of normal production. In addition, AIGN recommends extension to allocation of 40%, 30%, 20% and 10% of future vintage permits, for years 2, 3, 4 and 5 respectively. This is to add liquidity for forward markets.

### **Policy position 12.16**

The EITE industry assistance program will be reviewed by an Independent Expert Advisory Committee at each five-year review point, or at another date at the request of the Minister for Climate Change and Water.

The review of the EITE assistance program will be in regard to:

- the review of eligibility assessment for activities (see policy position 12.8)
- whether modifications should be made to the EITE assistance program on the basis of whether it continues to be consistent with the rationale for assistance, is conferring

windfall gains on entities conducting activities and is appropriately balancing the competing policy objectives

- whether broadly comparable carbon constraints are applying internationally, at either an industry or economy-wide level, or an international agreement involving Australia and all major emitting economies is concluded, in which case the Committee would make recommendations to Government with regard to the withdrawal of EITE assistance.

Five years' notice will be provided of any modifications to the EITE assistance program, unless the modifications were required for compliance with Australia's international trade obligations.

Once the Scheme has commenced, firms may request that the Government commission the Productivity Commission to undertake an assessment of the Scheme impact on their industry.

If the Government refers a request to the Commission, it will make an assessment of the impact of the introduction of the Scheme on the industry, taking into account the industry's circumstances, including the range of factors unrelated to the Scheme that will affect the profitability of the industry, and the assistance provided under the EITE and CCAF assistance programs.

The Commission will make recommendations to the Government about whether it should provide additional support to the industry from the CCAF, and the appropriate mechanism for that support.

### **AIGN Response**

In relation to the 5 year Review of EITE permit allocation, the AIGN recommends that the Productivity Commission undertake the Review under the following TOR, which should be included in the Act:

- assessment of whether the EITE scheme has met its objective of offsetting the competitive disadvantage suffered by trade exposed industries
- assessment on an activity basis of the comparable carbon constraints applying to the activity in competing countries, including development of a methodology to effect this assessment
- recommend changes to eligibility and permit allocation rates and methodologies to better offset competitive disadvantage or mitigate windfall gains or withdraw EITE allocation for an activity as a result of the competing countries assessment.

Five years' notice will be provided of any modifications to the EITE permit allocation program, unless the modifications were required for compliance with Australia's international trade obligations.

In relation to the industry impact review, where a majority of the entities involved with the activity request a review, including for an activity that currently receives no permits, the Government shall request the Productivity Commission to:

- assess whether the EITE scheme has met its objective of offsetting the competitive disadvantage suffered by the activity

- make an assessment for the activity of the comparable carbon constraints applying to the activity in competing countries, including development of a methodology to effect this assessment
- recommend changes to eligibility and permit allocation rates and methodologies to better offset competitive disadvantage or mitigate windfall gains or withdraw EITE allocation for the activity as a result of the competing countries assessment.

Changes to permit allocation for that activity will be effected on 1 July of the next financial year.

### **Policy position 12.17**

The establishing Act will set out the legal framework for the EITE assistance program.

The details of the EITE assistance program including the list of EITE activities that would be eligible for assistance, the definitions of these activities, the rates of assistance applying to these activities and the baselines for allocations will be set out in the Scheme regulations with allocation decisions being made by the regulator consistent with the requirements of those regulations.

### **AIGN Response**

AIGN disagrees. In addition to the legal framework, the Act must include the principles used to determine eligibility, the list of eligible and ineligible activities resulting from the application of those principles, the definitions of these activities, and the rates of assistance applying to these activities. All decisions, whether taken by the Minister of the Regulator, must be reviewable under AAT and ADJR.

## **13 Assistance to strongly affected industries**

### **Policy position 13.1**

Strongly affected industry assistance is not an appropriate measure to address the effect of contractual impediments to carbon cost pass-through.

### **AIGN Response**

AIGN disagrees since the emissions trading scheme will create windfall gains and losses based on these contracts. The assistance could be restricted to contracts written before 3 June 2007, the date at which the previous Government announced an intention to introduce emissions trading.

