

9 June 2009

Mr John Hawkins
Committee Secretary
Senate Standing Committee on Economics
PO Box 6100
Parliament House
CANBERRA ACT 2600



Dear Mr Hawkins,

Senate Economic Committee Inquiry into the Carbon Pollution Reduction Scheme Bill 2009 and related Bills

The Australian Industry Greenhouse Network (AIGN) welcomes the opportunity to comment on the Carbon Pollution Reduction Scheme Bill 2009 and its related Bills.

AIGN notes that the Committee has requested stakeholders to concentrate on the changes to the Scheme since the release of the exposure draft. While we acknowledge this request, by way of background to our current comments we have also taken the liberty of attaching AIGN's response to the Department of Climate Change (DCC) consultation on the previous exposure draft, as this document represents a more considered response than was able to be presented to the committee previously.

AIGN has, over many years, consistently argued that a well-designed emissions trading scheme, which balances economic efficiency, environmental effectiveness and equitable burden sharing, will provide a framework for least-cost abatement of greenhouse gases.

AIGN supports an emissions trading scheme that:

- balances economic, environment and equity objectives
- is comprehensive of gases, sectors and sinks
- offsets the competitive loss of trade exposed industry, in the context of a limited global agreement, and assists the structural adjustment of severely affected industry
- replaces the raft of Federal and State programs that impose costs on business, and stops new measures being imposed by those jurisdictions
- is environmentally effective, including by inducing more nations to commit to emission reductions
- is fair so that no one shoulders a disproportionate burden of the cost of mitigation.

AIGN is principally concerned with the development of climate policy that delivers these objectives. These objectives are consistent with the previous Government's policy position and with the policy the current Government committed to in the lead up to the 2007 Federal Election, particularly *'Labor's Five Tests for an Effective Emissions Trading Scheme'*, which stated that:

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



“Third, an effective emissions trading scheme must be economically responsible. ...In taking the lead before an effective international agreement is in place, it is also vitally important that a domestic scheme does not undermine Australia’s competitiveness and provides mechanisms to ensure that Australian operations of energy-intensive trade-exposed firms are not disadvantaged.”¹

This policy position was further elaborated upon by the Government when it adopted the design principles that should underpin an emissions trading scheme. Specifically, the Minister for Climate Change said:

“... The introduction of a carbon price ahead of effective international action can lead to perverse incentives for such industries to relocate or source production offshore. There is no point in imposing a carbon price domestically which results in emissions and production transferring internationally for no environmental gain.”²

AIGN agrees that domestic action without global environmental gain, at the expense of Australians’ own prosperity, is counterproductive to the ideal of long-term global emissions reduction to avoid dangerous climate change.

AIGN contends that a properly designed emission trading scheme can deliver the objective of emissions reduction at least possible cost. However, the CPRS Bills, in their current form, do not do the job, particularly for trade exposed and strongly affected industries.

The minor changes to the allocation of permits to trade exposed industry announced by the Prime Minister on the 4th May do nothing to address the key issue for industry, which is that under the current design nearly all trade exposed mining and manufacturing industry will remain disadvantaged compared with their international competitors. Under the CPRS Bill, in the first full year of 2012-13, and using the Government’s own low price projection of \$29/tCO₂, trade exposed mining and manufacturing industry will be taxed by over \$2 billion. This burden on trade-exposed mining and manufacturing industry competitiveness will rise each year so that by 2020 industry losses will be over \$4 billion per annum.

For the coal-fired electricity generators unable to pass through to consumers the full cost of buying emission permits on the market, the CPRS Bill has significant impacts on their balance sheets in every year, such that in 2020 an estimated \$2.9 billion in asset value will be lost.

These costs are on top of the significant costs that will be borne by trade exposed industry and coal-fired generators as a result of the Renewable Energy Target legislation

AIGN contends that there is an equitable and transparent way to address the disparity between the Government’s commitments to ensuring Australian industry is not at a competitive disadvantage internationally, and the inadequate proposals in the CPRS Bills that are currently before the Parliament.

