



EXCISE LEGISLATION AMENDMENT (CONDENSATE) BILL 2008

Second Reading Speech By Senator Mathias Cormann on 25 September 2008

[Senator CORMANN](#) (Western Australia) (11:56 AM) —This [Excise Legislation Amendment \(Condensate \)](#) Bill 2008 is a lazy tax grab by a lazy government desperate for cash to fund its high-spending budget, and the people of Western Australia are being asked to pay the bill. After the election we were told for six to seven months: ‘We’ve got to fight inflation. The inflation genie is out of the bottle. We’ve got to cut spending. This is going to be a tough budget.’ What did we find out on budget night? Net spending went up by \$15 billion. Of course, the Rudd government, now that they are so-called ‘economic conservatives’, were desperate to ensure that they could still show a bit of a surplus. So what did they do? They had to find some easy tax targets. Never mind the negative and disastrous flow-on consequences. Never mind that this will have a disastrous impact on the economy, families, pensioners and businesses in Western Australia. Never mind that this will have disastrous consequences for our sovereign risk profile. Never mind that this is not the right decision to ensure we attract investment in an industry that can help us address the challenges of global warming by exporting LNG to some of the Asia-Pacific markets. Never mind that this is the time, from both an economic and an environmental point of view, when we should be doing everything we can to attract investment that will help us to ensure our energy security, to continue to grow and to ensure economic prosperity into the future.

This is an ad hoc measure. As Senator Johnston said in his speech earlier today, it is a drive-by shooting. This is not a serious attempt to balance the need to provide an appropriate return to the community with the need to provide a competitive taxation framework for an important industry. This is an ad hoc measure from a government that had to look very quickly for \$2½ billion and thought: ‘Oh, well, these are big oil and gas companies, so who is going to stand up for them? This is going to be easy politically for us to sell.’ It is the same way that they tried to sell a \$3.2 billion tax take on so-called alcopops as a health measure even though they never talked to the health department about it. These are all tax measures driven out of Treasury—there is nothing else to it. If the government were serious about taking a strategic view, they would have asked the Henry review into the taxation system to consider this issue first and then come up with whatever taxation framework they considered appropriate. But, no, they put in this \$2½ billion additional tax grab targeted at the North West Shelf project outside of any strategic considerations and are quite happy to take all of the negative public policy consequences that might come our way.

Let us talk about the sovereign risk profile and our attractiveness as an investment destination. The reality is this: we are in an environment where there is huge demand pressure for LNG, which we have in abundance but are not exploiting to our fullest potential. We need to attract investment but we are actually a high-cost investment destination compared to other investment destinations in the Asia-Pacific. We face technological geological challenges and compared to other potential investment destinations we are at a comparative disadvantage.

Our sovereign risk profile, our political stability and our highly skilled workforce were the competitive advantages that we were able to bring into play to attract the necessary investment and to increase gas production in Australia, which is quite frankly what we should be aiming for. The government does not worry about our sovereign risk profile and does not worry that gas projects of this nature are very capital intensive. The North West Shelf gas project is a \$25 billion investment. Do you think if you put \$25 billion on the table that you would not want some certainty in terms of your cost structures and in terms of the fiscal arrangements that you operate within? Do you think you would put \$25 billion on the table if the government, at a whim, without even going through a proper process, can just throw all of that overboard?

For 30 years we had bipartisan commitment to giving a proper, stable fiscal framework to this very important project. It was the first such major project that we were able to get off the ground here in Australia. Sir Charles Court, the great former Premier of Western Australia; Malcolm Fraser, the then Prime Minister; and the project proponents sat down and came up with an arrangement that ensured that this project would get off the ground; it did and it was very successful. We should do more of this. To their credit the Hawke, Keating and Howard governments essentially went along with what was a very clear understanding on the fiscal arrangement that was in place to ensure that this project would get off the ground and continue to expand and continue to provide the significant export income, taxation revenue and benefits to our economy that it has.

