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International Trends in Renewable Energy and Climate Change Policy: Implications for the 2003 MRET Review

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SUMMARY

The current review of Australia's Mandatory Renewable Energy Target (MRET) raises some difficult questions for the Howard Government, and creates significant uncertainty for renewable energy project proponents. The review process is likely to trigger further debate about Australia's troubled climate change policy, and invite consideration of likely future developments in this area.

This paper reflects on recent international developments in renewable energy and climate change policy and analyses the implications these have for Australia generally, and the MRET review in particular.

INTRODUCTION

Australian Renewable Energy Policy is at a critical juncture. Two years after its implementation, the Mandatory Renewable Energy Target (MRET) is under review, and there is significant debate about how it might be reshaped. The decisions made as a result of the MRET review will effect Australia's greenhouse gas (GHG) emissions profile, something that will be of increasing importance as the world moves inexorably towards a carbon constrained economy.

The pressure for Australia to address GHG emissions is growing both from within and without. The Howard Government's current position[1] of refusing to ratify the Kyoto Protocol to the United Nations Framework Convention on

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The views expressed in this paper are those of the author alone, and are not necessarily representative of those of Phillips Fox

[1] See, for example, Prime Minister Howard's comments in his address to the Minerals Council of Australia annual dinner (5 June 2003, Great Hall, Parliament House, Canberra) (available at http://www.pm.gov.au/news/speeches/speech102.html).

Climate Change (Protocol),[2] but committing to meet Australia's Protocol target of 108% of 1990 emission levels during the 2008-2012 commitment period appears increasingly difficult to sustain. Critics suggest that it will cost more to abate GHG emissions outside the Protocol than it will within it, [3] and that there is the very real prospect of parties to the Protocol imposing trade sanctions against those that do not ratify.

These international policy developments are likely to weigh heavy on the minds of those conducting the MRET Review,[4] especially in light of the terms of reference,[5] and the important role that renewable energy (RE) can play in GHG emission reduction. This paper explores recent policy developments within the European Union (EU) and the United States (US), who are largely driving debate on climate change, and explores the implications that these developments may have for the MRET review.

THE AUSTRALIAN POSITION

Mandatory Renewable Energy Target

MRET is given effect to by three pieces of legislation: the *Renewable Energy (Electricity) Act* 2000 (REE Act), the *Renewable Energy (Electricity) (Charge) Act* 2000, and the *Renewable Energy (Electricity) (Charge) Amendment Act* 2000, which together commenced on 18 January 2001. It seeks to increase production of renewable energy in Australia by 9,500 GWh by 2010.

This target is to be attained through mandating, in each year after 2001, that the wholesale electricity market includes a specified amount of electricity generated from renewable sources.[6] Each year, wholesale market participants must purchase an amount of RE that is equal to a specified proportion of their total electricity purchases for that year. The proportion is set at the level that the legislature believes will be sufficient to achieve the target amount of RE for that year. The target for 2001 was 300 GWh, and this is slated to increase progressively to 9,500 GWh in 2010.

[2] The full text of both the Convention and the Protocol to it can be found at the Convention Secretariat's website (http://unfccc.int/).

[3] See, for instance, Media release by the Hon John Thwaites, Minister for the Environment (Vic), "Report Supports Victoria's Stance on Kyoto Protocol", 16 February 2003 (www.vic.gov.au).

[4] The Hon Grant E J Tambling (Chair), Peter Laver, Monica Oliphant and Neville Stevens AO.

[5] The terms of reference require a consideration of whether MRET has contributed to GHG emission reduction (amongst other things) – see http://www.mretreview.gov.au/terms.html.

[6] Defined in s 17 of the REE Act to include the following energy sources: hydro, wind, solar, bagasse co-generation, energy crops; landfill gas, municipal solid waste combustion, sewage gas, geothermal-aquifer, tidal, solar hot water, co-firing, wave, ocean, fuel cells, and hot dry rocks.

