



RBR 7/01 The Future of the Kyoto Protocol: The Lead Up to the Resumed Climate Change Talks in Bonn in July 2001

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Nicolee Dixon

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1 INTRODUCTION

The need to control greenhouse gas emissions is an important challenge for all nations, all of which face individual and diverse social and economic circumstances that impact on the ability and willingness of each to respond to the problem.

The issue has been examined extensively in three previous Queensland Parliamentary Library Research Bulletins as follows:

- *Climate Change – What Do We Know? An Outline of the Science and IPCC Findings (RB 2/99)* sets out the various scientific explanations of the greenhouse effect and the findings of the Intergovernmental Panel on Climate Change;
- *From Rio to Buenos Aires: The International Negotiations on Climate Change (RB 3/99)* outlines international agreements regarding control over greenhouse gas emissions and, in particular, considers the obligations imposed by the United Nations Framework Convention on Climate Change and the Kyoto Protocol; and
- *Climate Change Response Strategies: A Hot Issue for Queensland (RB 4/99)* considers Australia's policy response through the National Greenhouse Strategy and, at a more local level, the various measures taken by Queensland as part of that response.

This Brief updates recent international political developments regarding the Kyoto Protocol, including the breakdown of discussions at The Hague climate change conference in November 2000. It discusses Australia's response the recent decision by the United States Government not to ratify the Protocol in the lead up to the resumed climate change conference in Bonn in July 2001.

A subsequent Brief will consider the progress of Federal and State initiatives to reduce greenhouse gas emissions on the domestic front.

2 BACKGROUND

As noted in the first Bulletin, *Climate Change – What Do We Know?* the 'greenhouse effect' is a natural phenomenon whereby 'greenhouse gases' in the Earth's atmosphere absorb and trap part of the radiation emitted from land and oceans to counteract the heat from the sun. The main greenhouse gases are water vapour, carbon dioxide (CO²), methane, nitrous oxide and chlorofluorocarbons.

Also present are perfluorocarbons, sulphur hexafluoride and hydrofluorocarbons. While humans create fluorocarbons, other greenhouse gases occur naturally.¹

There is a strong acceptance in the scientific community that human activity has made some contribution to the enhancement of greenhouse gases in the atmosphere (the ‘**enhanced greenhouse effect**’). Human activities that produce greenhouse gases include the burning of fossil fuels (eg fuel, coal) and the burning or clearing of vegetation, which increases CO² in the atmosphere. Those actions make the biggest contribution to the enhanced greenhouse effect. Agricultural practices, including the natural digestive processes of cattle and waste decomposition from landfills, contribute to methane and nitrous oxide in the atmosphere. Other contributors are exhaust emissions and chlorofluorocarbons. While greenhouse gas emissions can be removed to some extent by natural ‘sinks’ (processes such as absorption of CO² by trees), human activity, such as land clearing, has also caused the depletion of such ‘sinks’.

What remains a matter of scientific debate is the link between climate change and increases in greenhouse gases, the extent of contribution by humans, the degree of global warming, and the impacts of those changes on human and natural ecosystems. A number of scientists believe that global warming is a natural phenomenon and that human influence has little, if any impact.² There are many uncertainties in making any claims or predictions, including the effects of other factors, such as ozone depletion and El Nino. Some scepticism also exists regarding the accuracy of computer models to forecast changes. The technology for collecting and modelling data is in its infancy.

2.1 INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE

The most widely accepted findings are those made by the Intergovernmental Panel on Climate Change (IPCC), an independent body comprising leading international scientists, in its 1990 and 1995 Reports. The United Nations Framework Convention on Climate Change, underpinning international policy concerning greenhouse gas emissions, formally recognises the IPCC’s important role in providing a scientific and technical basis for action.

¹ Helen Gregorczyk, *Climate Change – What Do We Know? An Outline of the Science and IPCC Findings*, Research Bulletin No 2/99, Queensland Parliamentary Library, 1999, p 3. See also United Nations Environmental Programme Information Unit, *Climate Change Information Kit*, 1997 at website <http://www.unep.ch/iuc/submenu/infokit/factcont.htm>, p 5.

² See *Climate Change – What Do We Know?* See footnote 54 and the material cited there.

Broadly, the IPCC has concluded that, despite many uncertainties, the world's climate has changed over the last one hundred years and that the balance of evidence suggests a discernible human influence on the climate.³

In a February 2001 Report, the IPCC indicated a projected increase in global mean surface temperatures of approximately 1.4°C-5.8°C by 2100, almost twice the predicted change stated in IPCC's 1995 Second Assessment Report.⁴ The recent findings will contribute to the IPCC's Third Assessment Report, due for completion during 2001.

Among the forecasted impacts are: rising sea levels (threatening some island nations and low lying areas of other nations), adverse effects on ecosystems dependent on the existence of ice caps, increased incidences of diseases associated with warmer climates (eg malaria) in higher latitudes. However, there are some possible benefits including more water availability in some previously water-scarce regions (eg South-East Asia), increased potential crop yields in some regions due to slight temperature increases, and reduced energy demand for heating in some regions due to higher winter temperatures.⁵

Australia may experience changes to rainfall patterns, potentially longer droughts and increased floods, more areas becoming prone to cyclones, damage to coral reefs, less snowfall and aggravation of salinity and land degradation problems. Water is likely to be a key issue due to projected drying trends over much of the region and a change to an El Nino type state.⁶

The Hon Senator Robert Hill, Commonwealth Minister for the Environment and Heritage, responded to the recent report by stating that the findings about the impact of climate change on human and natural systems sent a clear message to all governments to work together to cut greenhouse gas emissions and to develop adaptation strategies to cope.⁷

Australia itself makes a large per-capita contribution to the enhanced greenhouse gas effect. In 1999, Australia's net greenhouse gas emissions (excluding land clearing) were 458.2 million tonnes CO² equivalents, about 17.4% greater than in

³ Intergovernmental Panel on Climate Change, *Summary for Policy Makers: The Science of Climate Change – IPCC Working Group I*, 1995, p2 on the IPCC website at <http://www.ipcc.ch>.

⁴ IPCC, *Summary for Policy Makers: Climate Change 2001 – Impacts, Adaptation and Vulnerability*, Report of the IPCC Working Group II (approved at the 6th Session of IPCC Working Group II at Geneva, February 2001).

