

The Greenpeace logo is displayed in white, uppercase letters on a green background. The background consists of a large green shape on the left that tapers to a point on the right, and a smaller, rounded green shape on the right side of the page.

## **Greenpeace submission to the Senate Rural and Regional Affairs and Transport Committee Inquiry into the Implementation, Operation and Administration of the Legislation Underpinning Carbon Sink Forests**

To: The Secretary  
Senate Standing Committee on Rural and Regional Affairs and Transport  
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# Greenpeace submission to the Senate Rural and Regional Affairs and Transport Committee Inquiry into the Implementation, Operation and Administration of the Legislation Underpinning Carbon Sink Forests

## Introduction

Thank you for the opportunity to make a submission to the Inquiry into the Implementation, Operation and Administration of the Legislation Underpinning Carbon Sink Forests.

The Legislation under Inquiry has an interesting history. In 2007, the Legislation was first introduced into Parliament by the then Treasurer Peter Costello (Schedule 1 of the *Tax Laws Amendment (2007 Measures No. 6) Bill 2007*). After being passed in the House of Representatives, the Bill was deemed non-essential and held over before the Senate on the last sitting day before the 2007 *Federal Election Bill*.

The *Tax Laws Amendment Bill 1* was subsequently introduced to Parliament by Treasurer Wayne Swan and marked for debate. The Treasurer reintroduced the measure in *Tax Laws Amendment Bill 2*, which was marked as “non-controversial”.

Minister for Climate Change Penny Wong tabled the Environmental Regulations that would attach to the Legislation in relation to subsection 40-1010(3) of the *Income Tax Assessment Act 1997* on 2 July 2008.

The Senate referred the matter to the Senate Standing Committee on Rural and Regional Affairs and Transport for inquiry and report by 22 August 2008.

While in isolation, subsection 40-1010(3) of the *Income Tax Assessment Act 1997* appears to be rather innocuous, and indeed “non-contentious”, when read in conjunction with the Government’s Green Paper on its proposed Carbon Pollution Reduction Scheme (CPRS), the scale and scope of Carbon Sink Forests makes it a highly controversial and potentially environmentally damaging issue that requires adequate and appropriate discussion.

The Green Paper proposes not to include emission from deforestation, but to include plantation establishment as an offset for industrial emissions. Greenpeace does not support the preferred position outline by the Government in the Green Paper, in relation to the treatment of forestry for the following reasons:

1. **Permanence** - Biological sinks can become sources of emissions for a wide variety of natural and human-induced reasons, including climate change itself. Storing carbon in vegetation is not permanent. Vegetation can decay, decline, die, burn, be attacked by pests and be cut down. A European Union research team estimated that, during the 2003 heatwave in Europe, around 500 million tones of carbon were released into the atmosphere in less than two months. These releases are equivalent to around twice the emissions from burning fossil-fuels in the region over the same period.
2. **Carbon accounting' uncertainties** - Calculating the amount of carbon stored and sequestered in vegetation is fraught with uncertainties. Estimates can vary significantly depending on the methodology used, the assumptions made, and the carbon pools that are taken into consideration or ignored (e.g. soil, litter, below-ground biomass). Measuring carbon fluxes is prone to similar uncertainties.