¹ Federal Labor Leader, Kevin Rudd MP, *An Action Agenda For Climate Change*, Annual Fraser Lecture, Belconnen Labor Club, Canberra 30 May 2007

² Speech to the AiGroup Luncheon, 6 Feb 2008, *Climate Change: A Responsibility Agenda*



With regard to trade-exposed industry, a key problem with Part 8 of the CPRS Bill is that it is devoid of detail on how the allocation program is to be designed, leaving it to be detailed in the regulations. In addition, if the Government's current policy statements on design are implemented in regulations this would mean that many industries will continue to suffer a loss in competitiveness. AIGN's concerns could be effectively remedied by amendments that are small in number, but significant in outcomes.

In particular, the amendments to Part 8 of the CPRS Bill should include to:

- determine that all exports are trade exposed and eligible for permit allocation
- determine that domestic producers in competition with imported products are trade exposed and eligible for permit allocation
- incorporate into the Bill permit allocation rates that offset an operation's scope 1 and scope 2 emissions, and the emission costs passed-through by non-trade exposed industry in feedstocks
- determine the methodology for estimating historical benchmark emission intensities for trade exposed operations, and permit allocations based on those benchmarks and the production of an operation
- incorporate principles that will determine the definitions of the boundaries of an operation so as to ensure that rates of permit allocation are not eroded
- incorporate rules for product-by-product determination of when permit allocation can be removed because of comparable imposts in competitor countries.

With regard to coal-fired electricity generators, Part 9 of the Bill needs to be amended to provide for a full offset of asset value loss over the next 10 years, recognising that such losses will continue beyond that point for these long-lived assets.

AIGN acknowledges that these suggested amendments will be characterised as shielding industry from its fair share of the costs of the CPRS. This is an erroneous argument. Industry will still have significant costs imposed on it through both the CPRS and the proposed expanded renewable energy target.

It is important to remember that, on a production basis, only about 40% of emissions (about 180 million permits) covered by the CPRS are attributable to trade exposed mining and manufacturing industry. Yet the (unseen) Regulations proposed by the Government to underpin Part 8 of the CPRS Bill are expected to provide just 26% or 120 million permits.

On the other hand, about 60% of emissions in the CPRS are attributable to households, and the commercial and government sectors (where households shop, work, go to school etc). Further, on a consumption basis, excluding exports, all Australian emissions are attributable to households as consumers - if we stop producing cement or even cans of soup in Australia because of the CPRS, Australian consumers will still buy (import) cement and cans of soup. It is crucial that industry, households, commerce and governments respond to the emissions price signal and reduce their emissions. Failure to equitably distribute the costs throughout the economy will mean that trade-exposed industry (and their current and potential employees) will shoulder the bulk of the transitional cost.



Contrary to the view that there are not enough permits to allow for the changes advocated by industry, AIGN's calculations suggest that the Government's current proposals leave over \$20 billion worth of permits in the Treasury by 2020. The Government has yet to account for every cent as promised. The CPRS Bills can be amended to more effectively assist trade-exposed industry and coal-fired electricity generators, while maintaining the generous assistance to householders.

In addition to our concern regarding the treatment of trade exposed industry and coal-fired electricity generators, with respect to the other changes to the CPRS Bill announced by the Prime Minister on the 4th May, AIGN has two further comments:

- AIGN does not have a position on what Australia's emission reduction targets should be. However, AIGN does fully support the Government's position that Australia's target should be comparable to that of other advanced countries, where 'advanced' is defined in Australian submissions to the UNFCCC as all countries with a GDP per head greater than the Ukraine (an Annex I country). AIGN would note that if Australia took on commitments as high as -25% of 2000 emissions by 2020, comparable commitments by the EU would likely need to be well over -50%, by the USA around -40% and by China to return to 2000 level emissions by 2020.
- the delay is sensible given the immense pressure on industry and the Government to design the Regulations to underpin the CPRS. It remains the case however that, as the Prime Minister said, 'this is big stuff for the economy' and the important issue is to 'get the design right for the long-haul'. The design is a long way from being 'right'.

In this submission, AIGN has concentrated on the key amendments needed to ensure the CPRS Bill does not damage the competitiveness of Australian industry, and the Australian economy. However, AIGN would foreshadow that there is a growing list of other amendments likely to be required before the CPRS could claim to deliver least-cost abatement in the Australian economy.