⁵ IPCC, *Climate Change 2001 – Impacts, Adaptation and Vulnerability*, Section 2.

⁶ IPCC, *Climate Change 2001 – Impacts, Adaptation and Vulnerability*, Section 4.

⁷ Hon Senator Robert Hill MP, Commonwealth Minister for the Environment and Heritage, 'International report highlights climate change risks to Australia', *Media Release*, 20 February 2001. Downloaded from the Commonwealth Department of the Environment and Heritage website at <http://www.environment.gov.au>.

1990 (and 1.1% more than in 1998).⁸ Approximately 68.4% of those emissions were CO² and about 25% were methane.⁹ The energy and transport sectors were the major contributors, accounting for 79.6% and 16.1% of total net emissions nationally. Although difficult to assess and surrounded by uncertainty, it appears that net emissions from land clearing (where gross emissions from clearing are offset by regrowth) have fallen by approximately 30.7% since 1990.¹⁰

3 INTERNATIONAL RESPONSES

By the 1990s, governments worldwide began to take notice of the growing evidence of increases in greenhouse gas emissions. The process of international response began mainly at the Rio Earth Summit in 1992 and the United Nations Framework Convention on Climate Change, which laid the foundation for future action to deal with the greenhouse gas issue. A number of subsequent meetings (Conferences of the Parties (COPs)) have been held on an almost annual basis, the most significant being COP-3 in December 1997, out of which emerged the Kyoto Protocol.

3.1 UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE – THE RIO EARTH SUMMIT

The United Nations Framework Convention on Climate Change (UNFCCC), emerging from the Rio Earth Summit held in 1992, set out some broad principles and objectives that would drive future international negotiations and action. Australia ratified the UNFCCC in December 1992 and it came into force in March 1994.

While itself containing no binding commitments, the UNFCCC aims to stabilise greenhouse gas concentrations at a level that would prevent dangerous human interference with the climate system. The desire is for that to happen within a timeframe sufficient to allow ecosystems to adapt naturally, to ensure that food production is not threatened, and to enable sustainable economic development to occur.¹¹ Accordingly, it then set out principles to guide the signatory Parties in

⁸ Australia. Australian Greenhouse Office, *National Greenhouse Gas Inventory 1999*, April 2001. Emissions from land clearing were not included in the total due to uncertainty associated with the estimates and methodology.

⁹ *National Greenhouse Gas Inventory 1999*, April 2001.

¹⁰ *National Greenhouse Gas Inventory 1999*, April 2001. The Inventory states that such estimates should, due to uncertainty surrounding the assessment of land clearing, be treated with caution.

¹¹ Article 2 of the UNFCCC; Helen Gregorczyk, *From Rio to Buenos Aires: The International Negotiations on Climate Change*, Research Bulletin No 3/99, Queensland Parliamentary Library, 1999, p 2.

undertaking commitments concerning climate change. The aim then was to return global emissions to 1990 levels by 2000.

The Bulletin, *From Rio to Buenos Aires: The International Negotiations on Climate Change*, examines the commitments of the Parties to the UNFCCC and subsequent COPs in some depth and will be canvassed only briefly here.¹²

Basically, **Article 4** obliges **all** Parties to take a number of steps to abate greenhouse gas emissions. Those include emissions abatement programs and policies; relevant climate change research; sustainable management and conservation of carbon sinks; and the use of technology transfers aimed at reducing emissions in relevant sectors (eg energy, forestry).

A number of developed countries (the “**Annex 1 Parties**”), which include Australia, are required to take a leading role in responding to climate change, including measures to financially and technologically assist developing countries in meeting their obligations.

There have been a number of COPs since the UNFCCC, the most important of which was COP-3 in December 1997, from which emerged the Kyoto Protocol to the UNFCCC.

3.2 THIRD CONFERENCE OF THE PARTIES – THE KYOTO PROTOCOL

The significance of the Kyoto Protocol and the obligations imposed on the Parties are extensively examined in the Bulletin, *From Rio to Buenos Aires: The International Negotiations on Climate Change*.¹³ The major achievement of the Protocol was the imposition of binding greenhouse gas emission targets on developed (Annex 1) countries.

3.2.1 Main Obligations and Australia’s Contribution

The Kyoto Protocol strengthens the **obligations** under the UNFCC imposed upon Annex 1 Parties and outlines a number of mechanisms for achieving those commitments. Under the Protocol, Annex 1 Parties must reduce greenhouse gas emissions by an average of 5.2% below 1990 levels during the first five-year commitment period (2008–2012).

The Protocol does not impose any new commitments upon developing countries but merely reaffirms their obligations under the UNFCC.

¹² *From Rio to Buenos Aires: The International Negotiations on Climate Change*, pp 5-8.

¹³ *From Rio to Buenos Aires: The International Negotiations on Climate Change*, pp 10-13.

Each Annex 1 Party must ensure that by 2008–2012, its national total emissions of greenhouse gases does not exceed the limit specified for each Party under the Protocol. The target for individual Parties is stated as a percentage of the emissions of that country in 1990 – the base year – and varies depending on the circumstances of each country. Australia, Japan, Norway, Iceland and Russia sought, and received, more generous targets based on recognition that their particular national circumstances warranted different treatment from other nations.

Australia submitted that its special circumstances were that it has a small economy reliant on fossil fuels, a widely dispersed and growing population, energy intensive mineral exports, and limited capacity to make rapid changes. The Australian Government feared a disproportionate economic burden would be imposed on Australia compared with other Annex 1 nations, many of which import goods and minerals (that contribute to the enhanced greenhouse effect) from Australia.

Much of the Government's argument was based on modelling conducted by the Australian Bureau of Agricultural and Resource Economics (ABARE) which, in 1995, predicted a significant decline Australia's economic growth by it taking action to abate greenhouse gas emissions. Those predictions have been subject to considerable criticism and ABARE itself has rejected the reliability of the modelling then used. More recent ABARE figures estimate that abatement action cause will cause a decrease of 0.6% in GDP in the year 2010.¹⁴

Article 3.7 of the Protocol allows countries that had net emissions from land use change and forestry in 1990 (ie gross emissions from clearing offset by regrowth), to count those emissions towards their 1990 baseline figure. Australia, being a net emitter in 1990, was able to do so. Australia can count efforts to reduce emissions from land clearing as a credit in calculating its future total emissions. This concession was regarded as crucial for Australia because, at the time, land use change was responsible for approximately 30% of its emissions (eg from burning of or decaying of cleared vegetation, or soil emissions) but the rate of land clearing was expected to slow in future years. The European Union (EU) Block are among those Parties who suspect that Australia was over-optimistic in its forecasts of reduced land clearing and, thereby, got a better deal.

