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Climate change focus

Global challenge needs global solutions

Whatever the reasons (and some commentators continue to deny that we are the cause), the fact is that the world's climate is changing. This is going to have an impact on communities in a multitude of forms, from geographic to social, from economic to demographic. Most importantly, this is not a phenomenon that is confined to national boundaries. It is a global phenomenon and, ultimately, a challenge that will need to be confronted by the global community.

Climate change can certainly be addressed by individual countries in a domestic or regional way, through mechanisms like carbon taxes, trading schemes, renewable energy sources, etc.

But the forces of climate change transcend national boundaries. As such, it can only be addressed fully through concerted international action that creates appropriate incentives for all players in the global economy, and provides adequate opportunities for countries to remedy grievances.

While some commentators lamented Australia and the United States standing outside the Kyoto framework, we cannot ignore the fact that those governments who negotiated the Kyoto Protocol significantly curtailed its effectiveness when they agreed to exempt developing countries from making any commitments.

Accordingly, a fundamental starting point for any international framework has to be engagement by most, if not all, countries. All developed countries, including Australia and the United States, as well as all key developing countries, such as Brazil, China, India, Indonesia, Malaysia and Thailand, need to be bound by the framework and

obliged to control and reduce greenhouse gas emissions. We cannot replicate Kyoto, where a significant proportion of countries – both developed and developing – who were ultimately responsible for global emissions were not bound by its rules.

Domestic frameworks implemented by individual countries will obviously be a start, but they won't be enough because they'll be limited in their effectiveness on a global scale. A system where countries are induced to make trade-offs with each other, on the other hand, has a much better chance of meeting the challenge. And to create such a system, you need effective incentives for stakeholders in all countries that will allow (and encourage) political leaders to do the right thing.

At the same time, there will be a need to guard against a divergence developing between private sector initiatives (like the scheme advocated by NZX and the Carbon Market Working Group) and the national interest of a country like New Zealand. For example, will it be in New Zealand's interests to continue to see carbon credits derived from activities here in New Zealand being traded internationally at a time when most experts indicate we are already producing more carbon emissions than we are permitted to under the Kyoto Protocol?

Finally, it goes without saying that climate change is a global challenge that will require the global community to change long-established practices. Such a change will come at a cost. Sacrifices will need to be made by all. The key is to ensure that such costs are borne proportionately, not disproportionately. If the right economic incentives are created, and if the international framework is universal and enforced, we may find that there will be many more opportunities for New Zealand business created by a new framework as there will be costs. But this will require close coordination and collaboration by all players in New Zealand today, and that is the challenge that faces us.

Green Claims – an increasingly important point of difference

With increasing public attention on climate change and wider environmental issues, a company's ability to claim that their business or product is 'environmentally friendly' is becoming an increasingly important point of difference between competitors.

There is also clearly increasing governmental support for such initiatives, with the recent announcement that the government is expanding the Environmental Choice New Zealand ecolabel. Claims made about the environmental effects of products and processes are generally known as "Green Claims".

Green Claims can include claims that a product is:

- biodegradable;
- compostable;
- recycled;
- recyclable;
- created using a renewable resource; or
- CarboNZero Certified.

At the same time, Green Claims can also involve the use of symbols such as:

the Mobius Loop



the Environmental Choice New Zealand logo



the Green Tick



While Green Claims can provide a competitive advantage to companies, the negative publicity resulting from an erroneous claim can be extremely damaging. New Zealand does not have a prescriptive regime around the making of Green Claims. However, there are some specific provisions contained in statute and regulated by independent bodies which impact on this matter. For this reason, companies must ensure that any Green Claims made meet the relevant requirements. At present, the main areas of regulation are through the *Fair Trading Act 1986*, the New Zealand Advertising Standards Authority and various independent bodies.

The *Fair Trading Act* is relevant to the making of Green Claims as, among many broad and specific prohibitions against misleading representations relating to consumer products, it prohibits misleading and deceptive conduct in trade. This means that all claims made, including Green Claims, need to be true and represented in a way that does not have the potential to be misleading. For example, stating that a product is recycled, where it contains only 5% recycled material and this percentage is not clearly stated alongside the 'recycled' claim, is likely to be classified as misleading, whereas the same claim where the product contains 75% recycled material is not.

The New Zealand Advertising Standards Authority is an industry self-regulating entity, which develops and administers voluntary advertising codes of practice. The Authority has produced a Code for Environmental Claims, which includes requirements for advertisements making Green Claims. If a Green Claim is made, to meet the standards under the Code for Environmental Claims, it must meet relevant local or international standards as appropriate.

The use of any Green Claim symbols must be approached with caution, and matters of trade mark infringement, misrepresentations in trade and passing off must be considered where an existing trademark is being used, or a new one is being designed. To prevent such difficulties, a product displaying a logo will need to be certified or meet specified standards, where appropriate. The Environmental Choice New Zealand logo is a prime example of this.