Compliance with the MRET requirements is demonstrated through the acquisition and surrender of Renewable Energy Certificates (RECs). One REC represents one MWh of electricity generated from renewable sources. RECs are issued by the Office of the Renewable Energy Regulator, and can be sold separately from the actual electricity produced. In this way RECs can provide a second income stream for renewable energy generators, which is intended to close the gap between the cost of production for traditional and renewable technologies.

Wholesale market participants that do not surrender sufficient RECs to meet the requirements of the REE Act must pay a "renewable energy shortfall charge" of $40 per REC that they are short. This sets an effective maximum price for RECs of approximately $57, once taxation effects are taken into account (assuming a corporate tax rate of 30%).[7] At the time of writing, the REC price was around $38, with prices increasing in forward trades to as much as $42.50 (for calendar year 2008).[8]

At the time that MRET was developed, electricity demand projections suggested that an increase of 9,500 GWh by 2010 would translate into an increase in the contribution of renewable energy to electricity supply from 10.7% in 1997 to 12.7%, or 2%.[9] Current projections for electricity demand in 2010 suggest that the proportional increase is likely to be closer to 0.5%.[10]

MRET Review

The REE Act requires that its operation be reviewed this year, two years after its commencement.[11] This review commenced in March, with the appointment of a Review Panel, the setting of the terms of reference for the review, and a call for submissions.[12] Over 3,000 submissions have been received, and the panel is expected to report back by the end of September this year.[13]

Even before the review had commenced there was significant debate about the effectiveness of the REE Act, and how it might be modified to better achieve the government's policy objectives.[14] The final report of the 2002 Council of

7 Ryan, "Renewable Energy: A Comprehensive Guide to Regulatory and Contractual Issues when Trading RECs and Other Green Rights" [2003] AMPLA Yearbook 240.

8 *Electricty Week*, Vol 34/ #18 (9 July 2003), p 25.

9 Commonwealth of Australia, "National Greenhouse Strategy", Canberra, 1998, p 46.

10 Bradbook & Wawryk, "Government Incentives Promoting Renewable Energy for Electricity Generation in Australia" (2002) 25(1) UNSWLJ 124 at 151.

11 REE Act, s 162.

12 Media Release, "MRET Review Panel Announced", Minister for the Environment and Heritage Dr David Kemp & Minister for Industry, Tourism and Resources, the Hon Ian Macfarlane, 25 March 2003 (http://www.ea.gov.au/minister/env/2003/mr25mar203.html).

13 You can read more about the review process, and view copies of all submissions made at the review panel's website (www.mretreview.gov.au).

14 See, for example, the comments of the Australian EcoGeneration Association (now the Australian Business Council for Sustainable Energy) in a 21 June 2001 media release "The Government's disappearing 2 per cent" (http://www.bcse.org.au/media_releases/PR%20disappearing%202%25.pdf).

Australian Governments Energy Market Review (Parer Review),[15] devoted an entire chapter to options for reducing GHG emissions from electricity production and supply. It concluded that a more economically efficient way to reduce GHG emissions associated with the electricity market would be to replace the current range of Federal and State based measures designed to reduce emissions (including MRET, the New South Wales Greenhouse Gas Abatement Scheme and the Queensland 13% Gas Scheme)[16] with an economy wide emissions trading system.[17]

This conclusion was welcomed by the Australian Gas Association (the natural gas industry body),[18] who consider that use of natural gas can deliver more cost effective GHG abatement than other measures. Perhaps not surprisingly, the coal sector has not received this recommendation so warmly.

Whilst it is difficult to dispute the conclusion that the relatively modest greenhouse gas emission reductions that will be achieved through MRET could be made at less cost through other means, it is not so clear that MRET is solely about GHG emission reduction. As we will see in the discussion of the European position below, many consider that RE offers social and economic benefits as well as the obvious environmental gains.[19] An emissions trading system of the type proposed by the Parer Review, which would primarily assist existing gas players, may be unable to deliver these benefits.

Furthermore, if the ultimate objective is to develop an energy system which is GHG emissions neutral, looking for least cost abatement now may in fact be a false economy. Whilst gas fired generation does produce less GHG emissions intensive electricity than coal firing, it is at best an interim solution. This is a point I will return to later.

