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Alexander Zahar, Jacqueline Peel and Lee Godden
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Australian Climate Law in Global Context

Australian Climate Law in Global Context is a comprehensive guide to the nature and scope of current climate change law in Australia and internationally. It includes discussion of:

- emissions trading schemes and carbon pricing laws
- laws on renewable energy, biosequestration, carbon capture and storage, and energy efficiency
- the trading of emission offsets between developed and developing countries
- the new international scheme for the protection of forests (REDD) and the transfer of green finance and technology from developed to developing countries
- the facilitation of adaptation to climate change through legal frameworks.

The book assesses the international climate change regime from a legal perspective, focusing on Australia's unique circumstances and measures, and its domestic implementation of climate-related treaties. It also considers how the challenge of climate change should be integrated into broader environmental law and management.

Australian Climate Law in Global Context is an engaging text that provides a clear, well-structured and up-to-date analysis of climate change law. It is a valuable resource for students in law and environmental science, for current and future legal practitioners working in climate law and related fields, and for policy-makers and those in the commercial sector seeking information on the expanding range of climate change measures. It is accompanied by a companion website at www.cambridge.edu.au/academic/climate, which contains updates to the law.

ALEXANDER ZAHAR is Senior Lecturer at Macquarie Law School and Co-Director, Education, at Climate Futures at Macquarie University. His research interests are in the areas of state compliance with climate treaty obligations and the operation of the Clean Development Mechanism.

JACQUELINE PEEL is Associate Professor at Melbourne Law School, University of Melbourne. Her research interests include international and domestic environmental law, risk regulation and the precautionary principle, and climate change law.

LEE GODDEN is Professor and Director of the Centre for Resources, Energy and Environmental Law at Melbourne Law School, University of Melbourne. Her research interests include climate change law and environmental governance, natural resources law and indigenous peoples' rights.

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Abbreviations and definitions

2°C limit	The upper limit of politically acceptable global mean temperature rise according to the 2009 Copenhagen Accord.
1.5°C limit	A safer limit than the 2°C limit. It is referred to in the Copenhagen Accord as a possible alternative to the 2°C limit, if the evolving science were to find that the higher limit is more dangerous than previously thought.
350/450/550 etc. ppm targets	These commonly cited figures refer to the stabilisation of CO ₂ concentration in the atmosphere at an upper limit of 350, 450, etc. parts per million (ppm) by 2100. The concentrations are associated with different degrees of warming.
AAU	Assigned Amount Unit. An emission allowance issued pursuant to the provisions of Kyoto Protocol <i>Decision 13/CMP.1</i> . It is equal to one metric tonne of CO ₂ eq.
ACCU	Australian Carbon Credit Unit. The tradable offset credit under the Carbon Farming Initiative (Australia).
adaptation	Measures taken to manage the consequences of climate change by reducing the vulnerability of human communities and ecosystems.
Adaptation Committee	Established by the UNFCCC COP as part of the Cancun Adaptation Framework. The Adaptation Committee's task is to promote the implementation of adaptation measures.
afforestation (under the Kyoto Protocol)	The conversion of land that has not been forested for a period of at least 50 years to forested land, by direct human intervention in the form of planting, seeding, or promotion of natural seed sources. Cf. reforestation.
AGO	Australian Greenhouse Office (now superseded)
Annex B	List of emission reduction obligations by Annex I parties for the first commitment period under the Kyoto Protocol (2008–12).