### **Policy position 13.2**

The characteristics of strongly affected industries are that they must:

- be non-trade-exposed, as entities in trade-exposed industries may be eligible for assistance as emissions-intensive trade-exposed (EITE) industries
- be emissions-intensive (exceeding the threshold for eligibility proposed for EITE industries)

- include some entities that are emissions-intensive compared to their competitors, such that they cannot pass on carbon costs, and so could experience significant losses in asset value
- have significant sunk capital costs
- not have significant economically viable abatement opportunities available to them.

### **AIGN Response**

AIGN disagrees. The characteristics of strongly affected industries are that they must:

- be non-trade-exposed, as entities in trade-exposed industries may be eligible for assistance as emissions-intensive trade-exposed (EITE) industries
- have assets that are expected to incur a significant asset value loss over a ten year period as a result of the CPRS and the RET.

### **Policy position 13.3**

Coal-fired electricity generation has the characteristics of a strongly affected industry, and the Government will consider appropriate assistance measures for that industry.

### **AIGN Response**

AIGN disagrees. Other industries, for example black coal mines tied to generators, may also have these characteristics, particularly in situations where existing contracts prevent cost pass-through.

### **Policy position 13.4**

Industries other than coal-fired electricity generation do not have the characteristics of strongly affected industries.

### **AIGN Response**

AIGN disagrees (see above).

### **Policy position 13.5**

Australian Government assistance for carbon capture and storage technologies will be delivered through existing programs, such as the National Low Emissions Coal Initiative and the Global Carbon Capture and Storage Initiative.

### **AIGN Response**

AIGN agrees.

### **Policy position 13.6**

Structural adjustment assistance for regions dependent on the coal-fired electricity generation sector will be provided, if required, through the structural adjustment provision of the Climate



Change Action Fund, and so will be consistent with other structural adjustment assistance measures for workers, communities and regions.

### **AIGN Response**

AIGN agrees, but expects that if the permit allocation to SAI is appropriate then no regional assistance will be required.

### **Policy position 13.7**

The Government will provide limited direct assistance to coal-fired electricity generators through the Electricity Sector Adjustment Scheme (ESAS) to ameliorate the risk of adversely affecting the investment environment in the Australian electricity generation sector.

### **AIGN Response**

AIGN agrees, where the assistance is limited by expected asset value loss.

### **Policy position 13.8**

The Government will deliver limited direct assistance through the administrative allocation of a fixed quantity of permits valued at around \$3.9 billion in nominal terms, or \$3.5 billion in 2008–09 dollars.

### **AIGN Response**

AIGN disagrees and disputes the value required. The modelling provided in the White Paper by ACIL Tasman and ROAM suggest asset value loss of \$10 billion over ten years.

### **Policy position 13.9**

The Government will allocate assistance through ESAS to coal-fired electricity generators according to a methodology that weights assistance by:

- the historical energy output of the generator, measured as the electricity generated by the asset between 1 July 2004 and 30 June 2007
- the extent by which the Scheme regulator's estimate of the emissions intensity of the generator (over the period 1 July 2004 to 30 June 2007) exceeds the Government's threshold level of emissions intensity (0.86 tonnes of CO<sub>2</sub>-e per megawatt-hour of electricity generated).

The Scheme regulator's estimate of emissions intensity will be on an 'electricity generated' basis, and will consider emissions only from the combustion of fuel that are directly attributable to the generation of electricity.

The Government will clarify how this methodology will apply to assets that did not enter service until after 1 July 2004.

### **AIGN Response**

AIGN agrees.

### **Policy position 13.10**

The Government will provide assistance through ESAS in the form of administratively allocated permits.

#### **AIGN Response**

AIGN agrees, with the permits including future dated permits up to 10 years forward.

### **Policy position 13.11**

Potential recipients of assistance under ESAS will:

- be required to apply to the Scheme regulator within 90 days of the commencement of Scheme legislation to prove their eligibility and provide other information relevant to determining the amount of assistance they should receive
- have these applications assessed by the Scheme regulator to determine eligibility and the quantity of permits that may be provided to each eligible generator.