Climate Change Policy

Australian climate change policy has had a troubled development. In the late 90s, Australia was leading global debate on the way forward, as part of the

[15] Commonwealth of Australia, "Towards a truly national and efficient energy market", Canberra, 2002.

[16] The precise details of the NSW and Queensland schemes are usefully summarised in Ryan, op cit n 7.

[17] Op cit n 15, p 242.

[18] Media release, "AGA Sees Positive Signals in Final Report of Energy Market Review", Australian Gas Association, 20 December 2002 (http://www.gas.asn.au/docs/doc_view.php?doc_id=253).

[19] The fact that REE Act goes beyond simply addressing GHG emissions is made clear in the terms of reference given to the Review Panel, which include: whether MRET has contributed to reducing greenhouse gas emissions; whether MRET has encouraged additional generation of electricity from RE sources; what relevant economic and social impacts have resulted from MRET implementation; and the extent to which the REE Act provides an ongoing basis for commercially competitive RE sector.

The complete terms of reference are set out at http://www.mretreview.gov.au/terms.html.

Umbrella Group[20] of countries that were pushing for the rapid establishment of an international GHG emission trading regime. The Federal Government had established the Australian Greenhouse Office, the first government agency solely focused on climate change, and provided it with ample funding to develop a wide range of policies directed at GHG emission abatement and adaptation. This level of activity appeared to be driven, at least in part, by the knowledge that Australia had negotiated well at Kyoto, meaning that there would be significant pressure from the international community to meet its agreed targets.

Things changed when US President Bush rejected the Kyoto Protocol as "fatally flawed" in mid 2001, and withdrew from international negotiations. The significance of this withdrawal lies in the fact that the Protocol can only enter into force when it has been ratified by 55% of the countries whose emissions are restricted, and by countries whose GHG emissions total 55% of emissions controlled by the Protocol. Considering that the US's emissions alone account for approximately 39.6%[21] of emissions caught by the Protocol, its negative attitude has made the Protocol's entry into force much more difficult.

The Howard Government has followed Bush's lead, repeatedly stating that it is not in Australia's best interests to ratify the Protocol, primarily because it will impose obligations on Australia that many of our developing country competitors will not have to contend with. Apparently, it is feared that this could lead to some Australian industries suffering a significant loss of market share, and drive them to relocate to countries where GHG emissions are not regulated.

Critics suggest that these fears are unfounded, and that the cost of achieving the GHG emission abatement necessary to meet our protocol target (which the Howard Government has pledged to achieve regardless of whether Australia ratifies) outside the Protocol will be significantly greater than from within.

It is not clear whether the Howard Government's position is more "wait and see" than outright rejection. Certainly, the government should not discount the possibility of the Protocol entering into force in the near future. As things stand currently, all that remains is for Russia to ratify and the Protocol will become binding. Russia has made numerous public statements about its intention to ratify, but has yet to complete the process, raising questions about what their real objectives are.[22] If Russia does ratify, we could see an international greenhouse gas emission trading market established for 2008-2012 and onwards.

Once the Protocol is ratified, we can only expect increased international pressure on Australia to reduce GHG emissions, and join the Protocol. Such

[20] The Umbrella Group comprised Australia, Canada, Iceland, Japan, Norway, New Zealand, Russia, Ukraine, and the United States.

[21] Percentage based on 1998 figures reported to the UNFCCC Secretariat (for more detail see http://www.unfccc.int/resource/docs/2000/sbi/inf13.pdf).

[22] On 17 July 2003, the World Business Council for Sustainable Development reported statements from the Russian government that whilst it still intend to ratify, it may still be a year away (http://www.wbcsd.org/plugins/DocSearch/details.asp?type=DocDet&DocId=1794).

pressure is likely to take the form of trade sanctions or equalisation tariffs, and possibly loss of access to markets because of our inability to supply GHG emission rights with energy commodities such as coal.