Australia's target is 108, meaning that it can, during the first commitment period (from 2008-2012), increase its emission levels by 8% from what they were in 1990. The figure for the United States of America is 93 (indicating that it must reduce emission levels by 7% from what they were in 1990) and averages 95 for most of

¹⁴ Hon Senator Robert Hill, Commonwealth Minister for Environment and Heritage, *Opening Address to the Insurance Council of Australia's Canberra Conference*, 10 August 2000, Department of Environment and Heritage, Media Release and Speeches.

the other Annex 1 Parties. It has been contended that allowing Australia to increase its emissions to 108% of its 1990 levels is very generous.¹⁵

It is claimed that although Australia's emissions account for only about 1.4% of total global emission, it is the largest per capita emitter in the industrialised world.¹⁶ In 1995 Australian emissions of CO² amounted to 26.7 tonnes per capita, compared to 21.2 for the US, 9.5 for Japan, 12.6 for Germany and 12.3 for Britain.¹⁷

3.2.2 'Flexibility Mechanisms' in the Kyoto Protocol

The Kyoto Protocol envisages three '**flexibility mechanisms**' for achieving its obligations, allowing Parties a measure of flexibility in how to make and how to monitor emission reductions. Those mechanisms are:¹⁸

- emissions trading
- clean development mechanism
- joint implementation.

Emissions Trading – Carbon Trading and Emission Permits

Parties, who are able to reduce their emissions to below their designated target can sell to Parties who need additional credits because of their higher abatement costs: **Articles 3, 6 and 17**. The proviso is that such trading has to be 'supplemental to domestic actions'. Thus, Parties cannot entirely fulfil their obligations to reduce domestic emissions by relying mainly on emissions trading or joint implementation (see below). The aim is to stimulate markets to reward measures taken towards gas emission abatement and to enable areas where the costs of abatement are prohibitive to have permits allocated to them.

Parties can also acquire '**emission reduction units**' (ERUs) by financing projects in other developed countries.

¹⁵ See Simon Mann, 'Australia fights to keep special deal on emissions', *Sydney Morning Herald*, 24 November 2000; Australia. Report of the Senate Environment, Communications, Information Technology and the Arts Reference Committee, *The Heat is On: Australia's Greenhouse Future*, November 2000, Executive Summary, p xxv.

¹⁶ *The Heat is On: Australia's Greenhouse Future*, p 67 citing from p 2 of the submission from the Australian Institute to the Senate Committee. The Institute conducts independent research and policy analysis commissioned and paid for by governments, business, unions and community organisations.

¹⁷ Kenneth Davidson, 'Blind to the dangers', Comment, *Age*, 2 April 2001. Downloaded from <http://www.theage.com.au>.

¹⁸ Again, these mechanisms are explored in *From Rio to Buenos Aires: The International Negotiations on Climate Change*, pp 13-16.

The Parties disagreed about the details of the mechanism which were placed on the back-burner for discussion at later COPs.

The Commonwealth Government has indicated reluctance to trial a domestic emissions trading system until there is an international regime in place. However, the Government's Australian Greenhouse Office has released a consultant's report on options for allocating greenhouse gas emission permits under a possible future trading system.¹⁹ That Report considers the implications of different permit allocation systems and recommends distributing permits through auctioning. It is careful to incorporate in its considerations, the concept that companies which have moved early to take abatement action would not be disadvantaged by any such trading system. Consultation is still occurring on the measures outlined in the Report. However, there is potential for farmers and others to plan activities now to take advantage of any future carbon trading system.²⁰

The Queensland Government has recently announced that it will introduce a Forestry Act Amendment Bill 2001 (Qld) to allow commercial dealings in carbon credits between land owners and other parties. The system will involve emissions permits being allocated to greenhouse gas emitters and carbon credits to encourage replanting in cleared areas.²¹

Clean Development Mechanism (CDM)

The clean development mechanism (CDM) (**Article 12**) is intended to assist developing countries in achieving sustainable development while simultaneously helping Annex 1 Parties to achieve their emission reduction obligations. The idea is that Annex 1 Parties that create, or contribute to, projects which help developing countries gain investment and access to technology can claim 'credit' in meeting their own targets on emissions from 2000. The project activity has to result in reductions that are additional to any that would occur in the absence of the project. The operational details of CDM are still to be negotiated.²²

Developing countries are particularly keen to see this mechanism implemented. Environmental groups are concerned that CDMs could be used as a 'loophole' for

¹⁹ Allen Consulting Group, *Greenhouse Gas Emissions Trading: Allocation of Permits*, Report to the Australian Greenhouse Office, August 2000.

²⁰ Australian Greenhouse Office, *Emissions Trading and Carbon Credits*, Fact Sheet, February 2001. See further at <http://www.greenhouse.gov.au/emissionstrading/>.

²¹ Hon Peter Beattie MP, Queensland Premier and Minister for Trade, 'Queensland Government to legislate for carbon credits', *Media Statement*, 19 March 2001.

²² *The Heat is On: Australia's Greenhouse Future*, footnote 33 and sources cited therein.

allowing Annex 1 countries to meet a large proportion of their emission targets through CDMs rather than taking domestic abatement action.²³

There is also opposition by some Parties to the inclusion of nuclear power in CDM activities and much support for limiting CDMs to best practice renewable energy and energy efficiency projects.²⁴ There is no specific mention in Article 12 of ‘sink’ activities in connection with CDMs but a number of countries, including Australia, want ‘sinks’ to be covered.²⁵ The Australian Democrats oppose the inclusion of clean coal, nuclear energy, or sink activities in CDMs.²⁶

The Australian Government’s position is that it should be a matter for each individual country to judge whether a potential project will assist its sustainable development and that there was no merit in singling out specific activities for exclusion.²⁷ The Government has recently announced that it will provide \$1 million to finance work on projects to establish renewable energy systems in remote villages in Peru and Vietnam.²⁸

Joint Implementation and Emission Reduction Units

Joint Implementation (JI) enables Annex 1 countries and companies, from 2008, to transfer to, or acquire from other Annex 1 countries, ERUs for reductions over and above those which would otherwise occur. The transfer of ERUs would emerge as a result of projects that reduce human emissions or enhance removals by sinks.²⁹ The EU, being a block of countries, favours JI.