How did the government go about this? When you make a major change like this and you want to ensure that any impact on our sovereign risk profile is minimised, don't you think you would sit down with the stakeholders concerned and consult instead of saying: 'This is what we are thinking: we do not think that you are paying enough. We think that we ought to revisit the exemption that was agreed to 30 years ago'? Don't you think you would say: 'Let's sit down. How can we ensure that all parties to the arrangement can come up with the best possible way forward to ensure that it is a win-win'?

The government did not consult with anyone. Treasury did not even consult with the most expert Commonwealth department on this measure, the Department of Resources, Energy and Tourism. Quite frankly the government would have done very well to look at some of the evidence in Senate estimates. I refer very specifically to the evidence on 31 May 2005 by Mr Hartwell, head of the Resources Division in the Department of Resources, Energy and Tourism. If Treasury had had a close look at this, they would have actually been able to provide advice to the Treasurer that his argument that somehow this is closing a loophole or getting rid of a taxation advantage is actually nothing more than a furphy. It is absolutely dishonest spin.

The government went out there and tried to justify this measure by stating that somehow the North West Shelf gas project inappropriately benefited from a taxation advantage that was not available to anybody else. That is not true—it is absolutely incorrect. I asked Treasury whether they had done any modelling to substantiate that assertion put out there by the Treasurer. In order to benefit from a taxation advantage it has to be an advantage compared to somebody else, presumably, somebody who is faced with the same set of circumstances. Firstly, is there any offshore gas project other than the North West Shelf that is currently paying excise on condensate? You will find that there is not, because straight after the North West Shelf gas project got off the ground the then government, in 1987 I believe, introduced what was called a petroleum resource rent tax, which is a profit based tax. It is a system of secondary taxation that essentially allows major gas projects of

this nature to make major deductions for exploration expenses and various other allowable deductions, which can be compounded forward et cetera.

Projects these days that would essentially start off something like the North West Shelf did 30 years ago will not pay any secondary taxation for at least five to 10 years—don't take my word for it; that is the evidence from Senate estimates—because they will be able to deduct a whole heap of expenditure, which was never the circumstance for the North West Shelf project. During the inquiry we held, Treasury was actually trying to make the point that they were exempt from all secondary taxation. When I tested this and sent an email back afterwards and said, 'This is not quite right. As I understand it, they have paid royalties and they have paid excise on everything other than condensate production from day one,' in fact the response was, 'Yes, they have.'

The latest information that came my way is that Woodside actually wrote to the Treasurer earlier this week and provided advice that under its calculations, the North West Shelf venture actually paid \$8 billion more in tax than it would have if it had been subject to the PRRT arrangements. Where is the taxation advantage in that? Can somebody tell me where the taxation advantage is in this? Essentially, the Treasurer went out there trying to justify a \$2.5 billion tax grab, which of course the businesses that are affected by it will try to pass on to their customers. That will, of course, put upward pressure on the price of gas and electricity, which will put pressure on families, pensioners and businesses in Western Australia. And it is all to fund the Rudd government's big-spending, big-taxing budget.

I asked Treasury, 'Did you actually model this to substantiate the assertion made by the Treasurer that this is a taxation advantage?' They said, 'No, we did not.' They got lost in all sorts of arguments, and I might quote some of the exchanges, which would be quite amusing if it were not so serious. I read a quote to Treasury from Mr Don Voelte, who had said:

... this is not a loophole or a free ride which has come to an end. This is a negotiated fiscal arrangement which formed the basis of Australia's largest resource development

Treasury officials told the committee:

Contrary to suggestions from industry we have not been able to find any statements or documents which suggest that the exemption was supposed to apply indefinitely.

So they have not been able to find evidence that it was, but they cannot rule it out either. Then, in evidence before the committee they said:

... the project has had an exemption from all secondary taxation at the Commonwealth level, not counting the royalty arrangement which is in place with the states. It has been exempt from crude oil excise for 30 years.

Wrong! And that was evidence provided by Treasury at our inquiry! If Treasury does not understand what is being proposed how can this Senate have any confidence in passing this bill? How can we have any confidence that this is a properly substantiated measure, properly thought through, having properly assessed all the flow-on consequences, in particular for the people and the businesses of Western Australia?