The CPRS bills can be amended in order to deliver Australia's fair share of global emissions abatement, while supporting the competitiveness of those industries that underpin Australia's economy, and current and future prosperity. This will require the reconsideration of the Bills currently before the Parliament.

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

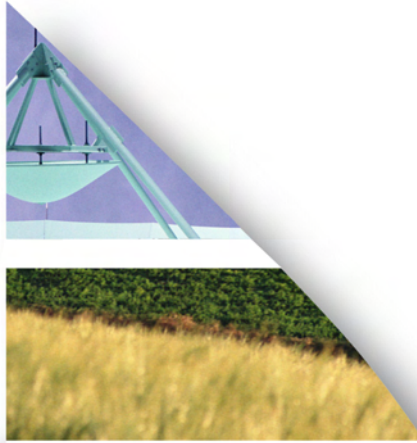
Yours sincerely

Michael Hitchens

Chief Executive Officer



**AUSTRALIAN
INDUSTRY
GREENHOUSE
NETWORK**



AIGN Response to the Exposure Draft of the Carbon Pollution Reduction Scheme Legislation

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1 INTRODUCTION

The Australian Industry Greenhouse Network (AIGN) welcomes the opportunity to respond to the Exposure Draft of the Carbon Pollution Reduction Scheme (CPRS) legislation.

AIGN is a network of Australian industry associations and businesses that have a serious interest in climate change issues and policies. A list of AIGN member associations and corporations is at Attachment A.

All of AIGN's corporate members measure and report their emissions of the key greenhouse gases (GHG) in Australia and overseas, and are taking action to curtail them. AIGN's association members also regularly report on emissions by their members and on abatement actions being taken.

Many, being multinational industries and corporations, are directly involved in the international response to climate change, including emissions trading in Europe, or in various offsets programs around the world (and most have exposure to the various Federal and State emissions abatement schemes already imposed in Australia).

The AIGN's members have a range of views on greenhouse policy. This submission accords with the views of AIGN members in general, though it may differ in particulars, relating to both principle and detail, from the positions of some individual member associations and companies. Some have prepared submissions of their own, and this AIGN submission should be read in conjunction with those submissions.

AIGN notes that the stakes for our members on climate change are very high and it is critical for us to be engaged in this work. The impact of policy measures on export and domestic industry competitiveness is particularly sensitive and, given the 'engine room' status of the industries most trade exposed, the implications are important also for the national economy.

This sensitivity is now particularly pronounced as the extent to which the global economic downturn will permeate the Australian, and international, economy becomes more evident. Developing environmentally effective and economically efficient strategies to manage greenhouse gas emissions in a way that accounts for times of both economic prosperity and recession is a key

challenge that policymakers have so far failed in the design of the CPRS.

It is generally agreed that the introduction of the CPRS will represent one of the most significant reforms to the economy ever attempted. Considerable effort has been expended to explore the design elements of an emissions trading scheme, and it would be disappointing that an unwarranted haste to implement this scheme would undermine years of work by the community.

2 CARBON POLLUTION REDUCTION SCHEME

In addition to the specific comments on the CPRS Bills, AIGN takes this opportunity to urge the Government to reconsider a number of policy positions adopted in the White Paper.

While the CPRS White Paper is an improvement on the Green Paper, there is 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.

2.1 Industry support

The CPRS proposes a 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, in return for uncertain environmental gain.

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 in manufacturing and mining. However, the CPRS asserts that about 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 permit allocation to trade-exposed businesses is a gift of taxpayers' money to 'rent seekers'. The White Paper estimates that at a price of \$25/tCO₂ 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 CPRS 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.

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 (an average of 100 million permits per annum from 2013) unallocated by 2020. Clearly there are sufficient permits to deliver a better outcome for all trade-exposed businesses without reducing the compensation to low and middle income households proposed in the CPRS.

Importantly, the CPRS also 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 of over \$10 billion at a starting permit price of \$25/tCO₂. In addition, there may be other non-trade exposed industries that could suffer significant asset value loss. A fairer outcome is needed.

2.1.1 Shifting the burden

The Government asserts that permit allocation to trade exposed industry increases the economic cost of the CPRS and shifts the burden of emission reduction costs to households and other sectors of the economy.