3.2.3 The Role of Carbon ‘Sinks’

The term ‘sinks’ describes the processes which absorb CO² from the atmosphere. Examples include preservation of old-growth native forests, plantations, and revegetation projects such as those promoted by the Australian Greenhouse Office.

²³ *The Heat is On: Australia’s Greenhouse Future*, p 95 citing Anna Reynolds, Climate Action Network Australia (CANA), *The Kyoto Protocol – make it work and make it law*, Briefing Paper, September 2000, p 3.

²⁴ CANA, *The Kyoto Protocol – make it work and make it law*, Briefing Paper, September 2000, p 3.

²⁵ The concept of carbon ‘sinks’ is explored in Section 3.2.3 of the Brief.

²⁶ *The Heat is On: Australia’s Greenhouse Future*, p 96.

²⁷ *The Heat is On: Australia’s Greenhouse Future*, Government Members Report p 420.

²⁸ ‘Australians to develop overseas energy projects’, *ABC News Online*, 4 April 2001. Downloaded from ABC’s website at <http://abc.net.au>. All *ABC News Online* articles referred to in this Brief were obtained from that website.

²⁹ *The Heat is On: Australia’s Greenhouse Future*, p 62.

Article 3.3 of the Kyoto Protocol makes allowances for sink activities engaged in since 1990. However, those are limited to afforestation, reforestation and deforestation. **Article 3.4** potentially allows for **additional** human-induced activities related to changes in emissions by sources and removal by sinks to be included (eg revegetation of degraded land or measures to improve soil carbon content in agriculture). The rules to make the sink provisions effective and what could be included in ‘additional activities’ were left to be resolved at later COPs.

An area of potential disagreement (and which has proven to be so during COP-6 at The Hague) was the definitions ascribed to ‘afforestation’, ‘deforestation’, ‘reforestation’ and ‘forest’. Australia’s position is that Article 3.3 allows emissions and sequestrations from the following activities to be taken into account in meeting its Kyoto emissions targets:

- net emissions from clearing of forest for pasture, crops etc; and
- carbon absorbed by tree planting since 1990 on land not previously covered by forest.

The Australian Government has encouraged investment in carbon sinks and supports a range of activities through its Greenhouse Gas Abatement Programme. It does not favour any restrictions on the use of sinks in domestic reduction actions.

In terms the inclusion of sinks in the flexibility mechanisms, only JI specifically mentions sinks. It is unclear whether others, such as CDM, allow for sink activities to be used to assist Parties in meeting their targets. Australia is among the countries pushing for sinks to be included in all three flexibility mechanisms.

Concerns have been expressed that sink activities might delay any moves towards more sustainable forms of energy use and may have negative socioeconomic and environmental impacts.³⁰ The conservation movement is wary of the inclusion of sinks because of their ability to be used as ‘loopholes’ for escaping obligations to reduce emissions by claiming sinks as an offset against increased emissions.³¹ Another worry is the possibility of native forests being cleared to establish plantations for sink purposes which would negatively impact upon dependent ecosystems and destroy existing sinks.

Indeed, the role of sinks in greenhouse policy is a controversial one, with points in favour (eg improving dryland salinity, increasing biodiversity, and impetus to the forestry sector through forestry and revegetation activities) being countered by as

³⁰ *The Heat is On: Australia’s Greenhouse Future*, p 265 recognising concerns of groups such as CANA on this matter.

³¹ *The Heat is On: Australia’s Greenhouse Future*, p 266-277.

many points against (eg risk of loss through fire or disease, too much reliance on sinks as an offset, and costs of monitoring and accounting).³²

A further important issue concerns the accuracy and transparency of recording and monitoring changes in emissions by sources and removals by sinks. This led to the Commonwealth Government establishing the **National Carbon Accounting System** in 1997 which aims to provide a complete accounting and forecasting capability for human-induced emissions and sinks from Australian land-based systems.

3.3 RATIFICATION OF THE KYOTO PROTOCOL

The Kyoto Protocol will only come into force three months after it has been ratified by 55 Parties to the UNFCCC, incorporating Annex 1 Parties which accounted for at least 55% of the total CO² emissions for 1990. Few countries have ratified the Protocol and no Annex 1 countries have done so.

The US has signed, but not ratified, the Kyoto Protocol emphasising the need for developing countries, such as India and China who are major emitters, to assume emission reduction obligations. The concern is that developing countries may gain an economic competitive advantage if they do not face similar commitments and will be able to attract industries looking to escape Annex 1 countries with binding emission reduction obligations.

Australia, despite signing the Protocol in 1998, is yet to ratify. The Government Members' Report contribution to the recent Senate Committee Report - *The Heat is On: Australia's Greenhouse Future (The Heat is On Report)* states that, while Government members support ratification, it is not in Australia's interests to do so until details and rules (eg flexibility mechanisms, the role of sinks) for meeting Australia's commitments under the Protocol are resolved.³³

3.4 IMPLICATIONS FOR AUSTRALIA

The Heat is On Report states that the Kyoto commitments will not, by themselves, make much impact on future global warming and are only a first step in stabilising CO² concentrations. This view is shared by scientists and others.³⁴ It seems that

³² *The Heat is On: Australia's Greenhouse Future*, p 291 ff. Chapter 7 of the Report provides an excellent explanation of the competing viewpoints and analyses.

³³ *The Heat is On: Australia's Greenhouse Future*, Executive Summary, p xxv, Government Members' Report, p 418.