#### **AIGN Response**

AIGN agrees, with these decisions reviewable by AAT and ADJR.

### **Policy position 13.12**

The Government will issue up to 130.7 million permits over the first five years of the Scheme through ESAS which delivers assistance of around \$3.9 billion in nominal terms based on carbon prices estimated under the CPRS -5 scenario. The permits will be distributed in equal amounts in each of the five years, subject to eligible entities satisfying the conditions for assistance, and subject to the outcome of the windfall gains review.

#### **AIGN Response**

AIGN disagrees. The required number of permits is 2.5 times this amount.

### **Policy position 13.13**

The Government will limit eligibility for assistance under ESAS to electricity generators that:

- generated electricity in June 2007, or were planned to return to service before the end of 2007 (or following the end of restrictions on their access to cooling water), or are considered to have been 'committed' projects at 3 June 2007 when assessed against the relevant National Electricity Rules criteria
- were, or were planned to be, connected to a major electricity grid
- used coal for over 95 per cent of their energy supply in the period from 1 July 2004 to 30 June 2007, or, if the generator was not in operation before 1 July 2007, intended to use coal for over 95 per cent of their energy supply.

### **AIGN Response**

AIGN agrees.

#### **Policy position 13.14**

The Government will provide assistance that is available through ESAS in respect of a given asset in any given year to:

- the entity that was the liable entity for an eligible asset's emissions at the end of the preceding financial year, or
- if no liability is incurred in relation to an eligible asset, the entity that would have been liable for that asset's emissions at the end of the preceding financial year had a liability been incurred.

### **AIGN Response**

AIGN agrees.

#### **Policy position 13.15**

The Government will require each recipient of assistance through ESAS to submit to a windfall gains review, which will involve the following:

- The Scheme regulator will assess whether the delivery of assistance to an individual generator would be likely to deliver that generator a windfall gain.
- The likelihood of windfall gains will be assessed by comparing the generator's actual and predicted revenues under the Scheme with those predicted to have occurred in the absence of the Scheme and the expanded national Renewable Energy Target over a 15-year period.
- The Scheme regulator's assessment of the likelihood of a windfall gain will not take into account actual or predicted upgrades to generation plant.
- If the Scheme regulator finds that a windfall gain is likely, the responsible minister will have discretion to withhold the last two years of assistance from that asset.
- A regulator finding that windfall gains are likely may be challenged by the generator in the Administrative Appeals Tribunal.

### **AIGN Response**

AIGN agrees, except that the appeal should also be available under ADJR.

#### **Policy position 13.16**

The Government will not adjust the assistance allocation methodology in the light of the contractual positions of individual generators. However, the Scheme regulator will be required to take into account the effect of contracts entered into before 3 June 2007 (for the period that they are not subject to revision or renegotiation) as part of the windfall gains review.

### **AIGN Response**

AIGN agrees.

#### **Policy position 13.17**

Energy security can be maintained through the setting of a target range for emissions cuts that allows for a smooth transition to lower-emissions technology. Any minor amendments that are required to the energy market frameworks can be accommodated within the current rules amendment processes.

### **AIGN Response**

AIGN agrees.

#### **Policy position 13.18**

The provision of limited direct assistance will be conditional on the recipient remaining registered with the relevant market operator, with the same actual or planned capacity as at 3 June 2007, unless the relevant the market operator assesses that there are likely to be adequate energy reserves in the system to allow the reduction in capacity without breaching the power system reliability standards.

### **AIGN Response**

AIGN agrees.

## **14 Tax and accounting issues**

#### **Policy position 14.1**

Discrete legislative provisions will be developed for the tax treatment of permits.

### **AIGN Response**

AIGN agrees. AIGN notes however that there is a large amount of detail yet to be settled on tax treatment related to the principles established in the policy positions that follow in this chapter. Until this detail is seen, there may be unforeseen implications for capital gains tax and GST liabilities.

#### **Policy position 14.2**

The rolling balance method will be used to bring permits to account for income tax purposes, as it provides an effective mechanism for achieving the goals of the Scheme and upholds the principles of simplicity, tax neutrality and cost-effectiveness.

