

1 September 2000

Committee Secretary
Joint Standing Committee on Treaties
Parliament House
CANBERRA ACT 2600

Dear Sir/Madam

Inquiry into the Kyoto Protocol

I refer to the notice on the Parliament of Australia internet site seeking submissions to the above Inquiry being undertaken by the Joint Standing Committee on Treaties. The Minerals Council of Australia welcomes the opportunity to provide comment to the Committee on this Inquiry.

The Minerals Council is a member of the Australian Industry Greenhouse Network (AIGN) and supports the positions and issues raised in the AIGN's submission to the Inquiry (copy attached). Nonetheless the Minerals Council would like to highlight a number of issues raised therein of particular importance to its member companies.

The Australian minerals industry is a key contributor to Australia's economic and trade performance. In 1998/99, the industry generated about 45 per cent of Australia's merchandise exports and contributed about \$36 billion to Australia's Gross Domestic Product. The industry is responsible for nearly 240,000 jobs through both direct and indirect employment.

Furthermore the Australian minerals industry is generally a price taker in international markets and its trading performance is, therefore, strongly influenced by world commodity prices. Consequently, the industry seeks a government policy framework in Australia within which it can invest and operate on competitive terms in international markets. Australia's response to meeting its commitments under the Kyoto Protocol is particularly pertinent and important to the industry's continued viability and contribution to Australia's economic growth and welfare.

The Minerals Council strongly supports the Government's recent announcement which recognised the imperative of maintaining the competitiveness of Australian industry in responding to Australia's international greenhouse commitments. The Minerals Council has commended the Government on the result it achieved in Kyoto and has stated its commitment to working with government to efficiently implement Australia's greenhouse response strategy. The results of the 1999 evaluation of the Greenhouse Challenge Program - which are outlined in the AIGN submission - demonstrate the Australian minerals industry is indeed translating its greenhouse commitments into meaningful action on the ground.

Nonetheless, the Kyoto Protocol suffers from a fundamental flaw which leaves trade exposed economies, like Australia, vulnerable to incurring disproportionately high economic and social costs in their attempts to meet their Kyoto Protocol commitments. This follows because non-Annex I countries are not subject to binding commitments under the Protocol and, thus, Australian businesses, especially those in energy and greenhouse gas emission

intensive industries, could be rendered uncompetitive against developing country exporters with no or limited greenhouse gas emission constraints. In the case of the Australian minerals industry it faces strong non-Annex I competition from South Africa for aluminium and coal, Colombia for coal, Chile for copper, China for lead and zinc, and Brazil for aluminium - just to name a few.

A further consequence of this fundamental flaw in the Kyoto Protocol is the potential for Australia to be seen as an unattractive investment destination for energy and emissions-intensive projects given the additional costs and uncertainty associated with meeting the country's greenhouse gas abatement commitments. This is despite Australia's current capacity to provide cost-competitive and greenhouse-efficient energy supply compared with many other countries. Thus, in these circumstances, Australia could not only miss out on the potential benefits of the investment such as economic growth, jobs and regional development but also the global greenhouse gas emission situation is not expected to improve but could actually worsen.

The Minerals Council is also conscious of the significant uncertainties surrounding the Kyoto Protocol at present. These include:

- . the requirements for the Kyoto Protocol to enter into force. The prospects for ratification by the United States will be a crucial determinant in this matter; and
- . the continuing international negotiations about the rules and scope under the Protocol for land clearing, sinks and the flexibility mechanisms including emissions trading and the clean development mechanism together with the compliance provisions of the Protocol. These aspects are unlikely to be finalised, at the earliest, until the seventh Conference of the Parties meeting scheduled for late 2001.

Given the exposures for the Australian economy outlined above, the Minerals Council considers Australia should not consider ratifying the Kyoto Protocol until:

- the sink, flexibility mechanism and compliance rules under the Protocol are known;
- a clear path for developing countries commitments has been established; and
- USA has ratified the Protocol.

The Minerals Council of Australia would welcome the opportunity to discuss the matters raised in this submission with Committee members. The contact officer in the Minerals Council on this issue is Ms Robyn Priddle (tel: (02) 6279 3631, fax: (02) 6279 3699 or e-mail: r.priddle@minerals.org.au).