INTERNATIONAL POLICY TRENDS

European Union

EU Renewable Energy Policy

The need to increase production of RE has been on the EU agenda from as early as the 1980s.[23] More recently, European thinking has gathered significant momentum particularly with the 1997 publication of a European Commission White Paper entitled "Energy for the Future: Renewable Sources of Energy".[24] This White Paper set out a clear rationale for increasing the extent of RE production within EU member states, articulating three main benefits:

- *Improved environmental performance:* (RE tends to produce fewer emissions than traditional fossil fuel based technologies, and avoids the waste disposal and contamination issues presented by nuclear power);
- *Compatibility with social objectives:* (The expansion of RE supply will necessitate the creation of whole new industries, which will bring with them many jobs);
- *Improved economic performance:* (The introduction of a new source of energy supply reduces supply risk, exposure to price risk for any one energy source, and import dependence).

Energy for the Future also identified that the major impediment to the development of RE at that time was its relatively high price. RE technologies still face the same problem today –they are unable to compete directly on price with established technologies (such as fossil fuel and nuclear). The White Paper recommended that a range of tools be adopted to help overcome this problem, and set a target of increasing RE's contribution to EU's total energy needs to 12% by 2010 (from a 1997 base of 6%). Whilst the desired end point contained in the White Paper is the same as Australia's under MRET, the EU's significantly lower baseline and its coverage of all forms of energy (not just electricity) makes their target much more ambitious.

Energy for the Future was followed by (inter alia) an EU directive in 2001[25] requiring that member states meet specified targets for renewable energy production that together will achieve the EU wide target of 12% by 2010. The

[23] The United Kingdom, for example, introduced a Non Fossil Fuel Obligation in 1989.

[24] European Commission, *Communication from the Commission, ENERGY FOR THE FUTURE: RENEWABLE SOURCES OF ENERGY, White Paper for a Community Strategy and Action Plan*, COM(97)599 final (26/11/1997) (available at http://europa.eu.int/comm/energy/library/599fi_en.pdf).

[25] EU Directive 2001/77EC (27 September 2001).

directive does not specify how these targets are to be met, and recognises that a range of policies are already in place, ranging across "green certificates, investment aid, tax exemptions or reductions, tax refunds and direct price support schemes."[26] It does, however, require that member states must file biannual reports detailing current RE production figures, projections for future production, and details of policies and measures by which these projections are to be achieved.

It is not possible, within the confines of this paper, to exhaustively document the wide range of policy instruments that have been adopted within EU member states. However it is instructive to consider developments in the UK, which has an electricity market which is at a similar stage of development to Australia's.[27]

United Kingdom

The United Kingdom's primary renewable energy policy tool is the imposition of a Renewables Obligation on electricity retailers. The Renewables Obligation works in a very similar manner to the REE Act. It imposes an obligation on electricity retailers to acquire a percentage of total electricity sold from RE producers. The obligation is discharged through the acquisition and surrender of Renewables Obligation Certificates (ROCs) which are essentially an analogue of the Australian RECs.[28]

A key difference between the Australian and UK systems is that the REE Act specifies a fixed amount of additional RE generation for each year, whilst the UK legislation specifies the target as a percentage of electricity sold. This ties in directly with the manner in which the EU has chosen to set its targets.

Under the Renewables Obligation, electricity retailers are obliged to source an increasing percentage of their electricity from renewable sources. By 2003, the amount required to be sourced is 5%, and this is slated to increase progressively to 10% by 2010, which is equal to the RE target set for the UK in EU Directive 2001/77EC. Under the current arrangements, the RE target remains stable between 2010 to 2027, however a revision of this position (by setting a new target for 2020) is already under discussion,[29] consistent with the Blair Government's forward looking approach to climate change.[30]

[26] OJ CL 283, 27.10.2001, p 34.

[27] Many EU member states are still in the process of restructuring their electricity industries to allow significant participation by private companies. The legislative approaches to encouraging RE generation in deregulated electricity markets are of necessity different to those where government still dominates.

[28] The precise legislative mechanisms implementing the Renewables Obligation is well documented in Bradbrook & Wawryk, op cit n 10, at pp 138-145.