### **AIGN Response**

AIGN agrees.

### **Policy position 14.3**

Taxpayers will make an election to use either historical cost or market value to value all permits held at the end of an income year.

Taxpayers will be able to change valuation methods once during a transitional period of five years from the Scheme's commencement, after which no change will be allowed.

#### **AIGN Response**

AIGN agrees.

### **Policy position 14.4**

The cost of acquiring a permit will be deductible when the taxpayer starts to hold the permit.

If the permit is banked, the effect of the deduction will be deferred until the time the permit is surrendered or sold.

Any proceeds received on the sale of a permit will be treated as assessable income.

#### **AIGN Response**

AIGN agrees.

### **Policy position 14.5**

The value of administratively allocated permits issued to coal-fired electricity generators that are on hand at the end of the income year they are received will be included in the taxpayer's assessable income through the rolling balance mechanism in that year.

The value of administratively allocated permits issued to emissions-intensive trade-exposed entities will be valued at zero at the end of an income year ending before the last surrender date for the emissions year for which they were issued. If administratively allocated permits are held at the end of a later income year, the permit will be valued according to the election the taxpayer makes between historical cost and market value. The historical cost value will be the market value at the issue date.

#### **AIGN Response**

AIGN agrees.

### **Policy position 14.6**

If a permit is surrendered for a non-commercial purpose an amount equal to the original deduction will be included in assessable income.

#### **AIGN Response**

AIGN agrees.

### **Policy position 14.7**

The tax law already recognises expenses incurred in relation to establishing and maintaining a Kyoto-compliant forest or synthetic greenhouse gases.

The value of created carbon pollution permits will be included in the rolling balance and included in the entity's taxable income for that year, with a corresponding reduction in taxable income in the year the permits are used (sold or surrendered). Proceeds of selling the permit are assessable income.

If created permits are on hand at the end of the income year they are issued, they will be included in the rolling balance at the following value:

- if historical cost is the valuation method, the market value at the date of issue
- if market value is the valuation method, the market value at the end of the year.

### **AIGN Response**

AIGN agrees.

### **Policy position 14.8**

A penalty imposed under the Scheme, including one imposed on a liable party for failing to surrender sufficient eligible compliance permits, will not be deductible.

For the first five years of the Scheme fixed price permits issued under the price cap arrangements will be available for purchase between the final reporting date and the final surrender date for each emissions year. The cost of these permits will be deductible but they cannot be banked or traded, they can only be surrendered.

### **AIGN Response**

AIGN agrees.

### **Policy position 14.9**

The Government will amend the GST law to characterise carbon pollution permits and eligible Kyoto units for GST purposes as personal property rights (and not rights within the meaning of real property in the *A New Tax System (Goods and Services Tax) Act 1999*) to promote certainty.

The normal GST rules will apply to Scheme transactions, including the input taxed treatment of supplies of financial derivatives of permits.

### **AIGN Response**

AIGN agrees.

### **Policy position 14.10**

The International Accounting Standards Board will determine accounting requirements for emissions-related assets and liabilities in Australia.

The International Accounting Standards Board will issue an exposure draft of the proposed accounting requirements in 2009, and the Australian Accounting Standards Board will reissue the draft for comment in Australia.

#### **AIGN Response**

AIGN agrees.

## **15 Transitional issues**

### **Policy position 15.1**

The Australian Government will continue to work with the Queensland Government to encourage the development of appropriate termination arrangements for the Queensland Gas Scheme.

#### **AIGN Response**

AIGN agrees.

### **Policy position 15.2**

The Australian Government will continue to seek an agreement with the NSW and ACT governments on GGAS termination. However, should agreement not be reached on this approach, the Government will consider providing some limited assistance for the benefit of GGAS participants, with priority given to adversely affected cogeneration (being rewarded for avoided methane creation), landfill gas and waste coal mine methane generators directly, and, as a lesser priority, to holders of unused NGACs.

The Australian Government will also allow GGAS forestry projects to opt into the Scheme, provided they meet the Scheme eligibility requirements.