Yours sincerely

R C WELLS
EXECUTIVE DIRECTOR

RCW:RP

AIGN submission to the Joint Standing Committee on Treaties

1. Overview:

The Australian Industry Greenhouse Network (AIGN) welcomes the opportunity to comment on the implications of the Kyoto Protocol for Australia.

Although there are uncertainties in the science of climate change, there is sufficient reason to be concerned that increasing levels of anthropogenic greenhouse gases lead to interference with the world's climate system. Hence, AIGN supports Australia's commitment to accept a fair share of the burden in a global response to the global issue of climate change. In doing so, it is important to recognise that a number of features of Australia's economic and geo-political circumstances and the nature of the Kyoto Protocol make it necessary to approach climate change policy in a careful and measured way, fully assessing and understanding the implications and risks of our actions, including the implications for the competitiveness of Australia's energy intensive export and import competing industries.

As a mechanism for increased global restraint on emissions, the Kyoto Protocol has a fundamental omission - it fails to require any emission restraint in the first commitment period or any future one from non-Annex I countries¹. In addition, many of the proposals under negotiation for implementation of the Kyoto Protocol are not least cost and any increased cost of compliance will compound the adverse economic and environmental impacts of omitting non-Annex I countries. With much of Australian industry competing in both export and domestic markets with producers in countries where emissions are unconstrained, AIGN believes that Australia cannot consider ratification until there is agreement on active participation by non-Annex I countries through commitments under the Kyoto Protocol in at least the second and subsequent commitment periods.

The requirement for the Protocol to cover all significant emitter countries is not only a trade and economic imperative; it is also an environmental requirement. The emissions from non-Annex I countries are growing much more rapidly than for Annex I and will account for more than half of the world's emissions in the first commitment period. If the Kyoto Protocol in its current form were to be ratified by Australia and sufficient other Annex I countries to come into force², there would be considerable and increasing relocation of new investment and existing energy intensive industries to non-Annex I countries. This would simply relocate the emissions and probably could increase the emissions by encouraging continued operation of old inefficient industries and energy supply systems in some non-Annex I countries to meet world demand for energy intensive commodities. In these circumstances, Australia would pay a very high price without any global gain in terms of emission reductions.

AIGN believes that the significant lack of agreement in the international negotiations on implementation issues and the lack of progress on commitments for non-Annex I countries preclude any consideration of the merits of ratification at this time. We expect this situation will continue until at least COP7 in late 2001. Beyond these threshold issues, AIGN has, in sections 5 and 6 of this submission, recommended additional requirements

¹ Note that this submission uses the phrase 'non-Annex I', rather than the more commonly used phrase 'developing country' because the Annex I list was negotiated in the period up to 1992 when the FCCC was agreed and fails to take account of changed circumstances since then. Annex I doesn't include the new OECD countries of Mexico and South Korea or the rapidly developing countries in South America or countries such as Singapore with significantly higher GDP per capita than Australia.

² In order to enter into force, the Protocol must be ratified (or adopted, approved, or acceded to) by 55 Parties to the Convention, including Annex I Parties accounting for 55% of carbon dioxide emissions from this group in 1990.

for consideration of ratification and has suggested key criteria to guide a decision on ratification.

Pending resolution of the international issues and consideration of ratification, AIGN believes that, consistent with the national interest, Australia is making, and should continue to make, a fair contribution to global emission restraint. Hence, AIGN welcomes the Government's assurance given in Senators Minchin's August 23 statement that – "Australia will meet its international greenhouse responsibilities but with a guarantee from the Government that these obligations will be met in a cost effective manner so that Australian industry remains competitive and that secures continued strong national economic growth and job creation."

In support of this approach, AIGN recommends Australia's response to the greenhouse issue be evaluated in a strategic framework that articulates how the economic wellbeing of the citizens (particularly those in regional Australia) is linked with the success of Australian industries and enterprises. Economic well being is fundamentally determined by competitiveness and in Australia's case it is heavily dependent on the reliable availability of competitively priced energy, and will remain so for the foreseeable future.

2. Kyoto Protocol ratification – threshold requirements:

- Ratification should not be considered before there is agreement on a 'pathway' for future commitments for non-Annex I countries in second and subsequent commitment periods (see section 2.1).
- Ratification should not be considered before final decisions have been made on the critical outstanding implementation issues (see section 2.2). Final decisions are scheduled for COP6 but not expected by AIGN until COP7 at the earliest.