Then, again, the Treasury officials say:

The project that we are talking about has enjoyed for 30 years an exemption from the secondary taxation regime to which it was subject.

Wrong! I will just read, for the benefit of the Senate, specifically what the North West Shelf project has paid: 'Petroleum royalties set at the rate of 10 per cent and 12½ per cent of the net wellhead value of production from each licence area; crude oil production excise associated with crude oil produced from each petroleum field.' Crude oil production on the North West Shelf has not been excise exempt.

If you go back to the evidence on 31 May 2005 you will find that Mr Hartwell, when asked questions about this, told Senator O'Brien that if the North West Shelf project had been subject to PRRT instead of the excise and royalty regime to which it is subject then it was his opinion that the secondary taxation liability would have been about the same. When you have a senior expert Commonwealth official who makes that sort of assertion on 31 May 2005, and you are an incoming government that is considering introducing such a measure, and wanting to sell it on the basis that this is getting rid of a taxation advantage, wouldn't you think that that government would ask the question: 'Is that the case or is it not the case?' Don't you think that the Treasurer, wanting to go out and say, 'We're closing a loophole; we're getting rid of a taxation advantage,' would have asked his department: 'Look, there was this answer on 31 May, 2005 from Mr Hartwell where he said this. Now, I want to say that; can you give me some evidence?' In all of the inquiries—during Senate estimates and during the Senate inquiry—I have not had one answer where Treasury was able to substantiate the Treasurer's assertion that the North West Shelf gas project benefited from a taxation advantage.

Even worse, today we find out that Woodside, which now has done the analysis, has actually written to the Treasurer and advised the Treasurer that, by their calculation, they have paid \$8 billion more in secondary taxation than they would have under PRRT arrangements. I expect an answer from the government about this, because why should the people of Western Australia pay higher gas prices, higher electricity prices—it will have a serious negative impact on their economy—just so that the Rudd government can put another \$2½ billion into its high-spending budget?

Let us just reflect on what happened on 6 September, because I was quite stunned. This measure was first announced on budget night and the next day I read in the *West Australian* a quote from Alan Carpenter, then Premier of Western Australia. Essentially, Alan Carpenter was an apologist for the Rudd government. Straightaway he said, 'Yeah, no worries.' The one thing the Rudd government thought about was how to buy off the state of Western Australia. They thought, 'We're going to make this change. It is going to have a flow-on impact on your budget, so we'll have a couple of hundred million there to make sure that you're not going to be worse off as a Labor state government.' So what does Alan Carpenter say? 'Sure; no worries! This should not have any impact on investment in the North West Shelf. We're quite happy for the Rudd government to go ahead.'

I was flabbergasted. We have a great tradition in Western Australia of premiers standing up for our state. Premiers in Western Australia actually stand up to the government in Canberra, no matter which political persuasion. Ask Malcolm Fraser whether Sir Charles Court would have just waved him through. Ask John Howard whether Richard Court would have just waved him through. I think the answer would be no. And I think you will find, on 6 September, that was one of the reasons the decision of the people of Western Australia went the way it did.

Then Woodside came out and told people the bleeding obvious: 'If we are going to be faced with this \$2½ billion tax we will seek to pass it on.' What did the then Premier of Western Australia, Alan Carpenter, do? He shot the messenger. He said, 'This is outrageous. Woodside shouldn't be allowed to do this; we should send them to this body and that body,' instead of standing up to Canberra and telling Kevin Rudd to do things to support important Western Australian industry, to stand up for economic prosperity in Australia and in Western Australia, and to stand up for our capacity to contribute to energy security and to address the global challenge of climate change.

This is a bad public policy measure. It is a lazy tax grab by a lazy government that essentially was desperate to find some cash to fund its high-spending budget. This measure should not be supported. This measure is very bad public policy. This should have gone through a proper strategic process. The Henry review of taxation should have looked at this strategically to ensure that we balanced the need to provide appropriate returns to the community with the need to provide a competitive taxation arrangement for an important industry. This measure should not have been introduced as an ad hoc measure in the budget on 13 May. In my opinion the Senate should very strongly vote against this.