The Treasury modelling debunks two claims associated with these assertions¹:

- Permit allocation to industry does not increase the economic burden of the rest of the economy because, contrary to the claims, it does not induce an increase in emission permit prices. Where permit prices in Australia are either controlled by international prices

or by a sensible 'safety valve' price, the allocation of permits within Australia does not change the permit price in Australia

- Permit allocation to industry does not, as claimed, reduce the incentive for these industries to invest in emission reduction opportunities. The proposed permit allocation design, based as it is on benchmark emission intensities, preserves the power of permit prices to induce efficient investment in emission reductions.

Since the White Paper, the debate has now shifted – the claim now being made is that, having arbitrarily determined that trade exposed industry might receive about 25% of permits (about 110 million permits), any claim by industry for more permits must therefore reduce the number of permits auctioned, and hence the revenue available to compensate households. The validity of this claim rests solely on the assertion that about 110 million of permits was in the first place the "right" amount to allocate to trade exposed industry.

Export and import competing industry has, by definition, limited ability to pass-through increased costs associated with an emissions price, because the prices of their products are determined in international markets. This means that households do not pay increased prices for those products, and have no claim on the emission permits, or revenue from sale of those permits, associated with those products.

Rightfully allocating permits to trade exposed businesses does not shift the burden to the rest of the community. On the contrary, arbitrarily restricting allocation shifts the burden to trade exposed businesses, and subsidises households.

2.1.2 Voluntary action

Another fiction gaining public traction is that voluntary action on the part of individuals will allow 'big polluters' to pollute more, or sell their excess permits to other 'polluters', negating the benefit of private action. The claim is based on a number of false premises.

First is the premise that industry is the 'polluter' and hence only they are responsible for saving emissions under the CPRS.

It is important to remember that, on a production basis, only about 45% of emissions covered by the CPRS are attributable to mining and manufacturing industry. The

¹ *Australia's Low Pollution Future, The Economics of Climate Change Mitigation*, October 2008

rest are attributable to households, and the commercial and government sectors (where households shop, work, go to school etc). On a consumption basis, excluding exports, all Australian emissions are attributable to households as consumers - if we stop producing cement or even cans of soup in Australia because of the CPRS, Australian consumers will still buy (import) cement and cans of soup. It is crucial that industry, households, commerce and governments respond to the emissions price signal and reduce their emissions.

Second is the premise that the CPRS mandates emission saving by 'polluting' industry and hence savings by households are voluntary. Nothing in the CPRS mandates emission savings by anyone. Under the CPRS, the number of emission permits a company has to purchase to meet its liabilities is directly related to its own emissions and unrelated to household emissions. The financial incentive for households and companies alike to 'voluntarily' save emissions, and in the case of companies to therefore avoid the need to purchase permits, will be that a price is put on those emissions.

Third is a misunderstanding created by the use of the words 'target' or 'cap' to describe the number of permits that will be allocated under the CPRS. To meet the very difficult 'targets' the Government has nominated for Australia will mean that permits will have to be purchased and imported from overseas if a least-cost outcome is to be achieved. As a consequence, any emission savings voluntarily made by households and industry will reduce the number of permits imported. This will not reduce the price of permits in Australia, and therefore subsidise anyone, because under the CPRS that price will be set by world markets.

Finally, if the claim were true, then equally it would be true to say that every tonne of emissions saved by industry will subsidise higher emissions by households. Clearly the claim is a nonsense.

2.2 Other concerns

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

- The CPRS 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/tCO₂ 'safety valve' price (rising at 7.5% real per annum) as proposed by the CPRS legislation

- 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 CPRS. 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 CPRS.

3 EXPOSURE DRAFT OF THE CPRS BILLS

In its submission to the Senate Economics Committee into the CPRS Bills, AIGN contested 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
- Other significant elements of the legislation yet to be drafted include the auctioning scheme
- 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

- 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 -5% below 2000 emission permit budget by 2020 within a fragmented international agreement.