1 2.1 Kyoto Protocol – the fundamental omission:

The Framework Convention on Climate Change (FCCC) sets out commitments for all Parties, taking into account their common but differentiated responsibilities and their specific national and regional development priorities, objectives and circumstances to mitigate climate change. While all Annex I countries agree on the importance of global action, there is significant disagreement on the priority, timeframe and the equity issues associated with non-Annex I countries taking on commitments. The US, Canada, Australia and other Umbrella countries have highlighted this omission as a major issue, while the European Union (EU) has stressed the need to demonstrate significant reduction in Annex I emissions before calling for extension of commitments to non-Annex I countries.

As a consequence of this weak support from a number of Annex I countries, the G77&China countries have successfully prevented any agreement on a process that would lead to future commitments for non-Annex I countries. This blocking of any process for future non-Annex I commitments is evidenced by:

- a. COP1 decided stronger action was needed and agreed to the "Berlin Mandate" for a "protocol or another legal instrument". However the Mandate also included a clause stating that the legal instrument would "Not introduce any new commitments for Parties not included in Annex I ...". This clause prevented any consideration of the issue at COP2 or in any of the eight AGBM negotiating sessions.
- b. COP3 adopted the Kyoto Protocol and because of the 'Berlin Mandate', it has no new commitments for non-Annex I countries. A move by New Zealand (with backing from the Umbrella Group) for a decision to start work on a process for future commitments for

non-Annex I countries lacked support from the EU and was defeated by G77&China threats to block agreement on the Protocol.

- c. COP4 saw a re-run of the COP3 stand off and the final result was a decision for a Buenos Aires Plan of Action that has no reference to any work on future commitments for non-Annex I countries. This omission prevented any consideration of the issue at COP5.
- d. Intersessional informal discussions have been held on the issue, under sponsorship of the World Business Council for Sustainable Development, without any real progress.
- e. More significantly, at the most recent meeting of the Subsidiary Bodies both China and Nigeria, on behalf of the G77, stated that they would not agree to any discussion of commitments for non-Annex I countries at COP6.

While the issue may be raised at COP6, AIGN expects it will suffer a similar fate as at COP3 as there was no reference to discussing non-Annex I commitments in the Buenos Aires Plan of Action. In addition, even within the Umbrella Group, some see the issue as too hard; and without strong backing from the EU, the most likely outcome at COP6 is an extension of the 'no new commitments' mantra from the previous COPs. AIGN believes that such an unbalanced outcome would require Australia to defer any consideration of ratification until the issue is addressed.

2 2.2 Kyoto Protocol – the threats to its cost effectiveness:

In addition to the critical issue concerning progressive adoption of commitments by non-Annex I countries, there are a number of Kyoto Protocol implementation issues under negotiation that seriously threaten the cost effectiveness of the Kyoto Protocol and therefore would strongly influence the assessment of the national interest when considering ratification. These include:

A. Kyoto (Flexibility) Mechanisms:

It is worth noting that the word 'Flexibility' has been dropped during the implementation negotiations because of sensitivity to misguided claims that the mechanisms were some form of environmental 'loophole'. Unfortunately, dropping the word has not changed the 'loophole' thinking, resulting in many proposals for unnecessarily restrictive and bureaucratic implementation rules. These would damage the cost effectiveness of the mechanisms. Some of the more concerning proposals are:

- Limits on how much Parties can use each of the mechanisms to achieve their commitments;
- 'Equitable' (still to be defined) distribution of Clean Development Mechanism (CDM) projects;
- Levies on transfers under Joint Implementation (JI) and Emissions Trading (ET), even though there is no provision for such a levy in the Protocol;
- Extensive qualification and preconditions for Parties wishing to use the mechanisms;
- The unnecessary application of all of the CDM's project supervision, measurement and verification to JI projects;
- Restrictions on the fungability of credits under the three mechanisms; and,
- Liability regimes (buyer and mixed/hybrid) that would reduce liquidity and increase transaction costs and uncertainty.

These restrictions would further emphasize the advantage that European Union countries will have under Article 4 (Joint Fulfilment),³ as well as their access to the mechanisms.