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Annex I parties	The parties listed in Annex I to the UNFCCC, consisting of industrialised countries and countries in transition to a market economy. All Annex I parties except the United States are also parties to the Kyoto Protocol, and in this context they are referred to as <i>Annex I parties to the Kyoto Protocol</i> .
APP or AP6	Asia–Pacific Partnership on Clean Development and Climate, established in 2006.
ARENA	Australian Renewable Energy Association. A body set up under the Clean Energy Future Package to administer Australian government funding for renewable energy technologies.
atmospheric lifetime (of a GHG)	The average lifetime of a GHG in the atmosphere before it is broken down or removed through natural processes. For example, the atmospheric lifetime of methane is 12.2 years, that of nitrous oxide is 120 years, and that of CO ₂ is variable, which is to say uncertain overall. ¹
Australia Clause	Article 3.7 of the Kyoto Protocol, included (primarily for Australia’s benefit) to allow parties ‘for whom land-use change and forestry constituted a net source of greenhouse gas emissions in 1990’ to include those emissions when calculating their 1990 emission levels, which form the baseline for emission cuts over the first commitment period.
Australian Carbon Unit	The main trading unit (emission allowance) under the Australian CPM.
AWG-KP	Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol. It was established in 2005 at CMP 1 on the basis of Protocol Article 3.9, which mandates consideration of the further commitments (emission reductions, etc.) by Annex I parties at least seven years prior to the end of the first commitment period (i.e. 2012).
AWG-LCA	Ad Hoc Working Group on Long-term Cooperative Action under the Convention. At COP 13 in 2007, the UNFCCC parties established the AWG-LCA with a mandate to focus on key elements of long-term action

¹ Intergovernmental Panel on Climate Change, *Climate Change 1995: The Science of Climate Change: Contribution of Working Group I to the Second Assessment Report of the IPCC* (Cambridge University Press, 1996), p. 22, Table 4; and D. Archer and V. Brovkin, ‘The Millennial Atmospheric Lifetime of Anthropogenic CO₂’, 90 *Climatic Change* 283 (2008).

	(mitigation, adaptation, finance, technology, and a 'shared vision') in order to improve and strengthen the UNFCCC.
Bali Action Plan	Adopted at COP 13 in 2007. The Plan has guided the work of the AWG-LCA.
baseline, or business as usual	That which would have been observed – for example in terms of GHG emissions or another variable – in the absence of some form of intervention, such as a government policy or a CDM project; a historical trend that is to continue into the future if left undisturbed.
baseline-and-credit	A type of emissions trading scheme in which regulated entities earn tradable credits for reducing their emissions below a certain baseline.
BCA	Building Code of Australia
bilateral finance	The term applies to grant-based assistance provided directly through multi-regional, regional and bilateral programs rather than as contributions to multilateral funds or organisations. Cf. multilateral finance.
biosequestration	The removal of carbon from the atmosphere and its subsequent storage in carbon sinks, such as vegetation, soils or oceans.
Cancun Adaptation Framework	The UNFCCC COP adopted the Cancun Adaptation Framework in 2010. In this instrument, the UNFCCC parties affirmed that adaptation must be addressed with the same level of priority as mitigation.
cap-and-trade	A type of emissions trading scheme in which regulated entities must hold and surrender sufficient emission permits to cover the volume of GHG emissions they produce. The government sets a cap on the total number of emission permits made available in any period under the scheme.
capacity-building	A process that seeks to build legal, scientific and technical skills and institutions in developing countries to enable them to pursue environmentally sustainable pathways.
carbon pricing	The range of economic instruments for GHG emission reduction through pricing of emissions, including carbon taxes and emission trading.
CCA	Climate Change Authority (Australia). An independent expert body tasked with the conduct of reviews and the recommendation of scheme caps under the CPM.
CCS	Carbon capture and storage, an emerging technology for capturing CO ₂ through an