#### **AIGN Response**

AIGN agrees.

### **Policy position 15.3**

A program for allocating early action credits will not be established as companies that have taken action ahead of the introduction of the Scheme may already be benefiting from lower input costs and will continue to benefit under the Scheme through avoidance of higher energy costs or Scheme liabilities.

#### **AIGN Response**

AIGN agrees.

#### **Policy position 15.4**

The Australian Government supports the work of the MCE and the review currently being conducted by the AEMC and places a high priority on removing unnecessary, inefficient and distortional regulatory barriers to carbon cost pass-through.

#### **AIGN Response**

AIGN agrees, with the addition of a requirement that these barrier be removed before 1 July 2010 in all jurisdictions.

#### **Policy position 15.5**

Based on current information, the Government will take no action with respect to contractual impediments other than as discussed in Chapter 7 in relation to the ability of firms to transfer obligations under certain circumstances. In 2009 the Government will continue to monitor the nature of contractual issues, including the scope for, and progress of, commercial negotiations, once stakeholders have had an opportunity to assess the exposure draft of the legislation.

The legislation will not contain any provisions designed to override contracts to allow for pass-through of carbon costs.

#### **AIGN Response**

AIGN agrees. AIGN notes that where existing contracts prevent cost pass-through the affected companies should be able to seek relief with applications under the strongly affected industries provisions.

#### **Policy position 15.6**

The Scheme will not have a fixed-price transition period.

#### **AIGN Response**

AIGN agree, however the AIGN does argue for a sensible 'safety valve' price to be set at a level commensurate with the expected efficient price to emerge under a comprehensive and coordinated global agreement.

## **16 Governance arrangements and implementation**

#### **Policy position 16.1**

Elected representatives (the parliament and the Government, acting through the responsible minister) will be given responsibility for policy decisions with significant and far-reaching implications, and an independent regulator will be responsible for decisions that are essentially administrative or that involve individual cases.

The guiding approach to governance arrangements is to provide as much certainty and predictability for regulated entities and the market as is practicable, while retaining an



appropriate degree of flexibility for the Government to adjust the Scheme in response to changed circumstances.

### **AIGN Response**

AIGN agrees. However, any decisions that are of a regulatory nature and to be taken by a Minister should be reviewable under AAT and ADJR.

### **Policy position 16.2**

A reference to the 2020 national target range and long-term national target will be included in the objects clause of the Act establishing the Scheme.

The factors that the Government may consider when making decisions about the national targets over time will be set out in the explanatory memorandum.

### **AIGN Response**

AIGN disagrees. The factors to be taken into account should be included in the Act or regulations.

### **Policy position 16.3**

The Scheme regulator will be given a high level of operational independence to implement the emissions trading legislation and apply it to individual cases.

The regulator will be accountable to the responsible minister and subject to ministerial directions of a general nature only. However, the minister will be able to direct the regulator to make transactions involving the emissions units belonging to the Commonwealth, through the Commonwealth's account in the national registry.

### **AIGN Response**

AIGN agrees.

### **Policy position 16.4**

The Scheme caps and gateways will be set out in regulations. The first regulations relating to Scheme caps will contain the caps for years 1–5. Scheme caps will always be specified for at least five years in advance. Subsequent regulations will extend Scheme caps by increments of one or more years at a time. These will be set in the light of Australia's obligations under international agreements, consistent with Chapter 10.

### **AIGN Response**

AIGN agrees, but see earlier comments.

### **Policy position 16.5**

The regulator will be required to report on its operations each financial year to the responsible minister for presentation to the parliament. In addition, it will be required to have a corporate

plan addressing specified matters. The regulator's decisions will be subject to sound appeals processes, including judicial review pursuant to the *Administrative Decisions (Judicial Review) Act 1977* and merits review by the Administrative Appeals Tribunal.

### **AIGN Response**

AIGN agrees.

### **Policy position 16.6**

The regulator will be established as an incorporated body subject to the *Financial Management and Accountability Act 1997*. The regulator will have a commission structure with a minimum of three and a maximum of five statutory office-holders appointed by the responsible minister.

