



AUSTRALIA

Schedules in a Post-2012 Treaty

Submission to the AWG-LCA

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This submission addresses the use of schedules to register the mitigation commitments and actions of Parties as a foundation of the post-2012 outcome. The submission builds upon the earlier legal input that Australia provided to the AWG-LCA and AWG-KP in UNFCCC/KP/AWG/2009/Misc.6/Add.2.

A treaty outcome from the LCA negotiations could contain two types of provisions to address mitigation. The first would be general obligations (such as inventories), and the second would be schedules to register country specific mitigation commitments and actions. Individual national schedules would be attached to, and form an integral part of, the treaty outcome. The treaty outcome should contain principles guiding the content of national schedules.

The key benefit of a schedule approach is that it can capture the spectrum of mitigation efforts that countries can achieve according to their respective capabilities in a form that has the same overall legal character. This accounts for the principle of common but differentiated responsibilities and respective capabilities.

The use of national schedules is a well established approach in international law for reflecting differentiated treatment. A particular advantage is that national schedules could provide for both legally binding and non-legally binding commitments and actions within the same schedule¹.

¹ By contrast schedules under the General Agreement on Trade in Services are a reflection of legally binding commitments only.

National commitments and actions

In accordance with the Bali Action Plan, each developed country Party would use a national schedule to commit to comparable mitigation efforts, including quantified emission limitation and reduction objectives (QELROs). These should be legally binding.

Each developed country Party could also detail in its national schedule the goals, policies and measures that underpin its QELRO. This information might include details on (1) expected emission reduction pathways, including mid- and long-term emission reduction goals, and (2) enabling domestic measures, such as emission trading regimes and renewable energy targets.

Detailing developed country actions beyond the economy-wide reductions that are legally expected provides for greater transparency of relevant policies and measures. This facilitates comparative analysis of effort, as well as the establishment of norms relating to particular policies and measures.

Schedules are a particularly effective way to reflect the separate circumstances and capacities of individual non-Annex I Parties. A variety of mitigation policies and measures may be registered. This gives Parties substantial flexibility to craft commitments and actions in a manner appropriate to their national circumstances. For environmental integrity, a Party's package of commitments and actions should be broadly comparable in its effect to the efforts made by others at a comparable level of development.

In addition to actions, schedules could also allow more advanced non-Annex I Parties to register mitigation commitments that may differ from economy-wide QELROs without joining Annex I. Sectoral commitments may be one example.

The schedules should identify where specific mitigation actions were made possible through previously agreed international support. This could flow from support generated by a facilitative mechanism.

Aside from general obligations stipulated in the treaty itself, Least Developed Countries would not be expected to undertake commitments.² Schedules for LDCs could register intended actions, including those that might benefit from additional international support.

One area of useful commonality could be for all Parties to register their

² LDCs choosing to participate in REDD and market-based mechanisms would remain subject to relevant requirements.

national pathways for transitioning to low emission economies. Such pathways could include projected peaking years and long-term emission limitation goals.

Operation of schedules

The national schedules would conform to a standard format to facilitate comparative analysis. To further allow comparison, there could also be summary schedules to reflect a particular commitment or action across all relevant Parties. For example, QELROs could be summarised in a single schedule. The commitment in the respective national schedules would be the legally binding obligation.

National schedules would provide for measurement, reporting and verification (MRV) of commitments and actions. The degree to which MRV is based on international or national approaches would largely reflect the nature of the commitment or action. Commitments and actions enabled through direct international financial support or support through market mechanisms would require a high degree of international confidence.

Schedules could be negotiated through a process to be established. This could involve a period of consideration, where all countries would make available their draft schedules to allow countries the opportunity to reflect on comparability of effort. There would be a set length of time for this consideration and assessment period. Each country would be required to submit a final schedule upon their signature to the treaty.

For environmental integrity, there would be regular, general review of all schedules at fixed intervals after the treaty enters into force. This would allow Parties to collectively work towards fulfilling the objective of the Convention through progressively deeper mitigation commitments and actions.

While legally binding obligations would remain fixed until the general review, Parties would be able to add or alter the detail of non-legally binding actions in their schedules at any time, according to procedures to be determined. These additions and alterations would be required to maintain or enhance the previous level of effort registered in the schedule.

Australia will continue to provide further input on the nature and scope of the post-2012 treaty in the coming months, including additional information on schedules.