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	industrial separation process. The gas is then liquefied and sealed in underground reservoirs.
CDM	Clean Development Mechanism. One of the three market (flexibility) mechanisms of the Kyoto Protocol.
CEFC	Clean Energy Finance Corporation (Australia). An entity established under the Clean Energy Future package to stimulate private investment in clean energy.
CER	Certified Emission Reduction. An emission allowance issued pursuant to Article 12 of the Kyoto Protocol (Clean Development Mechanism) and the provisions of Kyoto Protocol Decision 3/CMP.1. It is equal to one metric tonne of CO ₂ eq.
CFI	Carbon Farming Initiative (Australia). The policy behind the <i>Carbon Credits (Carbon Farming Initiative) Act 2011</i> (Cth).
CH ₄	Methane, a greenhouse gas controlled by the Kyoto Protocol.
Clean Energy Future Package	The Australian government's package of climate change policies released in July 2011.
CMP (or COP/MOP)	The <i>Conference of the Parties Serving as the Meeting of the Parties</i> to the Kyoto Protocol. Occasionally referred to as 'MOP' (Meeting of the Parties to the Protocol). The CMP is held in November–December each year and runs in parallel with the Conference of the Parties (COP) to the UNFCCC. Decisions made at CMP meetings are referred to as CMP decisions.
CO ₂	Carbon dioxide, a greenhouse gas controlled by the Kyoto Protocol.
CO ₂ equivalent (CO ₂ eq.)	A unit normally following a quantity in tons, indicating that the global warming potential of a non-CO ₂ greenhouse gas, or a mix of them, is being expressed in terms of the quantity of CO ₂ that would have the same warming impact. See also 'global warming potential'.
COAG	Council of Australian Governments
COP	Conference of the Parties to the UNFCCC. The COP is held in November–December each year and runs in parallel with the Conference of the Parties Serving as the Meeting of the Parties to the Kyoto Protocol (CMP). Decisions made at the annual COP meetings are referred to as COP decisions.
commitment period	Under the Kyoto Protocol, Annex I parties to the UNFCCC that are also parties to the Kyoto Protocol agreed to reduce their overall emissions of scheduled (Annex B) greenhouse

	gases by an average of 5.2 per cent below 1990 levels over a five-year commitment period, 2008–12. A second commitment period (2013–17 or possibly 2013–20) was agreed to at the Durban CMP in 2011.
Compliance Committee	Created by the Kyoto Protocol, it makes determinations about state-party compliance with mandatory obligations on reporting and accounting for emissions and for meeting emission targets. It is divided into a Facilitative Branch and an Enforcement Branch.
Copenhagen Accord	At COP 15 in 2009, informal negotiations in a group consisting of major economies and representatives of regional and other negotiating groups resulted in a political agreement known as the Copenhagen Accord. Over objections from a minority of states, the COP ‘took note’ of the Accord without adopting it.
CPM	Carbon Pricing Mechanism (Australia)
CPRS	Carbon Pollution Reduction Scheme (Australia) (never implemented)
CTCN	Climate Technology Centre and Network (UNFCCC)
DNA	Designated National Authority (CDM)
DOE	Designated Operational Entity (CDM)
EEO Program	Energy Efficiency Opportunities Program (Australia).
EIA	Environmental Impact Assessment
EITE activities	Emission-Intensive Trade-Exposed activities
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i> (Australian federal legislation)
ERU	Emission Reduction Unit: an emission allowance issued pursuant to the provisions of Kyoto Protocol Decision 13/CMP.1 (Joint Implementation). It is equal to one ton of CO ₂ eq.
ESD	Environmentally Sustainable Development.
ETS	Emissions Trading Scheme
EU ETS	European Union Emission Trading System
FAO	Food and Agriculture Organization of the United Nations
‘fast-start’ and long-term climate finance	As part of the Copenhagen Accord, developed countries agreed to provide US\$30 billion of fast-start finance in 2010–12 for adaptation and mitigation in developing countries, as well as to jointly mobilise US\$100 billion per year by 2020 for the same purpose.
financial mechanism (of the UNFCCC)	The totality of legal, institutional and procedural arrangements that facilitate and regulate the flow of financial resources mainly