A. Sinks:

Sinks are strongly opposed by many Parties because they too are seen as 'loopholes' that

³ Parties included in Annex I that have reached an agreement to fulfil their Protocol commitments jointly, such as the European Union, may act together to fulfil their commitments as long as the aggregate emissions do not exceed the overall commitment.

reduce emissions abatement from reduced use of fossil fuels. Although the Umbrella Group supports sinks, the recent offer by the US⁴ to negotiate a ‘phase-in’ for the first commitment period could result in a ‘deal’ with the EU that would see sinks severely discounted. In addition, the EU has proposed language that has the clear objective of reducing the effect of what Australia negotiated for in Kyoto to account for land clearing emissions in the 1990 base year (Article 3.7) as well as in the commitment period under Article 3.3. Such a change is not justified in scientific terms and their proposal appears to be related to the negative comments, made by the EU after Kyoto, on what was agreed with respect to land clearing.

B. Compliance:

A number of Parties, with the EU at the forefront, want punitive consequences for a Party’s non-compliance with their emission reduction commitments. Such an approach is not consistent with least cost, or with the fact that the Protocol, as proposed, will cover less than half of the global emissions. This approach would significantly disadvantage a country such as Australia where there is significant trade exposure compared to a country within the EU bubble.

While the Umbrella Group generally shares these concerns, the circumstances and interests of other countries within the Group are not the same as Australia’s and, as evidenced by the US position on sinks, they will pursue their own interests and possible ‘deals’ at COP6.

3. Kyoto Protocol ratification – requirements for consideration:

In addition to the threshold requirements there are a number of other requirements and steps necessary to enable informed consideration of ratification of the Kyoto Protocol, including:

- a. Based on the agreement on the ‘pathway’ for developing country commitments, a reliable assessment of the nature, timing and effect of those commitments for Australia’s non-Annex I trading partners and competitors, with respect to both exports and import competition.
- b. From the resolution of the Kyoto Protocol implementation issues, a reliable assessment of the proposals that will impair the cost effectiveness of the Kyoto Protocol provisions and the implications of the compliance regime for Australia.
- c. Following the resolution and assessment of the threshold issues:
 - Make a reliable assessment of the ratification intention of key Annex I countries, including the US and Canada;
 - Finalise Australia’s 1990 baseline (and hence the nation’s initial assigned amount);
 - Complete an up-to-date projection of Australia’s future emissions for the first commitment period and extend it to at least the end of the second commitment period;
 - Develop at least three scenarios for the outcome of the negotiations for the second and subsequent commitment periods;
 - Complete detailed economic modelling of the first commitment period and the three scenarios for the second and subsequent commitment periods; and,
 - Complete an assessment of the benefits and possible consequences of Australia delaying a decision on ratification until after the Protocol is ratified by all Annex I Parties with larger emissions than Australia and the Protocol has entered into force.

⁴ August 1st Submission to UNFCCC on LULUCF.

4. Kyoto Protocol ratification – decision criteria:

AIGN believes that the key decision criteria should be:

- a. Australia's national interest including the economic and social impacts (economic growth, employment, regional development, and industry competitiveness);
- b. the environmental effectiveness; and,
- c. Australia's acceptance of a fair share of the global burden to reduce greenhouse emissions and enhance removal by sinks.

AIGN believes that Australia should not ratify until these fundamental requirements have been assessed for the first commitment period and for likely scenarios in the subsequent commitment periods⁵. However, if Australia has to withhold or defer ratification, then it should continue to make what is assessed to be a fair contribution to the global effort to address the climate change issue in support of the objectives of the FCCC.

5. Other issues raised in the committee's terms of reference:

1 *General:*

Greenhouse is a whole-of-government issue with key economic and trade implications, and industry recommends the following Climate Change Policy Principles⁶:

- “Although there are uncertainties in the science of climate change there is sufficient reason to be concerned that increasing levels of anthropogenic greenhouse gases lead to interference with the world's climate system;
- Australia should contribute to global action to reduce greenhouse gas emissions;
- Active participation of developing countries in the reduction of greenhouse gas emissions, particularly through commitments under the Kyoto Protocol, is essential to effectively address the global climate change problem and to minimise distortions to world trade;
- A strategic approach to greenhouse should be adopted in Australia to ensure policies and measures are implemented in a way that lowers the costs of meeting our international obligations, and distributes the cost burden equitably and in the national interest across the community;
- Future greenhouse policy should provide legal recognition for early action initiatives of corporations;
- The strategic approach to greenhouse should facilitate adjustment within the economy while recognising the dynamic nature of economic change and investment opportunities - decisions on policies that will influence investment decisions should take account of the need for global emission constraint and not add to the current incentive for investment decisions to result in emissions relocating to non-Annex 1 countries;
- Market based mechanisms usually provide a more efficient and least costly means of meeting Australia's international commitments;
- Despite any uncertainty regarding the potential environmental consequences of climate change, greater emphasis needs to be placed on the development of adaptation strategies; and,

⁵ AIGN believes that because the impact of the Protocol can be changed by future amendments, any decision to ratify the Protocol must require that any subsequent amendments be subject to a full treaty review process before acceptance by Australia. Possible subsequent amendments include the commitments for later commitment periods (recognising that the project life for many investments under consideration will extend well beyond the first commitment period) and the compliance system.

⁶ Presented to the Ministerial Council in June 2000

- Government and the private sector have a responsibility to ensure that the whole Australian community fully understands the magnitude of the task we face in reducing greenhouse gas emissions and all of the issues and implications of greenhouse policies.”

2 Meeting target emission levels by 2008 and anticipated outcomes:

AIGN strongly supports Australia continuing to make a fair contribution to the global effort to address the risks of climate change, while stressing the need for such actions to be global and least cost. The emissions from non-Annex I countries are growing more rapidly than Annex I and are expected to exceed the total Annex I emissions well before 2008. Hence the omission of the significant non-Annex I emitters from the Protocol seriously reduces its effectiveness in controlling global emissions. Unless this problem is addressed, it will be compounded by significant emission leakage as energy intensive industries are forced to relocate from Annex I countries, such as Australia, to remain competitive.

AIGN believes that, subject to progressive adoption of similar emission restraint by non-Annex I countries, the agreement negotiated in Kyoto had the potential to be a satisfactory but challenging means of facilitating multilateral cooperation to reduce greenhouse gas emissions. However, after almost two years of very difficult negotiations, there is no sign that if Annex I countries ratify the Protocol then non-Annex I countries will progressively take on similar emission restraining commitments. In addition, the negotiations on the implementation of the Kyoto Protocol have been characterised by many proposals that would reduce its cost effectiveness and by attempts to hold agreement on these issues hostage to claims for additional financial and technological aid from Annex I countries.

Unless these adverse developments are overcome, Australia’s potential Kyoto Protocol commitment no longer represents a fair contribution to the global effort because:

- Australia’s potential commitment is very challenging and would increase costs to all industrial and agricultural activities, reducing their competitiveness compared to those activities in directly competing non-Annex I countries. Unless similar commitments are agreed to be progressively applied to non-Annex I countries, the more emission-intensive activities will relocate, resulting in emission leakage and limited or no global emission reduction.
- Australia’s expectation on the magnitude of the cost of meeting the Protocol commitment has been based on least cost implementation of sinks and the mechanisms, consistent with sound science and efficient administrative principles. This expectation is being threatened by proposals under negotiation that would reduce the cost effectiveness and scope to use the mechanisms and sinks towards meeting the commitment. Any loss of cost effectiveness of the Protocol magnifies the impact of the Protocol not covering all significant emitters on Australia’s national interests.

Further explanation of the features in the Protocol that have the potential to make it more cost effective for a country like Australia to meet its commitments is given in Attachment I.

3 Current scientific understanding

AIGN believes that although there are uncertainties in the science of climate change, there is sufficient reason to be concerned that increasing levels of anthropogenic greenhouse gases will lead to interference with the world’s climate system. Continued priority needs to be given to scientific investigation and climate monitoring to reduce uncertainties and to provide a more reliable basis for:

- planning and implementing cost effective response measures to reduce the potential impact of human activity on the world's climate; and,
- planning and implementing cost effective adaptation measures to reduce the potential impact of any climate change.

In addition to reducing the uncertainties with respect to potential human induced climate change, further scientific investigation will improve the understanding and prediction of the naturally occurring changes that result in periodic cycles (including changes that only occur over very long periods) in the regional climates of the world.

