

Chapter 1

Introduction and conduct of the Inquiry

1.1 On 20 September 2012, the Senate jointly referred the provisions of the following bills for inquiry and report by 29 October 2012:

- Clean Energy Amendment (International Emissions Trading and Other Measures) Bill 2012;
- Clean Energy (Charges-Excise) Amendment Bill 2012;
- Clean Energy (Charges-Customs) Amendment Bill 2012;
- Excise Tariff Amendment (Per-tonne Carbon Price Equivalent) Bill 2012;
- Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment (Per-tonne Carbon Price Equivalent) Bill 2012;
- Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Amendment (Per-tonne Carbon Price Equivalent) Bill 2012; and
- Clean Energy (Unit Issue Charge-Auctions) Amendment Bill 2012.

1.2 These bills (the Clean Energy Amendment Bills) make amendments to the *Clean Energy Act 2011* (CE Act) and other acts which cover:

- arrangements to link Australia's carbon pricing mechanism (CPM) to other countries' trading schemes, including the European Union (EU) Emissions Trading System (ETS);
- the removal of the price floor and the repeal of the *Clean Energy (International Unit Surrender Charge) Act 2011*;
- consequential changes to the equivalent carbon pricing of liquid fuels and synthetic greenhouse gases;
- the streamlining of arrangements for relinquished carbon units;
- limits on issue of carbon units at auction without a pollution cap in place;
- the content of measurement determinations under the *National Greenhouse and Energy Reporting Act 2007* (NGER Act);
- the treatment of natural gas under the CPM; and
- the treatment of Goods and Services Tax (GST) joint venture operators in the Opt-in Scheme.

Conduct of the inquiry

1.3 The committee advertised the inquiry on its website and wrote directly to a range of individuals and organisations inviting written submissions. The committee received 19 submissions, which are listed at Appendix 1.

1.4 The committee also held a public hearing in Canberra on 19 October 2012. Witnesses representing seven submissions appeared at the hearing, along with

representatives of the Department of Climate Change and Energy Efficiency (DCCEE) and the Treasury. The names of the witnesses who appeared at the hearing are at Appendix 2.

1.5 The committee thanks all who contributed to the inquiry.

Policy context and background to this inquiry

1.6 The Clean Energy Amendment Bills build on the Clean Energy Legislative Package passed by the Senate on 8 November 2011, which implemented the CPM and provided (*inter alia*) that this mechanism could be linked to credible overseas emissions trading schemes.¹

1.7 The primary purpose of the Clean Energy Amendment Bills is to facilitate the first of these links, between the CPM and the EU ETS, and to allow for other links with overseas schemes in the future. This follows discussions between the Australian Government and European Commission that commenced following agreement to terms of reference on 5 December 2011, and a subsequent announcement by the two parties on 28 August 2012 that the two schemes would be linked from 1 July 2015.²

1.8 The EU ETS is a mandatory emissions trading scheme covering all 27 EU member states, along with Norway, Iceland and Liechtenstein. The EU ETS began operation in 2005, and is the world's largest emissions trading scheme, covering some 11,000 facilities.

1.9 An interim one-way link between the CPM and the EU ETS will operate from 1 July 2015, allowing Australian liable entities to use European allowance units for compliance under the CPM. Under this arrangement, Australian liable entities will be able to meet up to 12.5 per cent of their liabilities using Kyoto units, and up to 50 per cent using European allowance units (taking into account the use of Kyoto units) during the interim linking period.

1.10 Linking the CPM to the EU ETS will provide Australian liable entities with access to a broader range of credible, low-cost abatement from an established market, and help facilitate the transition from a fixed carbon price to a market-based emissions trading scheme.³

1.11 A full two-way link, by means of the mutual recognition of carbon units between the two systems, is to commence no later than 1 July 2018. As the Explanatory Memorandum notes, the full linking of the two schemes will 'allow

1 The Explanatory Memorandum for the Clean Energy Bill 2011 is available at: <http://www.comlaw.gov.au/Details/C2011B00166/Explanatory%20Memorandum/Text>.

2 The Hon Greg Combet MP, 'Australia and Europe strengthen collaboration on carbon markets,' 5 December 2011, <http://www.climatechange.gov.au/en/minister/greg-combet/2012/media-releases/March/mr20120329b.aspx>; and the Hon Greg Combet MP, 'Australia and European Commission agree on a pathway towards fully linking emissions trading systems,' 28 August 2012, <http://www.climatechange.gov.au/minister/greg-combet/2012/media-releases/August/JMR-20120828.aspx>.

3 Replacement Explanatory Memorandum, p. 7.

companies that operate in both Europe and Australia to access units which are fully transferable in both jurisdictions, making compliance simpler and making it easier to manage emissions across operations.⁴

History of the policy of linking

1.12 The policy of linking an Australian carbon pricing mechanism to credible international schemes is not new. On the contrary, the concept of international linkages has, as DCCEE told the committee, been:

...a continuous feature of government policy on emissions trading since the development of the Shergold Report [the report of the Prime Ministerial Task Group on Emissions Trading] and the former Coalition government's response to it in Australia's climate change policy in July 2007.⁵

1.13 The Shergold Report stated that, as 'a supporter of the development of a global system, Australia has a direct interest in promoting links between comparable [carbon pricing] schemes.' On this basis, the report contended that any Australian trading scheme 'should be designed to enhance the scope for links, both formal and informal, with as many different systems as possible.'⁶

1.14 The Shergold Report further suggested that Australian recognition of credible foreign permits or credits:

...will assist in seeking out abatement opportunities at least cost and optimising the timing of exploitation. Any of these links will provide a conduit for the transmission of emission abatement prices and serve to enhance efficiency globally.⁷

1.15 The Carbon Pollution Reduction Scheme was also designed, as the green paper that preceded it explained, 'to link with other schemes overseas to contribute to a global solution and to ensure that Australian businesses can access low-cost pollution reduction.'⁸

4 Replacement Explanatory Memorandum, Clean Energy Amendment Bills, p.7. Available at <http://www.comlaw.gov.au/Details/C2011B00166/Explanatory%20Memorandum/Text>.