The legislation will also provide that the Minister, regulator and members of the regulator are not liable to an action or proceedings for damages in relation to an act done or omitted in good faith in the exercise of their functions under the Scheme.

### **AIGN Response**

AIGN agrees.

### **Policy position 16.7**

The functions of the Greenhouse and Energy Data Officer, the Renewable Energy Regulator and the Carbon Pollution Reduction Scheme regulator will be combined into one agency. The Government will put in place measures to ensure that all these functions are given adequate attention. The Scheme legislation will require the regulator to include details of all its functions in a three-yearly corporate plan and in the regulator's annual report.

### **AIGN Response**

AIGN agrees.

### **Policy position 16.8**

An independent expert advisory committee will be constituted periodically to conduct public strategic reviews of the Scheme.

The first review will be completed by 30 June 2014, and the independent expert advisory committee will be constituted with sufficient time before then for preparatory work. Adequate secretariat support will be provided to enable the committee to perform its functions effectively. Reviews will involve public consultation, and the advisory committee will be required to prepare a report of the review and give it to the minister. The minister will be required to table the report in parliament within 15 sitting days of receipt. If the report includes recommendations, the minister will be required to prepare a statement of the Government's response and table it within six months of receiving the report.

The establishing Act will provide that each subsequent review will be completed within five years after the last day on which the Government's response to the previous review was

tabled in parliament, or earlier if the responsible minister makes a written determination specifying an earlier date.

More frequent ‘care and maintenance’ reviews may be necessary in the early years of the Scheme to assess the operation of administrative arrangements. Legislative provisions will not be required for such reviews. However, to improve market certainty, the scope of those early reviews will be tightly defined.

### **AIGN Response**

AIGN agrees, except that the reviews should be undertaken by the Productivity Commission.

### **Policy position 16.9**

The Act establishing the Scheme will set out a broad framework for monitoring and facilitating compliance.

### **AIGN Response**

AIGN agrees.

### **Policy position 16.10**

The Scheme will be implemented through unitary Commonwealth legislation. States and territories will be informally engaged as part of ongoing cooperation and coordination on climate change policy through the Council of Australian Governments.

### **AIGN Response**

AIGN agrees.

## **17 Household assistance measures**

### **Policy position 17.1**

The Government will provide direct cash assistance to households upfront to coincide with any increase in the cost of living flowing from the Scheme. This will help low- and middle - income households maintain their standard of living and take advantage of mitigation opportunities.

Low- and middle-income households will receive assistance from 1 July 2010 to meet the higher cost of living resulting from the Scheme’s introduction.

### **AIGN Response**

AIGN agrees.

### **Policy position 17.2**

The Government will initially reduce excise and excise-equivalent customs duty (fuel tax) on 1 July 2010 for all fuels currently subject to the general rate of 38.143 cents per litre. The tax cut will be based on the effect of pricing diesel emissions.

#### **AIGN Response**

AIGN disagrees.

### **Policy position 17.3**

The Government will legislate to automatically reduce fuel tax on a six-monthly basis if the average carbon pollution permit price in the six-month period exceeds the previous reduction, including the initial one, in the period to 30 June 2013.

#### **AIGN Response**

AIGN agrees, if the scheme is implemented.

### **Policy position 17.4**

The Government will introduce legislation to implement a new CPRS fuel credit scheme for three years for businesses in the agriculture and fishing industries.

#### **AIGN Response**

AIGN agrees for activities that meet the EITE eligibility criteria but are not covered in the ETS. This may include forestry activities.

### **Policy position 17.5**

The Government will introduce legislation to implement a new CPRS fuel credit scheme for one year for businesses in heavy on-road transport.

#### **AIGN Response**

AIGN agrees, however, this should be extended to forms of transport that compete with heavy on-road transport.

### **Policy position 17.6**

The Government will introduce legislation to implement a new CPRS fuel credit scheme for LPG, CNG and LNG users that reflects the lower emissions of those fuels.

The CPRS fuel credit scheme for LPG will be in place for three years.