³⁴ See, for example, by Dr Graeme Pearman, *How real is climate change and what does science tell us?*, Address to the National Press Club, Wednesday, 13 September 2000, p 11.

the agreed reductions in emissions will restrain temperature rises by an average of just 0.08°C–0.3°C and only moderately hold back predicted rises in sea levels.³⁵ Some environmental groups have argued that emissions in Australia have already exceeded the Kyoto target.³⁶ The April 2001 Greenhouse Gas Inventory reveals a 17.4% increase in greenhouse gas emissions from all sectors (excluding land clearing) between 1990 and 1999. By comparison, US emissions have risen by approximately 11% over a similar period. If land clearing is taken into account, Australia's figure is reduced to an increase of 7.3%.³⁷

The Commonwealth Environment Minister, Senator Hill, has stated that Australia's more generous Kyoto target should not be seen as a signal that Australia can continue to drive economic growth through increased emissions and is merely a breathing space to allow structural adjustments to be made.³⁸ He cautioned that nations which take no action at this time to abate emissions would inevitably be faced with an even tougher, more costly task and that it was prudent for Australia to take precautionary action now. *The Heat is On* Report has suggested the likelihood that Australia will face a more stringent target, possibly well below 100%, for the second commitment period to commence after 2012.

The Australian Greenhouse Office's *National Greenhouse Strategy - 2000 Progress Report* states that the Government expects that Australia will be able to meet its Kyoto targets, although significant effort is required by governments, industry and the community in general.³⁹

Some groups believe that Australia, with its 'favoured' status may be regarded with some suspicion by other Parties and it must take care not to be seen as pursuing narrow self interest with little regard for the global environment. This perception may be exacerbated by the claim that Australia is the only major carbon intensive economy that has not agreed to reduce its emissions.⁴⁰

³⁵ *The Heat is On: Australia's Greenhouse Future*, p 61 citing Michael Grubb, *The Kyoto Protocol: A Guide and Assessment*, The Royal Institute of International Affairs, London, 1999, pp 156-157.

³⁶ *The Heat is On: Australia's Greenhouse Future*, p 72 citing p 2015 of the Australian Conservation Foundation's submission.

³⁷ *National Greenhouse Gas Inventory 1999*, April 2001. However, the NGGI figures differ from the Kyoto Protocol accounting definitions. Note that assessment of land clearing is highly uncertain and is not officially included in the calculation of total greenhouse gas emissions.

³⁸ Hon Senator Robert Hill, *Opening Address to the Insurance Council of Australia's Canberra Conference*.

³⁹ Australia. Australian Greenhouse Office, *National Greenhouse Strategy – 2000 Progress Report*, December 2000, Executive Summary, p vii.

⁴⁰ *The Heat is On: Australia's Greenhouse Future*, p 73, referring to the submission of the Australia Institute, p 2312 and evidence given before the Committee from Professor Ian Lowe, Griffith University (transcript in the *Committee Hansard*, 26 May 2000, p 559).

3.5 SIXTH CONFERENCE OF THE PARTIES – THE HAGUE IN NOVEMBER 2000

The intention of COP–6 of the UNFCCC, held at The Hague from 13–25 November 2000, was to set out the rules according to which the Parties are to meet their obligations under the Kyoto Protocol. In other words, to put down in ‘fine print’ what was left vague by the Protocol and to bring to a close more than two years of preparation and negotiations beginning with the 1998 COP in Buenos Aires.

The major issues for decision at The Hague were in relation to:

- the ‘**flexibility mechanisms**’
- **land use and land use change and forestry** and the role of **sinks**
- **compliance**
- the contribution to be made by **developing countries** and
- **financial and technical assistance** issues.

3.5.1 The Players

However, even before the some 160 countries (and over 7,000 participants) convened at The Hague, an acceptable course of action for all concerned was an unlikely prospect. This was because the key players came to The Hague with conflicting policies, agenda, and expectations.

The EU Block

A major player is the **EU Block**. Many members of the EU Block have industries that have embraced, and now profit from, clean energy alternatives and have environmentalists in government policy–making roles. The EU can effectively increase pollution in one country within the block of countries but significantly decrease emissions in another. Such an option is not open to single large countries such as Australia and the US.

The EU has long supported binding targets, strict controls on emissions on a domestic basis, and limits on the use of ‘flexibility mechanisms’ and sinks. Most EU countries have little scope for sink activity. It considers that financial penalties should be imposed on recalcitrant nations and opposes extensive use of flexible mechanisms that help countries to meet their targets at the expense of failing to take significant steps to reduce emissions at a domestic level.⁴¹

⁴¹ Michael Millett, ‘Time for more than just words (on global warming)’, *Sydney Morning Herald*, 13 November 2000.

The Umbrella Group (Including Australia and the US)

In direct contrast to this position is the ‘**Umbrella Group**’, comprising countries such as Japan, the US, Australia, Canada, Switzerland, Norway and New Zealand, that do not want any limitations on the use of ‘flexibility mechanisms’ and want a broader range of activities included in the ‘land use’ provision. The US President, George W Bush and Congress oppose the Kyoto Protocol. Some months prior to the Kyoto talks, the US Senate voted against the Protocol on the basis that it would be an unfair and ineffective means of addressing global climate change.

Australia, represented by the Environment Minister, Senator Robert Hill, went to COP-6 pushing for an increased use of ‘sinks’ (eg forest plantations) in calculating emission targets and demanding that developing nations have targets. The Minister said that Australia’s position was influenced by the fact that it has a hydro-carbon dependent economy and it was not easy to achieve changes quickly and at the expense of the economy. Australia uses a significant amount of fossil fuels in generating electricity and is a large exporter of such energy.⁴² He noted that Australia is committed to playing a constructive role and to delivering an outcome that is of benefit to the global environment but it is also necessary to ensure that any final outcome is fair to our economy, our industry and the jobs it supports.⁴³

The G77 Group (including China and African Nations)

On a third front are developing countries, including China and the African nations (the ‘**G77 Group**’) that believe that the Annex 1 countries should be doing more to reduce emissions domestically and offering developing nations greater financial and technological assistance. Those nations oppose having binding commitments imposed on them on the basis that the developed world has built its wealth on heavy (and greenhouse gas emitting) industry and cheap energy which developing countries would now be denied, thus creating a further economic division between rich and poor nations.

3.5.2 The Deadlock

By 23 November 2000, the conference had reached a stalemate. The EU Block stood firm on the imposition of limits on countries’ (such as the US’s and Australia’s) use of tools, such as carbon sinks and buying of carbon credits, to assist them in meeting emissions targets. The Dutch Environment Minister, Mr Jan

⁴² Michael Millett, ‘Time for more than just words (on global warming)’.

