

**PROPOSED AMENDMENT TO THE LONDON PROTOCOL
TO ALLOW CARBON-DIOXIDE GEOSEQUESTRATION IN
SUB-SEABED GEOLOGICAL FORMATIONS**

OBJECTIVE

- ξ Amend Annex 1 of the 1996 Protocol to the London Convention (London Protocol) to allow sequestration of carbon-dioxide in sub-seabed geological formations, as one of a suite of climate change mitigation measures.

CARBON CAPTURE AND STORAGE (CCS)

- ξ The Australian Government is currently developing a suite of measures to stabilise greenhouse gas emissions.
- ξ Technology for Carbon Capture and Storage (CCS) needs to be developed so that it can be considered as one of a suite of possible options for reducing emissions of carbon dioxide to the atmosphere.
- ξ CCS is a reality for Australia now, with several projects proposed to commence within the next few years, including offshore interests.
- ξ The Australian Government's climate change and energy policies clearly identify the future potential of CCS technologies as an important mitigation technology. A current focus is establishing a regulatory framework that facilitates major investment in energy projects involving CCS activities.
- ξ A COAG Regulatory Impact Statement for CCS was undertaken by the Department of Industry, Tourism and Resources, with public consultation between 8 October and 29 November 2004, which contributed to development of regulatory guiding principles, endorsed by the Ministerial Council on Mineral and Petroleum Resources in November 2005.
- ξ In considering CCS, Cabinet determined that Australia's existing legislation relating to assessment and approval process would be modified and augmented for CCS.

LONDON PROTOCOL & CCS

- ξ Australia is a Party to the *Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972* (London Convention) and the *1996 Protocol to the London Convention* (the London Protocol). The London Protocol, which supersedes the London Convention for parties to both, such as Australia, came into force internationally on 24 March 2006, with 27 Parties.
- ξ There is uncertainty whether the geosequestration of carbon-dioxide in the marine environment under certain scenarios, particularly capture onshore and injection under the seabed offshore, is consistent with Australia's international obligations under the London Protocol. The Protocol applies to "the seabed and subsoil thereof" and only allows the disposal of materials listed at Annex 1 to the London Protocol.
- ξ The merits of carbon-dioxide geosequestration were discussed at the 27th Consultative Meeting of the London Convention in October 2005. The Meeting agreed that carbon-dioxide geosequestration should be allowed to proceed, noting that amendment to the Protocol may be required. Ocean sequestration (that is, injecting carbon-dioxide into the water column) is not currently under consideration by Australia or the Consultative Meeting.

CURRENT LONDON PROTOCOL DEVELOPMENTS

- ξ Intersessional meetings were held in April 2006 to consider possible amendment options and those meetings concluded with possible amendment text acceptable to Australia. The amendment text is at Attachment 1.
- ξ In accordance with Article 22 of the Protocol, any proposed amendments to Annexes must be communicated to Parties six months prior to consideration by a Meeting of Parties.
- ξ Consequently, to allow amendment to the Protocol to be voted upon at the Consultative Meeting (30 October - 4 November 2006), on 28 April 2006, the Department of the Environment and Heritage submitted a formal proposal to amend Annex 1 to the Protocol (list of materials that may be dumped) to allow sequestration of carbon-dioxide in sub-seabed geological formations.
- ξ The formal submission is at Attachment 2. The proposed amendment seeks to ensure the carbon dioxide gas “stream” sequestered is overwhelmingly carbon-dioxide and does not contain industrial wastes or other prohibited materials.
- ξ While Australia has taken the lead in the amendment of the Protocol, we received co-sponsorship for the amendment proposal from France, Norway and the United Kingdom. Spain also recently agreed to co-sponsor.
- ξ The amendment proposal will be considered by Parties to the London Protocol at the Consultative Meeting in November.
- ξ Australia has also participated in the development of technical assessment guidance by the London Convention Scientific Group, in anticipation and support of the amendment, and continues to participate in other technical fora.
- ξ Within the Australian Government, the proposed amendment was agreed by the Minister for the Environment and Heritage, the Minister for Foreign Affairs, and the Minister for Industry, Tourism and Resources.
- ξ Although amendment text was agreed in principle by the Parties present at the April meetings, it is possible the text could undergo minor changes at the November Meeting before being agreed. This is in part because not all Protocol Parties were present in April and, if present in November, may propose alternate text. However, while wording may change, the fundamental provisions are expected to remain.

TREATY AMENDMENT PROCESS

Treaty Amendment

- ξ If two-thirds of Parties at the November Consultative Meeting agree to the amendments, in accordance with Article 22 of the Protocol, they shall enter into force for each Party 100 days after the date of their adoption at the Meeting, unless a Party makes a declaration that they are not able to accept the amendment at that time.
- ξ The “entry into force” indicates tacit acceptance of the amendments, rather than formal ratification, unless a declaration to the contrary is submitted.
- ξ The “100 days” may not provide sufficient time for the normal consideration by the Joint Standing Committee on Treaties (JSCOT) and the required number of parliamentary sitting days.

- ξ For this reason it is proposed to provide advance notice to JSCOT and undertake to provide the final amendment text as soon as it becomes available following the November meeting.
- ξ Australia has the option of submitting a declaration, within 100 days of the adoption of the proposed amendments, that Australia is not able to accept the amendment at that time. However, given Australia has taken the lead in the amendment of the Protocol and would benefit if it were to take effect, we would advise against Australia making such a declaration.