Any Company considering making Green Claims is also advised to look to the *Guidelines for the Assessment of Environmental Claims* (produced by the European Commission) and the *Green Claims – Practical Guidance* (produced by the UK Department for the Environment, Food and Rural Affairs), as these are regarded as best practice by the Ministry for the Environment.

Climate change, carbon regulation, trade protectionism – a delicate balance

There is a fine line between effectively combating climate change and recklessly protecting domestic industries from fair trade. Some of the tools being advocated and used to address climate change, particularly in Europe, appear to have crossed that line, with a new tyranny of distance being applied against New Zealand export industries.

Take the concept known as 'food miles', for example, a measure of how far food travels from paddock to plate. In Europe, there is a highly dubious consumer led campaign (in some instances, implicitly endorsed by authorities) based on the mistaken notion that the further a food product travels, the greater the damage to the environment.

Not based on any robust scientific analysis, the idea of 'food miles' has potential to inflict unfair discrimination on key New Zealand products.

Regular headlines from UK newspapers such as "Food miles: The true cost of putting imported food on your plate" and "Eating with food miles in mind" are fueling protectionism under the guise of environmental concern for climate change. Consumers are being encouraged to purchase products produced closer to home – and this is a direct threat to New Zealand's exports.

Interestingly, research by Lincoln University has demonstrated beyond a doubt that the carbon footprint of New Zealand lamb, dairy products and apples is still far less than that of their European equivalents, even after their voyage to Europe. The reason is simple – the New Zealand products have been produced much more efficiently than the European ones and have used far less fertilizers.

Even the UK Department for the Environment, Food and Rural Affairs (DEFRA) thinks the 'food miles' concept is flawed because it focuses simply on the distance traveled by food, which is not an adequate indicator of sustainability.

A report produced for DEFRA found that UK tomatoes are less environmentally friendly than tomatoes imported from Spain because it takes less energy to grow tomatoes in Spain than in the UK. And the report also noted that most of the carbon emissions associated with transporting food for consumption in the UK are actually produced by the travel within the UK. Emissions were significantly lower for food transported to the UK by sea or air freight.

But these are not messages that are being put squarely in front of consumers in the UK or Europe. Indeed, and notwithstanding the findings of the DEFRA report, David Miliband, current UK Foreign Secretary and former Secretary for Environment, Food and Rural Affairs, observed that 'food miles' is an "important signal of growing public engagement with the issue of climate change. It is also crucial to the local sourcing of food and the future of British farming."

A similar problem is beginning to affect international tourism. Like 'food miles', the concept of 'travel miles' unnecessarily focuses on just one aspect of the service - namely long-haul travel - as opposed to the full carbon footprint of the service being consumed.

Before long we may have to protect New Zealand's tourism industry from unfair treatment as a result of ill informed campaigners in Europe (and elsewhere) who believe that long-haul travel should be avoided at all cost if we are to save the world from climate change.

There's no doubt that global carbon consciousness and carbon regulation are here to stay. But what we need to do is to ensure that the concepts or tools being developed to address climate change are backed-up by robust, responsible and credible science. In some instances, like food miles and travel miles, this is just not the case.

Figuring out an international standard for assigning carbon emissions and/or values to goods or services is clearly going to be a ferociously complicated task. Yet the possibility of having competing methodologies is an ugly one.

To deal with this difficult issue we must first make common cause with New Zealand and other countries similarly implicated by their distance from European markets. Efficient industries (most notably agriculture and tourism) should not be judged in foreign markets on the basis of disguised protectionism dressed up as environmental concern, but on the basis of top quality, competitively priced goods or services.

The recent APEC Trade Ministers' meeting in Cairns recognised the "need to take strong and early action to address the challenge of climate change taking into account the need to balance environmental concerns and economic growth".

At the upcoming APEC Leaders' Meeting in Sydney – where climate change and clean development is apparently a key focus – there needs to be far more recognition (and engagement) on how we can better achieve the delicate balance between addressing environmental concerns and ensuring continued economic growth, without having to compete with a new tyranny of distance.



Quick Quiz

The European Union (EU) puts in place some trade restrictions that appear to unfairly discriminate against products from other countries. Australia and New Zealand are particularly affected by such restrictions and a number of their exporters are effectively shut-out of the European market. Australia and New Zealand respond by initiating a dispute against the EU under the World Trade Organization's (WTO's) dispute settlement mechanism. In defending its regime, the EU argues that it was, amongst other things, simply implementing its obligations under the Kyoto Protocol. Can the EU rely upon the Kyoto Protocol to defend itself against Australia and New Zealand?

No. Australia is not a party to the Kyoto Protocol. As such, in a dispute involving Australia, the EU cannot rely upon the Kyoto Protocol to defend itself against any breaches of WTO rules. But if the dispute was just between the EU and New Zealand (both Kyoto Protocol parties), then the EU would be able to rely upon the Kyoto Protocol.

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