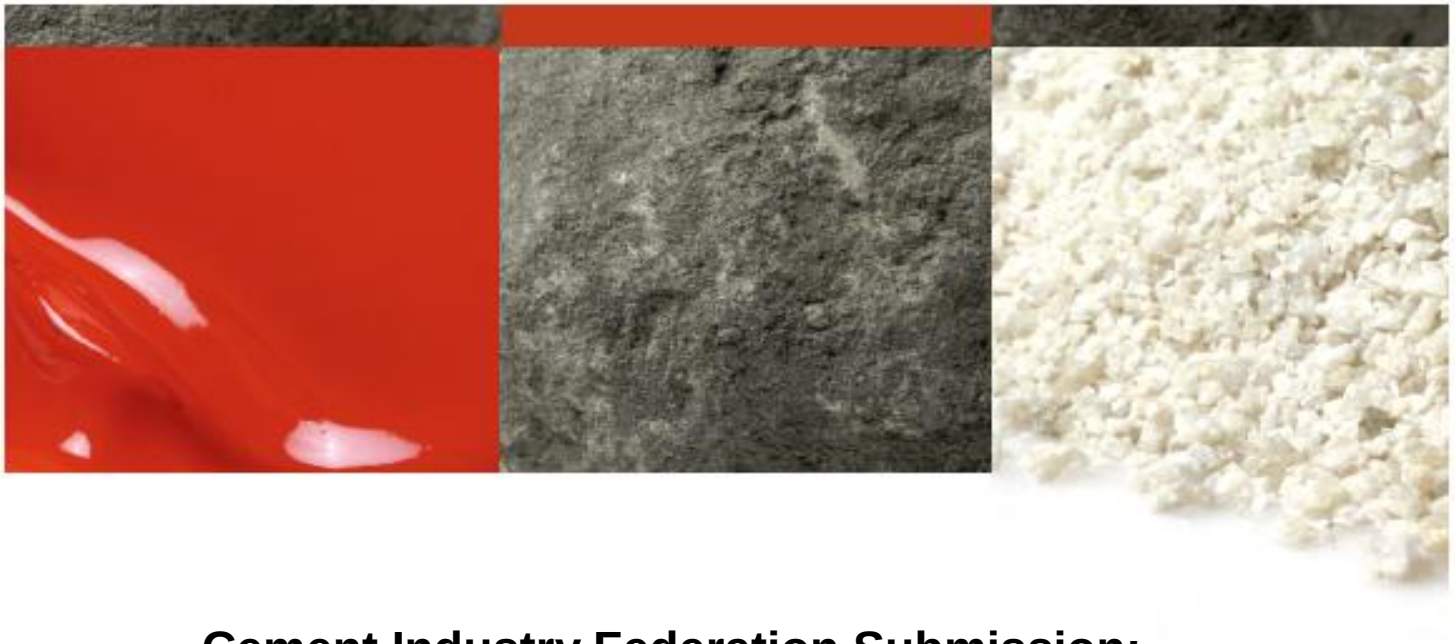
CEMENT INDUSTRY FEDERATION



Cement Industry Federation Submission: Senate Standing Committee on Economics

Clean Energy Legislation Amendment (International Trading and Other Measures) Bill 2012 and Six Related Bills

September 2012

Adelaide Brighton Cement Ltd BORAL CEMENT AUSTRALIA

CEMENT INDUSTRY FEDERATION

Summary

- The CIF has not had adequate time to consider the merits of the legislative changes proposed by the Australian Government and believes that rushing through legislative amendments to the Australian National Register of Emissions Units Act 2011 and other related Acts, without proper consultation and analysis, is not in Australia's national interest.

- The CIF supports the elimination of the floor price when the carbon tax shifts to an emissions trading scheme (ETS) in July 2015. Floor prices can be distortionary, in that they discard the notion of introducing an Australian 'market based' emissions trading scheme that facilitates decisions consistent with an effective international price on carbon.

- The CIF supports linking of emission trading schemes where this would encourage wider international participation, particularly with South East Asian Nations to participate in international trading schemes to reduce greenhouse gas emissions.

- Australia must initially ensure it will not be disaffected by individual distortionary measures that are captured within the EU ETS. This analysis should occur before legislation is introduced to link the Australian and European Union schemes.

- The CIF is concerned that the Australian Government is currently proposing to introduce the concept of a 'designated limit', to limit the availability of specified eligible international emission units (initially Kyoto units of 12.5%). This should not occur without guidance being provided by Productivity Commission. This is a distortionary policy that will inhibit lowest cost abatement opportunities being available to Australian liable entities.

- The CIF is concerned whether the Australian Government will have sufficient negotiating power with the EU on future scheme changes (particularly after the two way link) given the relative size of the two schemes. If Australia were to lose sovereignty on scheme design and administration, this would represent an unacceptable risk for Australian liable entities.

- Negotiations on two-way linking with the EU should focus primarily on encouraging a truly international scheme. This will require Australia to aggressively pursue an Asian friendly stance on a range of issues, particularly with regard to 'allowable' offsets.