⁴³ Hon Senator Robert Hill, Commonwealth Minister for the Environment and Heritage, *Working It Out: Australia’s Approach to The Hague Climate Change Conference*, Address to the Queensland Chamber of Commerce and Industry, 14 November 2000, Brisbane.

Pronk, who presided over COP–6, issued a Note aiming for a balanced package that would facilitate agreement on the key issues but not undermine the environmental integrity of the Kyoto Protocol.

However, by the weekend of 25–26 November, it was clear that Parties could not reach a consensus on how to implement the Kyoto Protocol, despite a final all-night session. The Parties did, however, agree to reconvene in July 2001 for further talks. The major ‘sticking points’ are briefly considered below.

Flexibility Mechanisms

The rules relating to the **flexibility mechanisms** and the extent to which developed countries are allowed to meet their targets through emissions trading and CDMs was a significant issue. The rules required considerable work to make them operational.

There was disagreement on matters including –

- project eligibility under the CDM (Australia advocating that it be up to individual developing countries to decide);
- emissions trading (favoured by Australia and other Umbrella Group nations);
- the inclusion of sinks (favoured by countries including the US, Canada, Japan and Australia but opposed by the EU, China and Ghana);
- the inclusion of nuclear power or nuclear energy projects within the CDM; and
- the need for quantitative limitation on emissions trading or JI (supported by the EU, arguing that Parties must adhere to the Kyoto Protocol proviso that actions such as emissions trading should only be ‘supplemental’ to domestic action, but opposed by the Russian Federation and Australia).

The Umbrella Group (including Australia) supported the development of procedures to facilitate the widespread use of flexibility mechanisms across a broad range of issues, a stance opposed by Parties, such as the EU Block.

The Note issued by the Conference President proposed a compromise whereby emission targets would be met primarily through domestic action but the Parties could not agree. Further discussion will occur at the resumed COP–6 talks in July 2001 at Bonn.

The Use of Sinks, Land Use and Land Use Change

Disagreement between the Parties about issues concerning **land use, land use change and forestry**, and the role of **sinks** received considerable media attention.

In particular, the Umbrella Group Parties favour an extended definition of land use activities (eg vegetation, soil carbon sequestration) to be included in the accounting of net emissions. That approach is opposed by the EU because of the potential for 'loopholes', allowing the US and others to increase greenhouse emissions but still meet their targets by expanded land use activities.

The US subsequently put forward a compromise involving a scaling back of the amount of credits that countries could claim for the sinks but the EU rejected that proposal on the basis that it would still allow the US and Australia to increase their emissions while meeting their emission targets. The US responded that it was prepared to be flexible but other countries were unwilling to compromise.⁴⁴ In the meantime, in the US, Republicans were warning that if George W Bush became President, the Kyoto Protocol would be 'killed off' and the US could start afresh.⁴⁵

President Pronk's Note suggested, among other proposed solutions, some definitions for sink activities and what 'additional activities' under Article 3.4 could be engaged in during the first commitment period as well as limits. Negotiations on the President's Note left all of the outstanding issues unanswered, including the key one of what is to be included in 'additional activities' under Article 3.4.⁴⁶

Developing Countries

Most of the developing countries at COP-3 considered that Annex 1 Parties needed to fulfil their obligations on the basis of equity and in accordance with the concept of common but differentiated responsibilities.

The willingness of **developing countries** to make commitments to reduce greenhouse gas emissions is fundamental to the US's refusal to ratify the Protocol. Australia also considers that developing countries should do more to reduce emissions. There is also an issue concerning the extent to which developed countries need to respond to developing countries for technology transfer and financial assistance. As noted above, Australia is initiating and funding projects to assist developing countries in abatement of emissions and in adaptation to climate change.

The COP-6 discussions made no real advance made on the role and commitments of developing countries.

⁴⁴ Simon Mann, 'USA greenhouse deal spurned', *Age*, 23 November 2000.

⁴⁵ Simon Mann, 'USA greenhouse deal spurned'.

⁴⁶ Earth Negotiations Bulletin, *A Reporting Service for Environment and Development Negotiations*, 12(163), International Institute for Sustainable Development, Monday, 27 November 2000, p 11. Downloaded from website address <http://www.iisd.ca/climatecop6/>

Compliance Mechanisms and Procedures

Compliance issues remain unresolved. Australia favours a non-binding regime and is opposed to draconian punitive sanctions but most Parties (including the US) want a 'strong' compliance system. There is a view that this issue may be close to being resolved in future talks.⁴⁷

3.5.3 Outcome of COP-6

Observers of the Conference noted the disappointment of the negotiators who participated in the meetings but were optimistic that the foundations had been laid for possible political agreement on the main sticking points.⁴⁸

Green groups have expressed frustration at the impasse, the Climate Action Network Australia blaming Australia for its failure to take 'a more positive and environmentally responsible stance' and alignment with the US, Japan and Canada to try to achieve 'pollution increases'.⁴⁹ Prime Minister Howard has commented that Australia's position was in the national interest because if its stance on carbon sinks was not accepted, Australia would carry a disproportionate burden.⁵⁰

Conservationists also blame the US for assuming that the EU Block would cave in to their wishes when the EU remains firm on wanting the primary focus of action to be on domestic reduction measures.

There is disagreement among observers and commentators about the effectiveness of the President's Note but there are a number who believe that the Note was a well constructed document providing a realistic opportunity for compromise and that it has 'drawn a line in the sand' for future negotiations.⁵¹

The Commonwealth Environment Minister considers that the COP-6 talks had a positive effect for Australia as other countries realised that Australia was interested in 'good greenhouse outcomes'.⁵²

The resumed COP-6 will take place at Bonn in July 2001.

⁴⁷ *A Brief Analysis of COP-6: Building Castles in the Sand or Air*, Earth Negotiations Bulletin, A Reporting Service for Environment and Development Negotiations, p 18.

⁴⁸ *A Brief Analysis of COP-6: Building Castles in the Sand or Air*, p 17.

⁴⁹ Tracy Sutherland, 'Anger after emission deal falls through', *Australian*, 27 November 2000, p 5.

⁵⁰ Tracy Sutherland, 'Anger after emission deal falls through'.

⁵¹ *A Brief Analysis of COP-6: Building Castles in the Sand or Air*, pp 18-19.

⁵² Andrew Clennell, 'Reputation grows in greenhouse climate, says Hill', *Sydney Morning Herald*, 28 November 2000.