[29] See DEFRA, DTI (UK) "Energy White Paper: Our energy future – creating a low carbon economy", February 2003 which proposes a 20% RE target for 2020. Also see Scottish Executive, "Securing a Renewable Future: Scotland's Renewable Energy", 2003 which proposes a 40% RE by 2020 target for Scotland (http://www.scotland.gov.uk/library5/environment/srfe.pdf).

[30] Prime Minister Blair is on record saying that the targets set in the Kyoto Protocol need to be much more stringent, even going as far as to suggest reductions of 60% by 2050 – see

The Renewables Obligation is not the only policy measure used to encourage RE production. Other initiatives include:[31]

- *Climate Change Levy:* This is a tax payable on fuel consumption by commercial energy producers. The rate of the tax varies with the fuel source (and hence the greenhouse gas emissions generated), and does not apply to renewable energy sources and combined heat and power plants.[32]
- *£250 Million Capital Grant Program:* The UK government has earmarked approximately £250 Million to assist the commercialisation of marginal RE technologies, such as offshore wind and energy crops (biomass).
- *Development of national and regional planning policy in respect of RE:* The development of such policies are intended to inform and assist development approval processes for RE facilities.

EU Climate change policy

Climate change policy in the EU is arguably the most developed in the world. Not only have EU member states ratified the Kyoto Protocol, but a Europe wide GHG emissions cap (incorporating tradable emission quotas) is slated to commence on 1 January 2005.[33] Initially, only carbon dioxide will be regulated[34] and the scheme will only apply to energy intensive industries (energy production, oil refining, cement production, iron and steel manufacture, glass and ceramics, and paper and pulp production). Coverage will be expanded in the lead up to the commencement of the Protocol's first commitment period in 2008.

The EU Directive requires that 95% of the 2005 GHG emission permits are allocated administratively (though it does not specify how), with the remaining 5% to be available for auction at the discretion of each member state. Allocation rules are to be set by member states, which may well produce difficulties for industries operating across more than one jurisdiction.[35]

The UK has already established its own voluntary Greenhouse Gas Emissions Trading Scheme that opened in April 2002. Under this scheme, participants bid

Reuters, "Blair pushes US on climate change", 25 February 2003 (http://edition.cnn.com/2003/TECH/science/02/25/britain.climate.reut/).

[31] Report to the European Commission on the UK's compliance with the Renewable Energy Directive 2001/77EC, draft 18/11/02 (www.dti.gov.uk/energy/renewables/policy_obligation/n00005lx.pdf).

[32] More detail on the Climate Change Levy is available at the Department Environment Food & Rural Affairs website (http://www.defra.gov.uk).

[33] Robin Pomeroy, "EU Lawmakers Agree Climate Emissions Trading Scheme", Reuters, June 25 2003 (http://reuters.com/printerFriendlyPopup.jhtml?type=scienceNews&storyID=2985746).

[34] The Kyoto Protocol will, if it enters into force, regulate 6 GHGs: Carbon Dioxide, Methane, Nitrous Oxide, Hydroflurocarbons, Perflurocarbons, and Sulfur Hexaflouride.

[35] A good analysis of the implications that the different allocation rules may have for electricity generators can be found in Leyva & Lekander, "Climate change for Europe's utilities", McKinsey Quartlkey 2003 No 1 (www.mckinseyquarterly.com/article_abstract.asp?ar=1265&L2=9).

for GHG reduction contracts from government, with the option of trading the reduction obligation to another market participant if necessary.[36] It is not yet clear how this scheme will be integrated with the EU program.

