

Carbon Taxes and Wild Law: Will Liabilities Protect the Atmospheric Commons?

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Theory of GHG Pricing

- ❖ Current situation:
 - ❖ firms are free to pollute (privilege);
 - ❖ Those who bear the cost have no rights;
- ❖ Carbon Tax
 - ❖ Property right in emission, using liability principle (Daly and Farley, 2011)
 - ❖ Free to pollute, but must pay
- ❖ Cap and Trade
 - ❖ The freedom to pollute has a limit.

Economic Instruments and Earth Jurisprudence



Three Categories of Criteria

❖ Environmental

❖ Economic

❖ Governance

Earth Jurisprudence Criteria

❖ Environmental

- ❖ Long term holistic approach NOT short term political goals
- ❖ Not require **control** of the climate

❖ Economic

- ❖ Relationship between state and environment *fiduciary* rather than proprietary

❖ Governance

- ❖ Rule of law, such as flexibility, promoted with appropriate feedback

Environmental Criteria

- ❖ *Environmental effectiveness: The mechanism should be capable of delivering reductions in carbon pollution that are informed by the climate science, to ensure that Australia contributes to the global mitigation task and to help transform our economy by driving investment and innovation in clean energy and low emissions technologies and processes.*
- ❖ *AND*
- ❖ *Supports Australia's international objectives and obligations: An effective global solution requires action from all major emitters to limit the global temperature rise to less than 2 degrees. A carbon price mechanism should support the goal of promoting international action to deliver an effective global solution, and be consistent with Australia's foreign policy and trade objectives.*

Targets

- ❖ 5 percent from 2000 levels by 2020 (Unconditional)
- ❖ 15 – 20 percent from 2000 levels by 2020 (Conditional on the scale of global action)
- ❖ 80 percent from 2000 levels by 2050 (Unconditional)
- ❖ BUT – unlimited permit imports mean these targets are all *net* reductions not domestic *gross* reductions.

Economic

- ❖ *Economic efficiency: A mechanism to price carbon should harness the most cost-effective pollution reduction options and facilitate informed and efficient investment decisions. It should also minimise costs of our pollution reduction to the economy as a whole AND*
- ❖ *be consistent with Australia's broader economic reform agenda*

Economic

- ❖ *Budget neutrality: The overall package of a carbon price mechanism and associated assistance measures should be budget-neutral. This does not preclude other measures to address climate change being funded from the Budget, consistent with the Government's fiscal strategy*

Budget Neutral

- ❖ **Budget Neutral**

- ❖ Revenue (Costs of permits) – Outlays (Assistance) = 0

- ❖ **Australian GHG Price Scheme**

- ❖ Revenue – Outlays = - 4.3 billion

Economic or Anthropocentric

- ❖ *Energy security: Introduction of the carbon price should be accompanied by measures that are necessary for maintaining energy security.*

Energy Security Measures

- ❖ Energy Security Fund
 - ❖ Compensation for coal closure
 - ❖ Free permits (Conditional)
- ❖ Energy Security Council
 - ❖ Advise on risks
 - ❖ Advise on future energy security

Economic

- ❖ *Fairness: The introduction of a carbon price will affect Australian households and communities. Assistance should be provided to those households and communities most needing help to adjust to a carbon price, while striving to maintain incentives to change behaviour and reduce pollution*

Fairness Measures

- ❖ Increase in pensions and allowances
- ❖ Tax free threshold increased significantly BUT
- ❖ Tax relief ZERO for anyone earning over \$80,000

Economic

- ❖ *Competitiveness of Australian industries: The overall package of carbon price design and associated assistance measures should take appropriate account of impacts on the competitiveness of all Australian industries, having regard to carbon prices in other countries, while maintaining incentives to reduce pollution.*

Governance

- ❖ *Investment certainty: A mechanism to price carbon should provide businesses with the confidence needed to undertake long-term investments in low emissions technology and infrastructure, which will reduce costs for households and businesses in the long-term. It should keep our industries at the forefront of the research, development and deployment of new clean technologies, attracting global investment flows and creating new jobs.*

Investment Certainty

- ❖ Clean Technology Investment Program
 - ❖ 25 percent of costs of energy efficient and low pollution equipment
- ❖ Clean Technology Innovation Program
 - ❖ 50 percent of costs of research and development
- ❖ Earmarking education costs

Predictability and Stability

❖ Stability

- ❖ fixed price period
- ❖ price ceiling and floor (flexible)

❖ Predictability

- ❖ First 5 years caps released one year prior to flexible period
- ❖ Subsequent caps at least 4 years in advance

Governance

- ❖ *Administrative simplicity: A mechanism to price carbon should be designed with a view to minimising both compliance costs and implementation risks*
- ❖ *AND*
- ❖ *Clear accountabilities: A mechanism with transparent scheme rules and clear accountabilities will help promote business and community confidence in carbon pricing.*

Administrative Simplicity and Clear Accountabilities

- ❖ *National Greenhouse and Energy Reporting Act 2007*
(Commonwealth)

Governance

- ❖ *Flexibility: Internationally, climate change policy is continuing to evolve. A mechanism to price carbon should be sufficiently flexible to respond to changing international circumstances, including improvements in international accounting rules, developments in climate change science, and tangible international action to deliver an effective global solution*

New Zealand Scheme

- ❖ Reviewed in 2008 after change Government
 - ❖ ‘in light of current economic circumstances’ (The Global Financial Crisis)
 - ❖ ‘watered down’ (Bertram and Terry, 2010)
- ❖ Review announced December 2010
 - ❖ ‘appropriately *pacing itself* on climate change relative to its key trading partners’

Governance

- ❖ *Flexibility: Internationally, climate change policy is continuing to evolve. A mechanism to price carbon should be sufficiently flexible to respond to changing international circumstances, including improvements in international accounting rules, developments in climate change science, and tangible international action to deliver an effective global solution*

Conclusion