5 Mr James White, *Proof Committee Hansard*, 19 October 2012, p. 36. The Shergold Report (more properly known as the *Report of the Task Group on Emissions Trading*), was prepared by the Prime Ministerial Task Group on Emissions Trading. Australian Government, *Report of the Task Group on Emissions Trading* (hereafter Shergold Report) (2007), <http://pandora.nla.gov.au/pan/79623/20071127-1411/www.dpmc.gov.au/publications/emissions/index.html>.

6 Shergold Report, p. 111.

7 Shergold Report, p. 112.

8 Australian Government, *Carbon Pollution Reduction Scheme: Green Paper* (July 2008), pp. 23-24, <http://www.climatechange.gov.au/~media/publications/green-paper/greenpaper.ashx>. Also see Australian Government, *Carbon Pollution Reduction Scheme: Australia's Low Pollution Future: White Paper* (December 2008), vol. 1, chapter 11, <http://www.climatechange.gov.au/publications/cprs/white-paper/~media/publications/cprs/CPRS-report-vol1.pdf>.

1.16 The Clean Energy Future Plan also anticipated that Australia's carbon price would be linked to international carbon markets from the start of the flexible price period, allowing 'reductions in carbon pollution to be pursued globally at lowest cost.'⁹ As DCCEE told the committee, the fact that discussions proceeded faster than originally expected was, in part, a reflection of 'European confidence in the arrangements we have proposed or now implemented here in Australia.'¹⁰

Removal of the price floor and introduction of 'designated limits'

1.17 The CPM, as currently legislated, was to include a price floor of \$15 per tonne commencing on 1 July 2015, rising at four per cent in real terms each year. The price floor was intended to 'reduce the risk of sharp downward movements in the price, which could undermine long-term investment in clean technologies.'¹¹

1.18 The Clean Energy Legislative Package made provision for the price floor by combining auction reserve prices for domestic carbon permits and a surrender charge for international units.

1.19 As part of the linking arrangement with the EU, the Australian Government agreed to remove the price floor and restrict the quantity of eligible Kyoto units that liable entities could use to discharge their carbon pricing liabilities. The Government will also have the capacity to introduce additional or alternative quantitative limits on the use of eligible international emissions units, through the use of a 'designated limit' mechanism.¹²

1.20 The Explanatory Memorandum suggests these amendments are necessary to facilitate the convergence of EU and Australian carbon prices. As a result, from 1 July 2015, Australia's carbon price will 'reflect that of our second largest trading bloc, and be consistent with at least 30 other countries – including the United Kingdom, France and Germany.'¹³

Natural gas provisions

1.21 The bills also make amendments relating to the treatment of natural gas under the Australian scheme. These amendments are unrelated to the link to the EU ETS.

1.22 The Explanatory Memorandum states that the:

...natural gas industry involves a complex array of supply arrangements which can change over time. Currently, the natural gas provisions cater for the vast majority of supply arrangements in use. In order for the CPM to

9 Australian Government, *Securing a Clean Energy Future: The Australian Government's Climate Change Plan* (2011), p. 30, <http://www.cleanenergyfuture.gov.au/wp-content/uploads/2012/06/CleanEnergyPlan-20120628-3.pdf>.

10 Mr James White, DCCEE, *Proof Committee Hansard*, p. 36.

11 Australian Government, *Securing a Clean Energy Future: The Australian Government's Climate Change Plan* (2011), p. 27.

12 Replacement Explanatory Memorandum, p. 7.

13 Replacement Explanatory Memorandum, p. 7.

maintain effective and complete coverage of natural gas, a power will be included in the CE Act to allow regulations to be made to provide for coverage of alternative natural gas arrangements. This will help maintain competitive neutrality by supporting the complete coverage of natural gas under the CPM over time.¹⁴

Consultation

1.23 The Government invited comments on the drafts of the Clean Energy Amendment Bills following the announcement of the linking with the EU ETS on 28 August 2012, and indicated that the legislation would be introduced in the 2012 Spring Parliamentary sitting period. Several public consultation sessions and technical working group discussions were held, including in Sydney, Melbourne and Canberra, and 20 submissions on the draft legislation were received.

1.24 DCCEE informed the committee that it also had approximately 25 direct discussions with interested stakeholders regarding the bills. Some of these stakeholders may have also participated in formal consultations arranged by DCCEE.¹⁵

1.25 The House Standing Committee on Economics also conducted an inquiry on the Clean Energy Amendment Bills.

14 Replacement Explanatory Memorandum, p. 52.

15 DCCEE, Response to Questions on Notice, 19 October 2012, Question No. 1.