- Despite the linking announcement, Australian Cement Companies are still at a competitive disadvantage with Asian competitors.

- Due to the potential impact on forward carbon prices, any justified limiting of specified eligible international emission units should be made three years in advance of an actual change.

- The proposed linking arrangements with the European Union should adopt an approach that requires transaction costs for Australian liable entities to be minimised.

- The Australian Government should provide a rationale for a change in the maximum allowable auction volume.

The Cement Industry Federation

The Cement Industry Federation (CIF) welcomes the opportunity to make a submission to the Senate Standing Committee on Economics in relation to the Clean Energy Amendment Bill 2012 (and six related Bills), albeit the inadequate time period allowed to provide comments.

The CIF is the national body representing the Australian cement industry, and comprises the three major Australian integrated cement manufacturers - Adelaide Brighton Ltd, Boral Cement Ltd and Cement Australia Pty Ltd. Together these companies account for 100 per cent of integrated clinker and cement supplies in Australia.

Their operations are located in every state and territory, and include eight integrated cement manufacturing facilities as well as mines to service those facilities and a national distribution network which is heavily reliant upon coastal shipping to move raw materials, our intermediary product and finished product.

The industry employs over 1,600 people and produces over ten million tonnes of cementitious materials, with an annual turnover in excess of $2 billion.

CIF member companies are liable entities under the Clean Energy Act 2011.

The Government has recognised the significance of the competitive pressure faced by the cement industry through the Jobs and Competitiveness Program (JCP). Clinker production is recognised as highly emissions intensive trade exposed, meaning that around 88 per cent CIF member company liabilities are covered with permit allocation from the JCP.

The CIF supports a climate change policy that is trade neutral and global in nature, to ensure Australian cement production is not replaced by countries without a carbon price.

The CIF supports policy that delivers greenhouse gas abatement at least cost – thus allowing a market based mechanism to operate in Australia and overseas. This means countries, including Australia, should ensure that distortionary measures are not adopted in their emission trading scheme to ensure the Clean Energy package allows the ‘market’ to operate at least cost.

This submission raises some of the initial views of the Cement Industry Federation in relation to the legislative changes proposed and the announcement for linking with the European Union (EU) emissions trading scheme.

Detailed Comments

Lack of specific consultation

The CIF believes that in-depth analysis and wide-ranging consultation by the Australian Government with all key stakeholders should occur before the proposed arrangements for linking Australia and the EU emission trading schemes are finalised.

The Government should adopt a consultative approach for all further linking arrangements consistent with the process undertaken by the Department of Foreign Affairs and Trade for bi-lateral trade negotiations. With these arrangements, despite the sensitivity of discussions, meaningful consultation is able to occur.

The CIF does not accept the legislative changes required to give effect to the EU announcement must be rushed through quickly without sufficient time for specific analysis and consultation.

While there has been a number of previous submissions containing material relating to linking from which the Government may have been able to draw, in the context of the EU negotiation there has not been sufficient opportunity for analysis and consultation on some of the specifics of the announcements.

There is no reason to rush legislation through particularly when there does not appear to be a rationale for some of the specific announcements made, such as the introduction of 'sub thresholds' for certain types of international credits. The proposal to introduce the concept of a 'designated limit', to limit the availability of specified eligible international emission units (initially Kyoto units of 12.5%) is difficult to justify if lowest cost abatement is to be pursued by the Australian Government.

This submission is made without the benefit of sufficient time to properly consider the potential impacts of the legislative changes proposed or whether the announcement will help or hinder efforts to encourage all major economies to embrace carbon reduction policies.

The lack of adequate consultations may lead to higher than necessary costs for industry and the need for further legislative change in future.

The elimination of a carbon floor price

The CIF supports not introducing a floor price to Australia's carbon pricing mechanism. Aside from the fact the floor price may have prevented linking of Australia's scheme with other schemes, the floor price would have prevented the use of least cost abatement and the proposed implementation options were not workable from the point of view of containing the costs to be borne by industry.

Linking schemes

The CIF supports linking of schemes where such linking provides greater access to low cost abatement and where it would encourage greater action on climate change from other major economies, particularly those economies with which we compete.

In terms of cement manufacturing, our major competitors are based in South East Asia. Australia is at risk of losing competitiveness against countries that do not have market based mechanisms to deal with carbon of a similar design to Australia's scheme. Ensuring South East Asian economies are encouraged to join international emissions trading arrangements should be the number one priority for Australia.

Linking the Australian-EU schemes

The CIF understands the major features of the Australian-EU linking announcement are:

- A one way link where Australian entities can access EU permits as soon as the required architecture can be put in place;
- The possibility of a two way link from 2018 (to be finalised in 2015); and
- Linking is contingent upon Australia amending its ETS to limit the ability of liable entities to surrender international permits other than EU permits to just 12.5% of liability.

One way linking

On its own, this is a positive initiative that has the potential to determine a forward price path for carbon at a much faster pace than may have happened with the Australian scheme on its own. Such forward price discovery depends upon continued stability of the EU scheme and the continued linking of schemes beyond 2015 and 2018.