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 AIGN’s view, if flaws in the CPRS 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/tCO₂ (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/tCO₂
- Cover 100% of emissions from the beginning so that arbitrary allocation of the national budget between the CPRS 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 CPRS, 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 up to 200 million tonnes of emissions, whereas the White Paper estimates an allocation of perhaps 110 million tonnes. Amendments to the trade exposed industry program in the CPRS would include
 - determine all exports to be trade exposed
 - determine import competing products whose prices move in tandem with import parity as trade exposed, and the trade exposure of other import competing products to be assessed by the Productivity Commission
 - 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 the circumstances of the individual project at the time
- remove the artificial definitions of ‘activity’ that currently mean that almost all trade exposed facilities will receive effective rates of allocation significantly below 90% and 60%
- removal of permit allocation to be determined on a product-by-product basis reflective of the emission costs imposed in competitor countries
- 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 approaches such as the consumption-based approach proposed by Geoff Carmody
- Provide \$10 billion of assistance to the electricity generators in the form of permits over 10 years
- Provide for the abolition or phasing out of existing schemes, including MRET and EEO, 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.

3.1 Specific issues in the Bills

In the few 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, and what the implications of the draft Bills in the current form will be.

This is further complicated by some notable omissions from the Bills – which has restricted the ability of industry to comment comprehensively on the scheme design. In the limited time available since the release of the legislation, AIGN has identified a number of issues. The issues discussed below are not exhaustive, and will invariably be added to, or resolved as clarifying discussions are conducted over the forthcoming months.

Table 1: Carbon Pollution Reduction Scheme Bill

Section	AIGN Comments
Objects (Part 1, Section 3)	<ul style="list-style-type: none"> • The objects of the CPRS Bill are inadequate and should include to: <ol style="list-style-type: none"> a) impose a price on emissions b) offset competitive disadvantage for trade exposed industry for a period of time c) offset asset value loss for strongly affected industry d) replace existing measures (MRET and EEO).
National Scheme Cap and gateways (Part 2, Sections 14 and 15)	<ul style="list-style-type: none"> • Matters that the Minister 'must' take into account in setting the 5 year caps and 10 year gateways include the report (if any) of the Expert Review Committee (Section 14(5)(b) and 15) • The Expert Review Committee does not allow appointment of a person that is/has in the last 5 years worked for a liable party (Section 360) that may unduly limit the expertise available to the Committee (is the same restriction to apply to public servants and representatives of other NGOs?) <ul style="list-style-type: none"> – it would be far better for the Reviews to be done by the Productivity Commission with terms of reference determined by Parliament • The matters that the Minister 'may' take into account in setting the 5 year caps and 10 year gateways is limited <ul style="list-style-type: none"> – there are no definitions of 'major' or 'advanced' economies. The definition of 'advanced' should accord with Australia's submission to the UNFCCC, that is, all economies with GDP per head greater than Ukraine – the definition of 'voluntary action', should accord with Part 14, 'voluntary cancellation' – there is no methodology for increasing the coverage of the CPRS • The Minister 'may' (sub-section 15(2)), but need not, set 10 year gateways. The Bill should require the Minister to set the gateways.
Landfill (Part 3, Division 2, Subdivision B)	<p>If the waste sector is to be included from 1 July 2010 then a great deal more resources need to be devoted to resolving measurement problems:</p> <ul style="list-style-type: none"> • Measurement of CO₂e emissions from organic waste is determined by modelling. The specific parameters of this modelling are not due to be finalised for NGERs until May 2009. • The lack of accurate and repeatable measurement techniques may penalize the cutting-edge, environmentally efficient landfills whilst benefiting the poor performers. • The inclusion of legacy waste in the CPRS (as of 2018), is the equivalent of retrospectively taxing landfill owners and their customers for waste deposited as early as 1968. This inequity will cause severe market distortions, and will lead to the early closure of some older landfills. Legacy waste should be removed from the Bills <p>The legislation as it stands will, without doubt, cause significant perverse economic and financial outcomes without achieving additional emissions abatement outcomes.</p>
OTN (Part 3, Division 4, Sections 31&32 and 35-40)	<p>An Obligation Transfer Number (OTN) is mandatory for LPG and natural gas sale to retailers, but for other fuels, except liquid petroleum fuels, mandatory use of an OTN is restricted to large users (ie 25,000t emissions)</p> <ul style="list-style-type: none"> • Currently, exporters will be required to ask their foreign customers to apply for an OTN if the transfer of ownership of the products takes place in Australia before export. This is an unnecessary administrative cost for customers of Australian exports – exporters should remain liable for the export • The draft legislation does not enable the quotation of an OTN for all instances where the eligible upstream fuel is being supplied as a feedstock in circumstances a majority of the fuel is not combusted. This could result in the upstream liability being greater than the liability would have been if the recipient were accountable for its own emissions. Given the criticality of this issue to the plastics and chemicals sector, who sequester carbon in their products, a mechanism should be developed for the mandatory quotation of OTN's when used as a chemical feedstock. • In all circumstances where the OTN is voluntary, the recipient has the discretion as to whether it quotes the OTN and the supplier may refuse to accept the OTN. Objective criteria for the refusal to use or accept an OTN should be developed in order to ensure that the use or otherwise of an OTN is not abused for commercial leverage. • In circumstances where the upstream supplier is tasked with the responsibility of acquitting permits in relation to the downstream combustion of a fuel, consideration should be given to ensuring that the upstream supplier can pass through the costs of such acquittal to the emitter. There may be circumstances where, at least initially, the upstream supplier is unable to collect the permit liability from the