The CPRS fuel credit scheme for CNG and LNG will be in place for one year.

## **AIGN Response**

AIGN agrees.

## **18 Climate Change Action Fund**

### **Policy position 18.1**

The objective of the Climate Change Action Fund will be to assist in smoothing the transition for businesses, community sector organisations, workers, regions and communities to an operating environment that includes a price on carbon.

## **AIGN Response**

AIGN agrees.

### **Policy position 18.2**

The CCAF will be structured in four streams:

- Addressing information gaps for business and community organisations about the operation of the Scheme and how these entities can minimise the expected financial impacts.
- Grants and incentives to support investment in energy efficiency and low emissions technologies, processes and products.
- Structural adjustment assistance for workers and communities significantly impacted by the introduction of the Scheme. The Government will monitor the impact of the Scheme on workers, communities and regions following the commencement of the Scheme and stand ready to provide assistance where a clear, identifiable and significant impact arises, or is highly likely to arise, as a direct result of the Scheme.
- Adjustment assistance for the coal sector to address impacts on coal mines with high fugitive emissions.

## **AIGN Response**

AIGN agrees, but argues that the coal export sector should be eligible for EITE permit allocation.

### **Policy position 18.3**

A Stakeholder Consultative Committee, comprising business, environmental and community stakeholders, will be established to provide advice on detailed design and implementation of activities under the CCAF and on the operational aspects of the regulation of the Scheme.

## **AIGN Response**

AIGN disagrees. Separate committees should be established for each of the four categories, with persons chosen on the basis of expertise relevant to the category.

## Policy position 18.4

Detailed program guidelines and the eligibility criteria for assistance under each stream of the CCAF will be determined by the Government in the first half of 2009, following consultation with key stakeholders.

## AIGN Response

AIGN agrees that all those not eligible for allocation of permits should be eligible to apply for CCAF.

## 19 Complementary measures

### Policy position 19.1

The Government will use the following principles to guide assessment of emission reduction measures:

1. The measures are targeted at a market failure that is not expected to be adequately addressed by the Scheme or that impinges on its effectiveness in driving emissions reductions. For example, research and development failures, common use infrastructure issues, information failures and excess market power.
2. Complementary measures should adhere to the principles of efficiency, effectiveness, equity and administrative simplicity and be kept under review. They may include:
  - a) measures targeted at a market failure in a sector that is not covered by the Scheme
  - b) measures for where the price signals provided by the Scheme are insufficient to overcome other market failures that prevent the take-up of otherwise cost-effective abatement measures
  - c) measures targeted at sectors of the economy where price signals may not be as significant a driver of decision making (e.g. land use and planning)
  - d) Some measures in (a) or (b) may only need to be transitional depending on expected changes in coverage or movements in the carbon price.
3. Complementary measures should be tightly targeted to the market failures identified in the above criteria that are amenable to government intervention. Where the measures are regulatory they should meet best practice regulatory principles, including that the benefits of any government intervention should outweigh the costs.
4. Complementary measures may also be targeted to manage the impacts of the Scheme on particular sectors of the economy (for example to address equity or regional development concerns). Where this is the case, in line with regulatory best practice, the non-abatement objective should be clearly identified and it should be established that the measure is the best method of attaining the objective.
5. Where measures meet the above criteria, they should generally be implemented by the level of government that is best able to deliver the measure. In determining this,

consideration should be given to which level of government has responsibility, as defined by the Constitution or convention/ practice; the regulatory and compliance costs that will be imposed on the community; and how the delivery of the measure is best coordinated or managed across jurisdictions.

### **AIGN Response**

AIGN agrees. Further AIGN recommends that all States and the Commonwealth undertake transparent reviews of existing and proposed new policies before the ETS is implemented. These reviews should be undertaken by the equivalent to the Productivity Commission (AIGN supports the IPART review in NSW), with the COAG principles as the terms of reference.