4 *Australia's national interest with respect to emissions trading (and other mechanisms), sequestration and sinks*

The national interest requires that any international obligations be met in flexible and least cost ways to minimise distortions to world trade and maximise global environmental outcomes. AIGN believes that a comprehensive approach involving all significant sources and sinks with open and efficient international market based mechanisms would be the least costly means of meeting Australian's international obligations. For these reasons, the AIGN believes the national interest may only be achieved if all the international flexibility mechanisms, including international emissions trading, are able to operate efficiently in a competitive market.

With regard to what measures Australia may take domestically to meet its commitments should it ratify the Protocol, again the national interest requirement is to adopt least-cost policies. While emission trading holds the greatest promise in this respect, there is a great deal more work to be done on design features and alternatives before that conclusion can be confidently reached. What is clear, however, is that whatever measures are adopted after ratification there will be some impact on competitiveness and jobs.

5 *Australia's response to greenhouse and the economic, environmental and social implications*

As noted in industry's Principles outlined above in Section 5.1, a strategic approach to greenhouse policy should be adopted by Australia to ensure policies and measures are implemented in a way that lowers the cost of meeting our international obligations, and distributes the cost burden equitably and in the national interest across the community. Australia currently has a wide range of generally appropriate and effective greenhouse policies involving about \$1 billion of Government programs. These programs will also encourage, and in some cases require, substantial private sector investment and expenditure of billions of dollars.

Australia has however been particularly adept at developing worthwhile programs involving partnerships between Government, industry and the community. The voluntary *Greenhouse Challenge*, for example, is recognised internationally for its success in achieving significant emission abatement through cooperative agreements between industry and Government. This success has been confirmed by a comprehensive review⁷ in 1999 that concluded:

“the Greenhouse Challenge is demonstrating that significant greenhouse gas emission abatement actions are taking place in industry, which will contribute to Australia's achievement of commitments under the United Nations Framework

⁷ Greenhouse Challenge Evaluation Report October 1999.

Convention on Climate Change (FCCC)”. “In particular, the available data indicates that in 2000 the actions being undertaken by industrial end-users will result in 23.5 Mt CO₂-e (carbon dioxide equivalent) per annum, or 16 per cent less emissions compared to what would have occurred in the absence of those actions.” “Over the period 1995 to 2000, participants in industrial end-use sectors are expecting very limited emissions growth (2.1 Mt CO₂-e or only 1.6 per cent)”.

This review also found that the *Greenhouse Challenge* has succeeded in achieving broad and diverse participation across industry.

In further developing policy, attention needs to be given to enhancing the *Greenhouse Challenge* to allow further emissions reductions through more comprehensive coverage (transport – maritime, air, rail and road; Government services; agriculture, etc) and where appropriate, negotiated agreements with companies and sectors. The first step in such a process would be to ensure that current and future participants’ efforts will be recognised and that they will not be disadvantaged by taking such actions. If this can be assured, companies will see less risk in exploring further emission abatement opportunities under this program.

6. Conclusion:

AIGN supports Australia continuing to take cost effective action to ensure that we make a fair contribution, in view of our national circumstances, to the global effort to constrain greenhouse gas emissions. To enable assessment of what is needed to make a fair contribution and to set priorities, AIGN recommends additional effort to:

- identify how other Annex I countries are balancing action to reduce emissions while ensuring that the competitiveness of their key industries is maintained;
- further refine the collection and reporting of data to better identify the end user demand responsible for emissions, particularly within stationary energy sector; and,
- model cumulative impacts of existing and proposed policies on competitiveness, investment and the economy at the national, regional and sectoral levels.

WHAT WOULD AUSTRALIA'S OBLIGATION BE UNDER THE KYOTO PROTOCOL? ⁸

.1 The obligation:

Australia would be required to ensure that our net *responsibility* for emissions (and some removals by sinks) of greenhouse gases averaged over 2008 to 2012 is not more than 108% of the emissions that we were *responsible* for in 1990. This responsibility is often simplified to "Australia's 108% target". However, because climate change is a global issue, reductions in emissions or removals by sinks anywhere around the globe have equal value. Hence, using the flexibility mechanisms, we can take *responsibility* for reduction in emissions or removal by sinks anywhere around the world. As a result, Australia's domestic emissions may rise above 108% of 1990 but be offset by sinks (in any country) and emission reductions in other countries, to ensure that our average total emission *responsibility* in the period 2008 to 2012 doesn't exceed 108% of 1990 domestic emissions.