	<p>recipient.</p> <ul style="list-style-type: none"> Attention is drawn to the detailed comments provided by AIP on the workings of the proposed scheme in relation to liquid petroleum fuels
Auctioning (Part 4, Division 2, Subvision C)	<ul style="list-style-type: none"> In respect of the proposed auctioning of permits, deferred payment arrangements should not impose additional working capital burdens on scheme participants The auctioning design is open, with a discussion paper proposed for the end of March. This paper has not been released by the time of this submission in early-April.
EITE (Part 8)	<ul style="list-style-type: none"> The provisions for the program of allocation of permits are minimal Permit allocations should be reviewable by the AAT and ADJR Section 165(a) delete “emissions-intensive” (repeat throughout) Section 165(b) delete “reduce” insert “fully offset” Sections 165(d) and (e) should be amended to require that permit allocation for an ‘activity’ should only be removed after a review by the Productivity Commission finds that international competitors in that ‘activity’ are subject to an equivalent emission impost.
Coal-fired electricity generation (Part 9)	<p>The strongly affected industry provisions are almost complete, however issues to do with regulations on NPV and windfall profits are yet to be provided</p> <ul style="list-style-type: none"> The Objects of Part 9 should be amended to allow for the full offset of asset value loss in electricity generation Given the object of this section refers to the asset loss value in the electricity sector, the quantum of assistance should not be limited and instead capped at a maximum level as reflected in the ACIL Tasman and ROAM modeling commissioned by the Treasury Permits should be issued for 10-years forward The windfall gains test should be assessed against the ‘net revenue’ loss over the pre-CPRS expected life of the asset AIGN refers you to the National Generators’ Forum submission for more detailed comment
Reforestation (Part 10)	<ul style="list-style-type: none"> AIGN refers you to NAFI and A3P submissions for detailed comment
Compliance	<ul style="list-style-type: none"> AIGN intends to do a review of the compliance process and cannot comment at this time.

Table 2: Consequential Amendments Bill

Section	AIGN Comments
National Greenhouse Gas and Energy Reporting Act	<ul style="list-style-type: none"> A full review of NGER amendments is needed It is not clear why parties liable under the CPRS should be required to continue to meet NGER requirements Significant revisions to NGERs emissions methodologies with 5 years notice is not covered in the Bills, whereas it is proposed in the White Paper.
Corporations Act	<p>Trade in Australian (AEU) and international emissions units are ‘financial products’ for the purposes of Chapter 7 of the Corporations Act 2001. The accompanying commentary states that:</p> <p>“These amendments will provide a strong regulatory regime to reduce the risk of market manipulation and misconduct. Appropriate adjustments to the regime to fit the characteristics of units and avoid unnecessary compliance costs will be made. Further consultation will be undertaken on the adjustments that will be necessary.”</p> <ul style="list-style-type: none"> If AEU and eligible international emission units are categorised as ‘financial products’, many liable entities will need to obtain Australian Financial Services Licences in order to maximise their acquisition strategies. Obtaining a licence can be a significant process taking upwards of 6 months with major ongoing compliance issues A Consultation Paper was to be issued in March, but as yet has not. <ul style="list-style-type: none"> clearly the trading of derivatives needs to be licensed however, there seems little logic to require the units themselves to be ‘financial products’.
Taxation	<ul style="list-style-type: none"> A review of tax amendments is needed There are concerns emerging about the FIFO method and why it is compulsory. In its current form and in combination with a historical cost valuation, it may encourage tax driven choices to surrender permits by