## **Appendix C: Implementing the Kyoto Protocol**

### **Policy position C.1**

To effect Australia's obligations associated with its assigned amount under the Kyoto Protocol, the scheme regulator will be required to perform the following functions, as instructed by the responsible minister:

- issue Australia's AAUs into the national registry (note that the Government will issue AAUs before the scheme regulator is in place)
- make appropriate additions to, and subtractions from, Australia's assigned amount at the end of the true-up period
- retire Kyoto units valid for the relevant commitment period
- transfer Kyoto units into a cancellation account in the national registry, should Australia's emissions exceed its final assigned amount, as indicated by the Kyoto Protocol's compliance procedure.

The Government, through the responsible minister, will be responsible for:

- managing Australia's emissions and assigned amount on an ongoing basis
- ensuring that sufficient Kyoto units will be available to meet Australia's Kyoto Protocol commitments
- managing the Government's national registry accounts.

### **AIGN Response**

AIGN agrees.

### **Policy position C.2**

The scheme regulator will be required to perform the following functions, as instructed by the responsible minister:

- issue removal units into Australia's national registry

- suspend issuance if a question of implementation is identified under the Kyoto Protocol
- cancel Kyoto units equivalent to Australia's net emissions from relevant land use, land-use change and forestry activities.

### **AIGN Response**

AIGN agrees.

### **Policy position C.3**

In accordance with the Kyoto Protocol, the scheme regulator will maintain a list of entities authorised by Australia to participate in international emissions trading, and will make that list available through the national registry. The regulator will also transfer and acquire Kyoto units on behalf of the Government, as instructed by the responsible minister.

### **AIGN Response**

AIGN agrees.

### **Policy position C.4**

The Department of Climate Change will be appointed in 2009 as Australia's Designated National Authority for the purposes of approving participation by legal entities in CDM projects.

### **AIGN Response**

AIGN agrees.

### **Policy position C.5**

The Department of Climate Change will be appointed in 2009 as Australia's Designated Focal Point for the purposes of approving participation by legal entities in JI projects in other Annex I countries.

### **AIGN Response**

AIGN agrees.

### **Policy position C.6**

All transfers of Kyoto units out of Australia's national registry will be subject to the commitment period reserve imposed by the Kyoto Protocol.

The Government may make regulations prescribing procedures and measures for managing the commitment period reserve.

The Government will specify how the commitment period reserve will be managed if and when the scheme allows for the transfer of AAUs to other countries by private entities.



## **AIGN Response**

AIGN agrees.

### **Policy position C.7**

The carry over restrictions applying to Kyoto units held in Australia's national registry will be managed by establishing a rule so that each holder of CERs and ERUs (including the Government itself) will be allowed to carry over a proportion of their units so that, in aggregate, no more than the allowable volume of CERs and ERUs is carried over. For example, if the total number of CERs in the registry at the time of carry over is twice the allowable amount, each holder will be able to carry over half its CERs.

In accordance with the Kyoto Protocol, carry over will not be permitted of RMUs, ERUs converted from RMUs, tCERs or ICERs. AAUs may be carried over without restriction.

To help the market better manage the risk associated with the carry over restrictions, the scheme regulator will regularly report the number of CERs and ERUs held in Australia's national registry.

## **AIGN Response**

AIGN agrees.

### **Policy position C.8**

The national registry will conform to the technical standards and rules made pursuant to the Kyoto Protocol.

Despite the qualitative restrictions placed on the use of Kyoto units for compliance under the scheme, all Kyoto units will be allowed to be held in Australia's national registry. However, the Government retains the right to exclude any type of Kyoto unit from being transferred into and held in the registry. Any such exclusion will not apply to units that are already held in the registry.

The scheme regulator will be required to cancel tCERs or ICERs which require replacement (for any reason) if the entity holding those units does not comply with the replacement obligations within 20 days of notification by the international transaction log. Expired temporary CERs or long-term CERs held in an entity's holding account will immediately be transferred by the regulator to a cancellation account.

Where an entity voluntarily surrenders a Kyoto unit, that unit will be cancelled and not used by the Government to meet its Kyoto Protocol emission reduction target.

## **AIGN Response**

AIGN agrees, except for the Government's decision to exclude AAUs from other countries.