United States

US Renewable Energy Policy

The United States' policy to support RE is not as well developed as that of the UK or Australia. At present the primary Federal scheme to encourage the development of RE is a Production Tax Credit, which grants a 1.5c tax credit (adjusted for inflation) for every kWh generated in the first 10-years of wind, closed loop biomass and poultry waste power projects established prior to 31 December 2003.[37]

The Production Tax Credit is very important to the US RE industry, something that was illustrated in early 2002 when the share price of Danish wind turbine manufacturers Vestas and NEG Micon fell significantly (by 11.7% and 6.8%, respectively) on the back of doubt surrounding whether the program would be extended after its expiry on 31 December 2001.[38]

A more comprehensive response to RE is currently being debated in US Congress, in the context of proposed national energy policy legislation. The proposal is to impose a Federal Renewable Portfolio Standard (RPS) on electricity suppliers. The proposed regime will work much like the UK Renewables Obligation, with tradable certificates used to demonstrate compliance. This is the subject of significant debate, and the Senate and House of Representatives appear to be divided on key terms, meaning that it is far from clear that a Federal RPS will enter law.[39]

Notwithstanding the Federal divisions, a number of US states[40] have introduced RPS requirements. The precise content of each RPS varies from State to State.

[36] A more detailed discussion of the UK Emissions Trading Scheme appears in Tristan Meears-White's article "A Changing Climate" (*The Chemical Engineer*, November 2001, p 16).

[37] Bradbrook & Warwryk, op cit n 10, at p 130.

[38] Dix & Lucy, "Rumblings from the Greenhouse – Global Greenbacks or just Gas?" *Infrastructure Journal*, March/April 2002, p 23 at pp 25-26.

[39] Bradbrook & Warwryk, op cit n 10, at pp 131-138, discuss the specific details of how the RPS proposal may enter into law. They note that the *Energy Policy Act* of 2002 had passed House of Representatives and then was extensively amended by the Senate, meaning that it had to return to the House of Representatives for reconsideration. At the time of writing, this reconsideration had not yet been concluded, and a redrafted *Energy Policy Act* 2003 had passed the House of Representatives, but was still under consideration by the Senate (see http://thomas.loc.gov/cgi-bin/bdquery/z?d108:SN00014:@@@L&summ2=m&).

The version of the *Energy Policy Act* of 2003 that passed the House of Representatives does not contain the RPS provisions for reasons that are not clear from this distance.

[40] The American Wind Energy association reports that Arizona, California, Connecticut, Maine, Massachusetts, Nevada, New Jersey, New Mexico, Pennsylvania, Texas, Wisconsin all have RPS programs in place (http://www.windenergyaction.com/facts/RPS_Fact_Sheet.pdf).

Not all states include compliance through tradable permits, and some states do not require the standard to be met by new generating capacity. The Texas RPS model is largely regarded as the most successful and contains all the key features of MRET.[41]

US Climate change policy

President Bush's decision to abandon the Kyoto Protocol (discussed above), left a significant gap in US climate change policy, whilst an alternative approach was developed. In the two years since this decision, we have seen the US develop a wide range of policies at the Federal level, but none which appear to deal comprehensively with the problem in the way that a GHG emission cap would.[42]

Key planks in Bush's policy portfolio are initiatives directed at developing a technical fix (such as geo-sequestration) and mechanisms to encourage voluntary GHG emission reduction by the private sector.[43] A 2002 proposal to recast the Protocol in terms of GHG emission intensity of the economy (rather than a fixed emission target, as is presently the case) has met with little enthusiasm. None of these proposals demonstrate a willingness by the Bush administration to force structural adjustments on the US economy. In fact, it might be said that the underlying theme in Bush's policy development is a desire to avoid structural adjustment at all costs.

In the absence of Federal leadership, states and industry have begun to develop their own responses to the problem, in a similar way to what has occurred in Australia. The Pew Center on Global Climate Change considers that these developments in fact signal the growth of broad based, bi-partisan support for action on climate change.[44] This conclusion is supported by the proceedings recently commenced by Connecticut, Massachusetts, and Maine against the US Environment Protection Agency (EPA) for failure to regulate GHG emissions.[45]

From the industry perspective, one of the highest profile initiatives is the development of a voluntary greenhouse trading market in Chicago. The Chicago Climate Exchange (CCX) is being set up by the Joyce Foundation, a charitable trust. Participants in the CCX commit to meet greenhouse gas reduction targets set against a baseline determined by averaging GHG emissions between 1998 and 2001.