30 June for those companies that have this tax year, whereas their final acquittal date is 15 December

- There is uncertainty about the matching up of liable entities, operational control and permit allocation and whether there could be tax implications
- GST is a significant issue. It remains unclear why GST needs to apply at all.

Bills omissions

AIGN also 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:

- The Bills and regulations do not provide for a transparent process to determine the allocation of the national commitment among the CPRS and uncovered sectors
- EITE activity definitions, effective rates of permit allocation and operation of the transition arrangements are not open to AAT and ADJR processes
- Impact of the renewable energy target on trade exposed industries is unknown at this stage
- Operation of the Climate Change Action Fund is unknown at this stage.

4 CONCLUSION

The AIGN has consistently argued that a well-designed emissions trading scheme, which balances economic efficiency, environmental effectiveness and equitable burden sharing, will provide a framework for least-cost abatement of greenhouse gases.

In this context, AIGN supports an emissions trading scheme that:

- Balances economic, environment and equity objectives
- Is comprehensive of gases, sectors and sinks
- Offsets the competitive loss of trade exposed industry, in the context of a limited global agreement, and assists the structural adjustment of severely affected industry
- Replaces the raft of Federal and State programs that impose costs on business, and stops new measures being imposed

- Is environmentally effective, including by inducing more nations to commit to emission reductions
- Is fair so that no one shoulders a disproportionate burden of the cost of mitigation.

AIGN is principally concerned with the development of climate policy that delivers these objectives, noting that Australian domestic action that has no global environmental gain, at the expense of our own prosperity and growth, is counterproductive to the ideal of long term emissions reduction to avoid dangerous climate change. Australian domestic policy will need to be flexible to account for changes in knowledge and international circumstances, whilst accommodating the management of uncertainty so that industry can make sound investment decisions.

AIGN contends that properly designed, an emission trading scheme can deliver the objective of emissions reduction at lowest possible cost. However, the CPRS Bills do not do the job, particularly for trade exposed and strongly affected industries.

Further, industry support for the introduction of an emissions trading scheme is contingent on the removal of the large number of prescriptive and economically inefficient policies that are currently used to regulate greenhouse gas emissions from industry.

It is possible however, that with amendment, the CPRS can be resurrected to deliver Australia's fair share of global emissions abatement, while supporting the competitiveness of those industries which underpin Australia's economy, and current and future prosperity.

Attachment A: AIGN Membership

Industry Association Members

Australian Aluminium Council
Australian Coal Association
Australian Food and Grocery Council
Australian Industry Group
Australian Institute of Petroleum
Australian Petroleum Production and Exploration Association
Australian Plantation Products and Paper Industry Council
Australasian (Iron and Steel) Slag Association
Australian Trucking Association
Cement Industry Federation
Federal Chamber of Automotive Industries
Minerals Council of Australia
National Association of Forest Industries
National Generator's Forum
Plastics and Chemicals Industries Association

Individual Business Members

Alcoa of Australia Limited
Adelaide Brighton Cement
Bluescope Steel Ltd
BP Australia Limited
Caltex Australia
Cement Australia
Chevron Australia Pty Ltd
CSR Limited
ExxonMobil
Hydro Aluminium Kurri Kurri
Inpex Browse Ltd
Leightons Holdings
Origin Energy Limited
Qenos Pty Ltd
Rio Tinto Australia Limited
Santos Limited
Shell Australia Limited
Tomago Aluminium
Thiess Pty Ltd
Wesfarmers Limited
Woodside Petroleum Limited
Xstrata Coal Australia Pty Ltd