4 WHAT NOW?: THE US POSITION AND WORLD REACTION

On March 2001, in a climate of rising fuel prices and an energy crisis, the US Government confirmed that it would not ratify the Kyoto Protocol in its present form. This follows an earlier announcement from President George W Bush that he would not impose mandatory restrictions on CO² emissions by US industries on the basis that it would be too costly for the US economy.⁵³ President Bush has long been opposed to the Protocol, considering that it imposes an unfair burden on the US when developing countries, such as India and China, do not carry emission reduction obligations.⁵⁴ US Republicans in the Senate and Congress have been questioning the science behind the greenhouse effect for some time.

Despite President Bush's position on the Kyoto Protocol, the US Senate subsequently approved the restoration of climate change programs worth \$4.5 billion which the Bush administration wanted to abandon. Those measures also enable the US to continue to negotiate emission reduction outcomes on a global basis.

Within the US itself, President Bush's announcement has angered Democrats in the Congress and many US environmental groups.⁵⁵

4.1 INTERNATIONAL RESPONSE

Governments around the world have also expressed concern. Pacific nations are disappointed by the decision, believing themselves the most vulnerable to rising sea levels through climate change.⁵⁶ The United Nations Secretary-General has also condemned the US decision.⁵⁷

The IPCC Vice-Chairman remains optimistic believing that nations such as Japan and the EU, which remain committed to the Protocol and are likely to ratify it by mid 2002, could persuade the US Government to reconsider its decision.

Recent talks between the EU's Environment Commissioner and US Government officials failed to convince the US to alter its position but it is reported that the EU may be prepared to modify some parts of the Protocol to accommodate some of the US' concerns.⁵⁸ The EU is hoping to persuade Canada, Japan and Australia to stay

⁵³ 'Bush opposes Kyoto Protocol', *ABC News Online*, 29 March 2001.

⁵⁴ 'George W Bush on Environment' on the *Issues 2001* website at <http://www.issues2000.org>.

⁵⁵ 'US abandons the Kyoto treaty on climate change', *ABC News Online*, 29 March 2001.

⁵⁶ 'Pacific Is nations unhappy with US Kyoto backdown', *ABC News Online*, 29 March 2001.

⁵⁷ 'UN Secretary-General criticises US decision to withdraw from Kyoto', *ABC News Online*, 31 March 2001.

⁵⁸ Julian Borger, 'Washington and Europe seek common ground on global warming agreement', *Sydney Morning Herald*, 10 April 2001 at <http://www.smh.com.au/>.

on board arguing that if those countries, Russia and former Soviet countries, and the EU ratify the Protocol, it can be successful. European Commissioner for External Relations, Mr Chris Patten, considers that Australia should not abandon the Protocol and should help in persuading the US to ratify it.⁵⁹

There is also the possibility that if the US economy gains an advantage as a result of its competitors, eg Japan, having to reduce their greenhouse gas emissions, those rival countries might impose economic sanctions or take other action against the US. Moreover, there are a number of large US corporations wanting to move ahead in the efficient energy market, given the potential for extensive profits, and they may lobby the US Government to change its mind.⁶⁰ However, the UK's Deputy Prime Minister believes that calls for boycotts of US goods proposed by some UK politicians and the Italian Environment Minister, were counterproductive and that the best approach was to keep persuading the US to rejoin negotiations on the Protocol.⁶¹

At an Easter weekend Global Greens conference in Canberra, delegates from around the world unanimously voted to campaign against multinational oil companies which supported the US Government's stance. The conference also approved a charter for green parties, setting out environmental and social justice aims, that seeks to unite green groups around the world as a potent political force and a counter to the World Trade Organisation.⁶²

In early April 2001 Commonwealth Environment Minister, Senator Hill, held greenhouse gas discussions with the US and other 'Umbrella Group' Parties. The Environment Minister indicated that he would lobby the Bush Government to reconsider its decision but he did not believe that it will agree to ratify the Kyoto Protocol as it stood. However, the talks have indicated to Senator Hill that the US does wish to negotiate a new outcome and that the Umbrella Group wish to remain united in any future greenhouse negotiations. Japan (part of the Umbrella Group) is strongly persuading the US to rejoin negotiations aimed at ratifying the Protocol.⁶³

Senator Hill also attended an April 21 meeting in New York with environment ministers from around the world, including the US, to prepare for the resumption of COP-6 in Bonn and to discuss new 'compromise' proposals to be presented by Mr Pronk, the President of COP-6. It is understood that Senator Hill proposed to tell

⁵⁹ AAP, 'EPA claims US will not block Kyoto negotiations', *ABC News Online*, 18 April 2001.

⁶⁰ 'US backs out of Kyoto Greenhouse Agreement', *Transcript of PM Broadcast*, 29 March 2001.

⁶¹ Freehills Solicitors, 'US pulls out of Kyoto Protocol', *Articles and Publications*, 11 April 2001. Downloaded from Freehills' website at <http://www.freehills.com.au/> following the 'articles and publications link.

⁶² Mark Ludlow and AAP, 'Green groups target oil firms', *Courier-Mail*, 17 April 2001, p 2.

⁶³ 'Hill holds first talks with US since Kyoto decision', *ABC News Online*, 4 April 2001.

the US Government that Australia intends to continue with greenhouse gas abatement measures, whatever the future of the Kyoto Protocol.⁶⁴

It is understood that Mr Pronk's 'compromise' involves the extent to which the US can rely on carbon sinks to assist it in meeting its emissions reduction targets. Mr Pronk is more optimistic about the future of the Protocol given that the US made it clear at the meeting that it is still a party to the initial 1992 UNFCCC and that it will attend the resumed talks in Bonn.⁶⁵

At the meeting, there was an overwhelming push for the US to return to the negotiations but no consensus about the Protocol's future if the US remains opposed to it. Mr Pronk reported that a majority wishes to work for a general agreement at Bonn; the EU block wants to ratify the Protocol regardless of the US position; some countries were unsure; and one or two have said that it will not work without the US.⁶⁶

It is understood that the US is currently undertaking a review of its environmental policies before entering into further international discussions. The US Environmental Protection Agency has indicated that the US will not attempt to block negotiations concerning the Protocol and wants to determine if there is a way to make progress on climate change. It also insists that President Bush is still committed to international negotiations on those issues.