Regrettably, it appears that Australia has very little say over any major scheme changes that are contemplated by the European Union. CIF understands the EU is already considering a 'one off' measure to increase the current low price of carbon permits in the EU as there is a view the low price is preventing any actual change from occurring.

It is important that the Australian Government ensure that establishing the one way link can occur with the minimum transaction cost to liable entities as is necessary. There is no benefit to accessing EU permits if the transaction cost of doing so becomes too large. We strongly encourage the Australian Government to keep the perceived risks to the government and the integrity of the scheme in perspective with the transaction costs necessarily imposed by the linking design.

Two way linking

Clearly, there is a great deal of negotiation to occur between Australia and the EU with respect to two way linking. Australia's approach to these negotiations should focus on supporting a continuing scheme design that encourages the rapid adoption of emissions trading by other major economies, particularly those in South East Asia.

Until Asian economies join similar emissions trading arrangements, Australian cement manufacturers will continue to be at a competitive disadvantage as a result of the Clean Energy Act 2011.

The European scheme has been administered differently to ours with respect to cement businesses. The CIF notes the major players in the European market have been allocated more certificates than their actual emissions. This will mean Australian cement companies will either be purchasing certificates from cement players in Europe who have been allocated more than their emissions or purchasing Kyoto units from Asia to subsidise the implementation of heat recovery technologies on cement plants.
Australia should not be willing to hand over 'sovereignty' on scheme design unless the scheme becomes a truly international scheme. Australia should adopt an aggressive stance toward supporting Asian friendly (international) scheme design, particularly with regard to allowable offsets.

Relative negotiating power and scheme sovereignty

The CIF is concerned that Australia's future scheme design, the setting of caps and the inclusion of allowable offsets may be unduely influenced by the European Union following two way linking given the relative size of the two schemes.

It is important that the Australian Government provide confidence to Australian liable entities, that the decision to link does not represent a loss of sovereignty in setting caps and scheme design. It will be difficult to make investment decisions, such as to invest in Carbon Farming Initiative projects if those decisions are subsequently and unduly affected by European Union policy.

The introduction of sub thresholds

While an entity liable under Australia's scheme will continue to have the option of using 50% international permits to meet liability, the legislatative changes propose an ability to regulate for 'sub thresholds' within that limit. The Government has already announced a 12.5% sub threshold on the use of international permits other than EU permits, The 12.5% sub threshold is to be legislated unless the minister varies this 'sub threshold' by regulation.

Sub thresholds are a major concern for the CIF. It is not clear that Australia has gained any specific advantage by agreeing to put sub thresholds in place. By definition, the sub threshold does not encourage access to lowest cost abatement and it does not encourage Australia's competitors in South East Asia to embrace emissions trading.

There has been little justification or rationalisation for this feature other than it was a condition of achieving an agreement.

It is also difficult to see how a sub threshold during the one way linking period could impact negatively on the European scheme to an extent greater than the negative impact of losing access to lower cost abatement for Australian liable entities. The sub threshold serves only to prop up the European price, while giving away a point of negotiation with respect to the scheme design at the two way linking stage.

Too many decisions made by regulation rather than legislation

Some of the critical features of the linking arrangement made with the EU are to be determined by regulation, rather than by legislation. As such, there are some important details (and explanations) missing. This is creating an unnecessary level of uncertainty which is exacerbated by unnecessary flexibility afforded to the Minister to cut timelines for future changes to arrangements.

The setting of further sub thresholds by regulation is one example. Given the potential for enormous impacts on the forward carbon price, the setting sub thresholds should be subject to much greater public scrutiny than will occur if they are set by regulation.

Sub thresholds should be set in legislation and subject to rigorous analysis by the Productivity Commission.

Under the JCP, EITE industries must apply for a Productivity Commission review to initiate any changes. The same level of review should be followed by the Government when making decisions that could materially affect the forward price path and the competitiveness of industry.

The proposed changes to the Australian Clean Energy Futures Package should, at a minimum, be subject to a regulatory impact statement, including the initial 12.5% sub threshold announced as part of the agreement with the EU.

If sub thresholds on the use of international permits are to be definable in regulation, the CIF does not accept that sub threshold changes should occur with only one year's notice. The Australian Government has itself given a policy commitment to three years notice on the basis that such notice is required for certainty and stability. This commitment should be contained in the legislation. Future unforseen problems could adequately be dealt with through a change to legislation, particularly where the solution is obvious.

Auction volumes

Following the release of a discussion paper, "*Auctions: position paper on the legislative instrument for auctioning carbon units in Australia's carbon pricing mechanism*", and the consideration of submissions relating to Australia's auctioning system, the Government set maximum auction volumes of 15 million permits.

The proposed legislative changes to be put before the Parliament would increase this to 40 million. It is not clear why the maximum allowable auction volume has been changed and whether this is at all related to the EU linking announcement made by the Australian Government on 28 August 2012.