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	from developed to developing countries (as mandated by the UNFCCC).
fugitive emissions	Emissions that do not come from combustion, but are released unintentionally during industrial processes such as coal mining and gas extraction.
Garnaut Review	The Garnaut Climate Change Review, established in 2007 by the then Leader of the Opposition in Australia, Kevin Rudd, to examine the impacts of climate change on the Australian economy and recommend policies in response. The Review published its report in 2008, with an updated report published in 2011.
GCF	Green Climate Fund, an operating entity of the UNFCCC's financial mechanism, created in 2010 by Decision 1/CP.16.
GEF	Global Environment Facility. The first operating entity of the UNFCCC's financial mechanism, it pre-existed the UNFCCC.
geosequestration	Separation of CO ₂ from other gases in the course of an industrial process, capture and transport of the CO ₂ to a geological storage site, and injection of the CO ₂ into the site, following which the site is sealed.
GGAS	Greenhouse Gas Reduction Scheme (New South Wales, Australia)
GHG	Greenhouse gas. The Kyoto Protocol controls the GHGs listed in its Annex B. The list was extended in 2011 with the addition of nitrogen trifluoride (NF ₃). The set of known GHGs is larger than that controlled by the Kyoto Protocol. Some GHGs are controlled by the Montreal Protocol (1987) to the Vienna Convention for the Protection of the Ozone Layer (1985).
global warming potential (GWP)	The Kyoto Protocol provides that the GWP for a time horizon of 100 years is to be used to convert the Annex B gases to the common unit of 'CO ₂ equivalent'. Under this convention, the GWP ₁₀₀ of CO ₂ is set at 1. The GWP ₁₀₀ of methane works out to 21 times that of CO ₂ . Nitrous oxide has a GWP ₁₀₀ of 310, and so forth. ²
GNI	Gross national income
Gt	Gigatonne (also gigaton)

² Intergovernmental Panel on Climate Change, *Climate Change 1995: The Science of Climate Change* (1996), p. 22, Table 4. The table also presents the values for GWP₂₀ and GWP₅₀₀. The 1995 figures have been slightly revised (Intergovernmental Panel on Climate Change, *Climate Change 2007: The Physical Science Basis: Contribution of Working Group I to the Fourth Assessment Report of the IPCC* (Cambridge University Press, 2007), pp. 212–13, Table 2.14, as corrected at <http://www.ipcc.ch/publications_and_data/ar4/wg1/en/ch2s2-10-2.html#table-2-14>), but they continue to apply for the purposes of the Kyoto Protocol.

GtC/y	Gigatonnes of carbon per year
IAR	International Assessment and Review (UNFCCC)
ICA	International Consultation and Analysis (UNFCCC)
IEA	International Energy Agency
IGAE	Intergovernmental Agreement on the Environment (Australia)
INC	Intergovernmental Negotiating Committee (pre-UNFCCC)
IP (IPR)	intellectual property (rights)
IPCC	Intergovernmental Panel on Climate Change.
JI	Joint Implementation, one of the three market (flexibility) mechanisms of the Kyoto Protocol.
Kyoto Protocol	Kyoto Protocol to the UNFCCC. Opened for signature in 1997, entered into force on 16 February 2005.
leakage (or carbon leakage)	Leakage occurs where GHG emission reduction measures implemented in one jurisdiction result, normally unintentionally, in an increase in such emissions in another jurisdiction. Leakage can occur at any jurisdictional level, including at the project level. For example, it occurs where the implementation of a CDM project causes emissions to rise outside the project boundary.
leakage, specifically in forestry projects	The situation where the protection of forest carbon causes carbon-emitting activities to shift to a location outside the project boundary. For example, forest protection measures may constrain the supply of agricultural products or timber, causing market prices to rise, thereby encouraging producers outside the boundary to increase their activities, which in turn causes damage to forests in other areas.
LDC	Least Developed Countries
LULUCF	Land use, land-use change, and forestry.
MEPS	Minimum Energy Performance Standards (Australia)
mitigation measures	Measures taken to decrease emissions of greenhouse gases, for the purpose of reducing climate change and its effects.
MPCCC	Multi-Party Climate Change Committee (Australia)
MRET/RET	(Mandatory) Renewable Energy Target (Australia)
MRV	Measurement, reporting, verification
Mt	Megatonne (or megaton)
multilateral finance	Finance that promotes institutional structures governed jointly by developed and developing