4.2 AUSTRALIA'S RESPONSE

It has been claimed by the federal Labor Opposition and by sections of the media that Cabinet is divided regarding Australia's response to the US decision. A number of senior Ministers support the view taken by Commonwealth Minister for Agriculture, Fisheries and Forestry, the Hon Warren Truss MP. That is that rather than force the US to ratify the Kyoto Protocol, a new agreement needs to be reached that will impose obligations on developing countries. The feeling by a number of Ministers is that there was no point in Australia undertaking great emission reductions if near neighbours, such as China, do not have to. Mr Truss considers that the US stance on the Kyoto Protocol may pave the way for a better and more effective deal that would also take account of Australia's special circumstances.⁶⁷

⁶⁴ 'Support remains for Kyoto', ABC Environment News, 3 April 2001, on the ABC website at <http://www.abc.net.au/science/news/enviro>.

⁶⁵ 'Kyoto chairman to propose global warming alternatives', *ABC News Online*, 22 April 2001.

⁶⁶ 'Kyoto chairman to propose global warming alternatives', *ABC News Online*, 22 April 2001.

⁶⁷ Annabel Crabb, 'PM to dump Kyoto deal', *Age*, 2 April 2001. Downloaded from <http://www.theage.com.au>.

While the Environment Minister, Senator Hill, appeared somewhat alone, in early April, in wanting to bring the US back to the Kyoto Protocol negotiations, he has since noted that if the Protocol does collapse, Australia would push for a replacement process for international greenhouse gas emission reduction. Senator Hill has confirmed Australia's commitment to achieving its emission targets set by the Kyoto Protocol but notes the danger of it becoming a dead letter because of non-participation by one of the world's major industrialised nations and producer of approximately 25% of the world's greenhouse gases.

Therefore, it appears that the Australian Government remains committed to cutting Australia's greenhouse gas emissions and to Senator Hill's desire that Australia continue to work towards meeting its emission targets, whatever position the US decides to adopt. That commitment is demonstrated by a number of domestic initiatives and approximately \$1 billion in financial support. However, it is unlikely that Australia will ratify the Kyoto Protocol without commitments being undertaken by developing countries. In a recent letter to President Bush, Prime Minister Howard shared the US Government's concern that emissions from developing countries will exceed those of developed countries before 2010 and stated that the Australian Government looked forward to working closely with the US administration in the development of its climate change policies. The Prime Minister also said that both countries needed to press the EU countries to soften their stance on sinks and mechanisms.⁶⁸ Significantly, however, the letter indicated Australia's commitment to reducing greenhouse gas emissions and the Australian Government's hopes for the US playing a leadership role in global initiatives on climate change.

The Commonwealth's Joint Standing Committee on Treaties has produced a Discussion Paper outlining the evidence received so far in the Committee's inquiry into the Kyoto Protocol. It does not reach any firm conclusions but airs some issues of interest to the whole community.⁶⁹ The final report is due later this year.

In the meantime, the Australian Industry Group has urged the Australian Government not to ratify the Protocol if the US does not, because if neither the US nor developing countries are bound by the Protocol, those countries would gain a competitive advantage over Australia.⁷⁰ On the other hand, the Energy Industry, a sector accounting for a major proportion of Australia's greenhouse gas emissions, is supportive of the Kyoto Protocol and has already embarked on projects for sustainable energy and 'green' power. It has been claimed that a growing number

⁶⁸ Megan Saunders, 'PM urges new approach on gases', *Australian*, 16 April 2001, p 3.

⁶⁹ Australia. Joint Standing Committee on Treaties, *The Kyoto Protocol – Discussion Paper – Report 38* presented to the Commonwealth House of Representatives on 4 April 2001 by Mr Andrew Thompson, MP.

⁷⁰ 'Australia committed to Kyoto treaty but fears collapse without US', *ABC News Online*, 30 March 2001.

of ordinary Australians are becoming increasingly aware of the climate change problem and fear adverse effects upon their children and future generations.⁷¹ A recent Newspoll of 1,200 Australians, conducted for Greenpeace, found that 80% were in favour of ratification of the Protocol.⁷² Some parts of the tourism industry are concerned about the impact of climate change on tourist drawcards such as the Great Barrier Reef and the snowfields.

Environmental issues, such as greenhouse gas emissions, are likely to be prominent in the upcoming federal election campaign and the positions adopted by the major parties will affect the direction of the Green Party's preferences. The federal Labor Opposition refused to support Greens Senator Bob Brown's motion in the Senate supporting ratification. Environment spokesperson, Senator Nick Bolkus has stated that a Labor Government would ratify the Protocol 'if a substantial body of world opinion was prepared to ratify it'.⁷³ The Greens regard that statement as equivocal and not markedly different to the Government's position.

5 CONCLUSION

There has been considerable pessimism about the future of the Kyoto Protocol following the decision by the Bush Administration that ratification by the US would not be in its economic interests. It might be like trying to make OPEC work without Saudi Arabia.⁷⁴

Recent talks in New York indicate that the US might be softening its position in the face of opposition from many world leaders and criticism within the US itself. However, while the US seems prepared to attend the Bonn climate change talks in July 2001, it is uncertain until those discussions conclude whether it will recommit to the Kyoto Protocol or, instead, embark on attempting to secure international strategies that are more accommodating of its own needs. It appears that the Australian Government, through Senator Hill, will endeavour to seek an international approach to reducing emissions whether in the form of the Protocol or otherwise. Prime Minister Howard, while empathising with the US view regarding developing countries' obligations, has confirmed that Australia will continue to implement emission control reduction policies regardless of the future of the Kyoto Protocol.⁷⁵

⁷¹ Claire Miller and Kerry Taylor, 'Liberal greens see red over Kyoto', *Age*, 3 April 2001. Downloaded from <http://www.theage.com.au>.

⁷² 'Poll shows Australians support Kyoto', <http://news.com.au>, 20 April 2001.

⁷³ Andrew Clennell, 'Lead the world on greenhouse treaty, PM urges Bush' *Sydney Morning Herald*, 16 April 2001.

⁷⁴ Alan Wood, 'Killing Kyoto in Australia's best interest', *Australian*, 3 April 2001.

⁷⁵ 'Howard claims Kyoto stance not black and white', *ABC News Online*, 3 April 2001.



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