.2 The accounting rules:

The Protocol has an inventory and accounting system that allocates an initial domestic emission '**budget**' of 108% of 1990 and provides for that 'budget' to be increased by amounts equal to emission reductions elsewhere in the world as the result of Australian actions under the flexibility mechanisms. There is also a provision for the 'budget' to be increased by an amount equal to the net removal by sinks initiated by Australia.

.3 The burden sharing outcome:

The differentiated initial 'budget' of 108% establishes Australia's share of the collective responsibility (or burden) of Annex 1 to reduce emissions and recognises Australia's well documented unique national circumstances. Australia's initial 'budget' is not exceptional because after redistribution under the EU 'bubble', some members will start with higher initial domestic emission 'budgets' than Australia: Portugal 127%, Greece 125%, Spain 115% and Ireland 113% despite each having much lower population growth rates and less energy intensive exports.

.4 Explanatory notes:

- a. Australia's obligation if the Kyoto Protocol (KP) is ratified is frequently over simplified to a statement that we have to limit the growth of our (ie domestic) emissions to 108% of what they were in 1990. This over simplification fails to describe the WHAT, WHEN, and WHERE flexibility Parties may use to meet their KP obligations.
 - The WHAT flexibility means that there are no specific reductions for particular sources⁹ or for particular gases and allows for removals by sinks¹⁰.

⁸ References:

- Kyoto Protocol Article 3.1 - **all of it, particularly "and in accordance with the provisions of this Article"** (the key relevant provisions are paragraphs 7, 10, 11 and 12).
- AGO Emissions Trading Discussion paper 3, crediting the carbon, page 23, diagram 3.1 (the earlier ET Discussion papers didn't set the obligation out as clearly).

⁹ Article 3, paragraph 1 – greenhouse gases listed in Annex A

¹⁰ Articles 3, paragraphs 3 and 4

- The WHEN flexibility allows averaging the reductions over the 5 year period¹¹ (ie no year by year targets) and in the case of CDM it also allows banking over the period 2000 to 2007¹².
 - The WHERE flexibility allows responsibility for reductions in emissions to be achieved domestically and in other countries¹³.
- b. The mechanisms¹⁴ allow for the assumption of responsibility for emission reductions or removals by sinks in other countries under:
- Joint Implementation¹⁵ - we contract with another Annex 1 country to supply funds and/or technology for an emission reduction project and in return the host country transfers some of their 'budget' to Australia.
 - Clean Development Mechanism¹⁶ - we contract with a non-Annex 1 country and the CDM Executive Board to supply funds and/or technology for an emission reduction project or sink project and with the host country countries agreement, the CDM Executive Board issues certified emission reduction units to Australia for addition to our 'budget'.
 - Emissions Trading¹⁷ - we pay another Annex 1 country or authorised legal entity to reduce emissions on our behalf (because they have lower abatement cost than us) and in return, they transfer some of their 'budget' to Australia.
- c. The flexibility doesn't change the magnitude of our responsibility for a portion (or our share of the burden) of the overall Annex 1 reduction commitment - we remain responsible for our share even if we arrange (or contract) for equivalent reductions to occur in other countries. (We would simply be outsourcing some of our emissions reductions or provision of sinks.) Australia's 108% and the corresponding percentage for the other Annex 1 countries determines the differentiated sharing of the burden for the emission reduction.
- d. The inventory and accounting procedures in the Kyoto Protocol takes account of removals by sinks and 'outsourcing' some of our responsibility for emission reductions by adding then to our initial 'budget' and therefore the domestic emission will rise above the initial 'budget'. This doesn't mean we have avoided our responsibility and the question wouldn't even arise if the accounting rules had been set up to allow the outsourced emissions reductions and sink removals to be deducted from the domestic emissions to give net emissions.

¹¹ Article 3.7

¹² Article 12.10

¹³ Article 3, paragraphs 10, 11 and 12

¹⁴ The Joint Fulfilment mechanism (Article 4) is not applicable to Australia

¹⁵ Article 6

¹⁶ Article 12

¹⁷ Article 17