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	countries. These are structures that are needed for a coordinated global response to climate change. Such multilateral assistance works across a wide range of countries. Cf. ‘bilateral finance’.
MWh	Megawatt hour
NAMA	Nationally Appropriate Mitigation Action (UNFCCC)
NAPA	National Adaptation Programme of Action (UNFCCC)
NEL	National Electricity Law (Australia)
NEM	National Electricity Market (Australia)
NGER Act	<i>National Greenhouse and Energy Reporting Act 2007</i> (Australian federal legislation)
NGO	non-governmental organisation
non-Annex I party	A UNFCCC party not listed in Annex I to the convention. Often used as equivalent to ‘developing country’.
NSESD	National Strategy for Ecologically Sustainable Development (Australia)
NSWLEC	New South Wales Land and Environment Court (Australia)
OECD	Organization of Economic Cooperation and Development
offset credit	A tradable unit (emission allowance) representing an amount in CO ₂ eq. of carbon sequestered or GHG emissions avoided.
operating entity (of the UNFCCC’s financial mechanism)	A fund, such as the GEF or GCF, designated by the COP as a component of the UNFCCC’s financial mechanism.
Pacific Islands Forum	The key regional political organisation in the Pacific region, of which Australia and New Zealand are members.
ppm	Parts per million
REDD (UNFCCC)	Reducing Emissions from Deforestation and forest Degradation in developing countries. An extended version of REDD, incorporating forest conservation, sustainable management of forests, and enhancement of forest carbon stocks in developing countries is known as REDD+.
reforestation (under the Kyoto Protocol)	The conversion of non-forested land to forested land, by direct human intervention in the form of planting, seeding, or promotion of natural seed sources on land that once was forested but that has been converted to non-forested land. Cf. ‘afforestation’.
RGGI	Regional Greenhouse Gas Initiative (United States). It covers the New England states of the north-east, as well as some of those in the mid-Atlantic region, including New York.

RMU	Removal Unit: an emission allowance issued pursuant to the provisions of Kyoto Protocol Decision 13/CMP.1 (emission reductions attributed to the land sector in Annex I parties). It is equal to one ton of CO ₂ eq. Net emission removals from LULUCF activities carried out by an Annex I party to the Protocol will result in the issue of RMUs, which the party may add to its assigned amount for the commitment period.
SBI (UNFCCC)	Subsidiary Body for Implementation
SBSTA (UNFCCC)	Subsidiary Body for Scientific and Technological Advice
Secretariat (UNFCCC and Kyoto Protocol)	Administrative body of international public servants common to the UNFCCC and the Kyoto Protocol.
sequestration	Removal or absorption and subsequent storage of GHGs (mainly carbon dioxide) from the atmosphere.
sinks	Sites that sequester carbon, such as trees, biomass and oceans.
Technology Mechanism	Consists of the Technology Executive Committee and the Climate Technology Centre and Network.
tipping point (tipping element)	A critical state of a system component, beyond which the system enters a qualitatively different mode of operation. Tipping points may be crossed as a result of natural variability or human activity and may imply large-scale effects on human and ecological systems. Components with tipping points are called tipping elements.
tonne (also ton)	A unit measure equal to 1000 kilograms. In climate science, 'ton' and 'tonne' are used interchangeably to refer to this metric measurement.
UNFCCC	United Nations Framework Convention on Climate Change. Opened for signature in 1992, entered into force on 21 March 1994.
VCAT	Victorian Civil and Administrative Tribunal (Australia)
WCI	Western Climate Initiative (North America). A cap-and-trade scheme covering seven western US states and four Canadian provinces.
white certificate scheme	A trading scheme designed to achieve energy efficiency targets.
WMO	World Meteorological Organization (United Nations).

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