[41] US State RE policies are documented in detail in American Wind Energy Association's 2002 publication "Inventory of State Incentives for Wind Energy in the US – A State by State Survey" (http://www.awea.org/policy/documents/inventory.PDF).

[42] President Bush's policy actions in this area are usefully summarised in a media release from 9 April 2003 (http://www.whitehouse.gov/news/releases/2003/04/20030409-11.html).

[43] See President Bush's 2002 Global Climate Change Policy Book (http://www.whitehouse.gov/news/releases/2002/02/climatechange.html).

[44] Rabe, "Greenhouse & Statehouse – the Evolving State Government Role in Climate Change", 2002 (http://www.pewclimate.org/projects/states_greenhouse.cfm).

[45] See Gillespie, "3 states sue EPA over carbon dioxide", Guardian Unlimited, 4 June 2003 (www.guardian.co.uk/uslatest/story/0,1282,-2751909,00.html).

The CCX reduction targets increase steadily by 1% each year from 2003 to 2006 (that is 99% of baseline in 2003, 98% in 2004, 97% in 2005 and 96% in 2006). Initially, the CCX is primarily directed at companies based in the US, but also allows Brazilian offsets to be included. It is possible that the scheme will be extended to cover the NAFTA area (Canada, US, and Mexico) this year, with international linkages proposed for 2004 and beyond.[46]

CONCLUSION

Implications for MRET Review

It is clear that there is a widening gulf between EU and US policy in relation to both RE and climate change. The EU appears to have engaged with these issues at the top level, accepted the need for change, and gone about setting targets designed to deliver the changes necessary. The US, on the other hand, appears to have failed to fully grapple with these issues at the Federal level – the policy development appears ad hoc at best, and informed by a desire to avoid structural readjustments.

These divergent visions present something of a conundrum for Australian policy makers, since as a small player in the global economy we have a lot to loose if we are excluded from either market. To date the Howard Government has indicated a preference for strengthening ties with the US over the EU, apparently the basis that the US economy will "will grow at a more rapid rate than the accumulated economies of the European Union over the next 50 years".[47]

Time will tell whether this is the right choice, but in my view it is certainly a risky one. By delaying participation in a carbon constrained economy, and not forcing accelerated investment in RE technology (through setting a high MRET target), Australia risks an increased transition cost should it become necessary to accept GHG emission constraints. All the signs point to the fact that a large part of the developed world will be subject to GHG emission constraints by 2008, with the EU starting early (in 2005). Once this occurs, Australia can expect to face increased pressure to do likewise or face trade implications.

It may be that a strengthened relationship with the US, such as the Howard Government is presently seeking, could help mitigate against this. However, it is not safe to assume that the US will remain outside an internal GHG emissions framework forever. The pressure from within the US to act on climate change, and participate in the Protocol (perhaps with renegotiated targets) is only going to build between now and 2008. A key factor in this pressure build up is likely to be multinational corporations operating in both EU & US markets that become comfortable with EU GHG emission constraints post 2005, and see opportunities to profit through wider trading arrangements.

[46] See www.chicagoclimatex.com.
[47] Op cit n 1.

If such a rapprochement occurs between EU & US climate change policy, Australia will have little choice but to participate also. If any renegotiation of terms has been undertaken it is unlikely that Australia's position will have improved from what it secured in 1997. If this is the case, then we will be forced to make a hasty transition to GHG emission constraints, probably by importing the necessary technology and knowledge.

For these reasons, I consider that Australia's interests may be better served by taking our lead from the EU, not the US. If those conducting the MRET Review agreed with me, I suspect we would see recommendations that the REE Act be amended to:

- note the benefits beyond GHG abatement delivered by RE;
- express the RE target as a percentage of total electricity production;
- lift the target to require a doubling of RE production by 2010;
- incorporate a mechanism to develop targets for 2010-2020; and
- increase the renewable energy shortfall charge, and link it to the CPI.

However, I think that the political reality is that even if such recommendations were made, they are unlikely to be implemented by the current government. Accordingly, I expect that the ultimate outcome of the review will be no real change, other than perhaps a linking of the penalty to CPI, and a shift to express the target as a percentage.

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