

In a statement, the EU Ministers agreed to set new national emission cuts "at the latest" by 31 December 2006, when the cuts agreed at Kyoto are due to begin their application. Denmark has said it was being asked to carry too much of the burden.

The EU Ministers also held a public debate on proposed rules on making sure that polluters are held liable for any environmental damage, which includes damage to water, soil, and animal habitats. Industry fears have been expressed that such rules could cost them billions of euros in liability insurance, forcing them to move out of the EU.

In early March, the British Environment Secretary urged the world to unite in the battle against climate change and laid the Kyoto Protocol before Parliament to officially push ahead with the UK's ratification process. Ratification will mean that the UK is legally bound by its Kyoto target to reduce greenhouse gas emissions by 12.5 per cent below 1990 levels in 2008-2012. The UK's climate change program sets out how this target will be met. It is estimated that the policies in the program could reduce the UK's emissions by 23 per cent by 2010.

Other Countries

Japan, Canada, New Zealand and Russia have also voiced concerns similar to those of the United States about a number of treaty provisions.

Legal Force

To take legal force, the accord must be ratified by 55 countries, including industrialised countries who represent at least 55 percent of carbon dioxide emissions.

NEW SOUTH WALES

COMPENSATION FOR LOSS OF RATES ON COAL*

In the matter of an appeal by Muswellbrook Shire Council against a determination of the NSW Coal Compensation Board

(NSW Coal Compensation Review Tribunal CCRT 2001/10 (13 August 2001))

This appeal related to pecuniary loss of rates in the Mount Arthur Coal Area under clauses 9(2) and 12 of the Coal Acquisition (Compensation) Arrangement 1985.

* Skye Watson, Summer Clerk, Allens Arthur Robinson.

Three issues were raised:

- (a) the amount of compensation determined by the board and the method of its calculation, it being alleged that the Board failed to comply with the calculation principles agreed to on 15 May 1996, requiring that a valuation would be obtained from the Valuer General;
- (b) whether the valuation and rating procedure established by the *Valuation of Land Act 1916* and the *Local Government Act 1919* are the only correct methods available to the Board to arrive at the amount of rates owed over the claim period; and
- (c) should the valuation under the *Coal Ownership (Restitution) Act 1990* or the Coal Acquisition (Re-Acquisition Arrangements) Order 1997 be used by the Board for valuation of coal properties that were re-acquired under the Coal Acquisition (Re-Acquisition Arrangements) Order 1997.

There was no valuation previously performed by the Valuer General within the Muswellbrook Shire region.

Decision

The appeal was successful and the matter remitted to the Board for reconsideration.

The Board was required to reconsider the claim taking into account the following when calculating compensation for loss of rates income:

- (a) Valuer General's valuation applied by the Board should be applied throughout the period of rate pegging;
- (b) For properties not subject to restitution, the Board valuations undertaken to determine compensation for the owners of the coal should be used as the basis for calculating compensation for loss of rates over the period after the lifting of rate-pegging;
- (c) Properties subject to restitution should use the Board's valuation prior to restitution to calculate compensation for loss of rates up until the time the coal ownership was restored. No compensation for loss of rate income is payable after restitution and up to re-acquisition; and
- (d) For properties re-acquired after restitution, the post re-acquisition valuations determined for the purpose of determining compensation should be the basis of calculating compensation for loss of rate income up to the estimated time of becoming part of a mining lease.

The Board adopted new calculation principles which removed the requirement to consult the Valuer General. The Board was entitled to determine such new principles.

Whilst it would be beneficial to have the Valuer General's valuation forming the basis for assessing compensation, this is impractical due to the volume of work required to obtain

retrospective Valuer General valuations for Muswellbrook Shire coal properties and the fact that questionable assumptions would be required in translating recent valuations to historical valuations.

The valuations used to calculate pecuniary loss compensation for loss of rates income are fair and reasonable alternatives to the Valuer General's valuation where as in this case such valuations do not exist.

Muswellbrook Shire Council would have regained the opportunity to levy rates on coal properties restored to the previous owners under the *Coal Ownership (Restitution) Act* 1990 between the period of restoration and the later re-acquisition under the Coal Acquisition (Re-Acquisition Arrangements) Order 1997. As such, the Board is not required to pay compensation for any rates that were levied on privately owned coal during the period of restored ownership.

There is no need to apply ramping up of valuation of a property five years prior to being included in a mining lease as the re-acquisition valuations determined by the Board for purposes of calculating compensation to previous coal owners takes account of the expected time of mining.

COMPENSATION FOR LOSS OF OPPORTUNITY TO RATE COAL*

In the matter of an appeal by Muswellbrook Shire Council against a determination of the NSW Coal Compensation Board

(NSW Coal Compensation Review Tribunal CCRT 2001/11 (1 November 2001))

This Appeal related to a claim for compensation for pecuniary loss by the Council pursuant to Clause 12 of the Coal Acquisition (Compensation) Arrangements 1985 arising from the loss of opportunity to rate coal in the Althorpe Coal Area.

The issues of this Appeal were:

- (a) what was the value of the coal for rating purposes;
- (b) what was the correct rate to be used to calculate the loss; and
- (c) to which rating years is the rate to be applied having regard to the provisions of the *Coal Ownership (Restitution) Act* 1990, the *Coal Ownership (Restitution) Regulation* 1995 and Section 5A of the *Coal Acquisition Act* 1981 (as amended) and the *Local Government Act* 1919 and 1993.

* Skye Watson, Summer Clerk, Allens Arthur Robinson.