3. **Plantations** - The use of 'sink' credits creates an incentive for developers to give preference to low-cost, fast growing plantations that have a high sequestration potential. Such plantations often have a negative impact on biodiversity, especially if they displace existing ecosystems.
4. **The European Union** does not include forestry in its ETS<sup>1</sup>, and will not be doing so for the foreseeable future. Greenpeace agrees with the conclusions of the European Commission that:
  - "Including forestry could undermine the environmental integrity of the EU ETS as forestry projects cannot physically deliver permanent emissions reductions".
  - "Insufficient solutions have been developed to deal with the uncertainties, non-permanence of carbon storage and potential emissions 'leakage' problems arising from such projects."
  - "The temporary and reversible nature of such activities would pose considerable risks in a company-based trading system and impose great liability risks on Member States."
  - "The inclusion of LULUCF projects in the ETS would require a quality of monitoring and reporting comparable to the monitoring and reporting of emissions from installations currently covered by the system. This is not available at present and is likely to incur costs which would substantially reduce the attractiveness of including such projects."
  - "The simplicity, transparency and predictability of the ETS would be considerably reduced. Moreover, the sheer quantity of potential credits entering the system could undermine the functioning of the carbon market unless their role were limited, in which case their potential benefits would become marginal."
  - "The Commission believes that global deforestation could be better addressed through other instruments. For example, using part of the proceeds from auctioning allowances in the EU ETS could generate additional means to invest in LULUCF activities both inside and outside the EU, and may provide a model for future expansion."<sup>2</sup>

Greenpeace's preference is for the LULUCF sector to be excluded from the CPRS and measures to address emissions from that sector be introduced separately.

Under the proposed *Environmental and Natural Resource Management Guidelines in relation to the establishment of trees for the purposes of carbon sequestration* as set out in the Schedule, many of these contentious issues surrounding plantation establishment are touched upon. These are:

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<sup>1</sup> COMMISSION OF THE EUROPEAN COMMUNITIES, 2003. Extended Impact Statement on the Directive of the European Parliament and of the Council amending Directive establishing a scheme for greenhouse gas emission allowance in the Community, in respect of the Kyoto Protocol's project based mechanisms - Brussels, 23.7.2003

<sup>2</sup><http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/08/35&format=HTML&aged=0&language=EN&guiLanguage=en>

1. Carbon sink forest establishment should be based on regionally applicable best practice approaches for achieving multiple land and water environmental benefits.
2. Carbon sink forest establishment activities should be guided by regional natural resource management plans and water sharing plans, and environmental impacts at a catchment scale should be considered.
3. Carbon sink forest establishment activities should recognise and adhere to all government regulatory requirements.

## 1. The proposed Guidelines must become mandatory requirements under the *Income Tax Assessment Act 1997*

The Guidelines are a grossly inadequate response to the massive establishment of Carbon Sink Forests envisaged by the CPRS Green Paper. The Government is preparing to encourage the establishment of Carbon Sink Forests, with tax deductions on top of the ability of a landholder to profit from the sale of carbon permits, without proper environmental safeguards.

The Government specifically envisages complementary frameworks for natural resource management and the importance and Regulatory cooperation on the protection of water and biodiversity in relation to Carbon Sink Forest Establishment. The CPRS Green Paper states that:

The scheme regulator will not have the capacity to assess the natural resource management implications (for water or biodiversity) of forest sequestration activities. For this reason, and to ensure that multiple regulators do not make decisions on the same issues, the Government believes that the scheme regulator should not be required to take into account natural resource management issues in assessing whether forests should receive permits, and should only have powers relating to climate change outcomes. The existence of separate frameworks for natural resource management complements such an approach.

The Environmental Regulations are at present the only separate framework that is specifically intended to reduce the environmental impact of Carbon Sink Forest, and must thus be mandatory conditions precedent to any tax benefit derived from Carbon Sink Forest establishment.

2. New and more rigorous Condition must be developed to safeguard the social, cultural and environmental integrity of areas proposed for Carbon Sink Forest establishment. In developing the new and more rigorous Conditions the Principles of the Food and Agriculture Organisation Draft Planted Forest Code and the UNFCCC Principles for Land Use and Land Use Change and Forestry must be addressed.<sup>3</sup>

**The FAO Draft Planted Forest Code** include particularly:

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<sup>3</sup> FAO Draft Planted Forest Code: <http://www.fao.org/forestry/media/10295/1/0/>

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Principle 8: Maintenance of Social and Cultural Services  
Principle 9: Maintenance and Conservation of Environmental Services  
Principle 10: Conservation of Biological Diversity  
Principle 11: Maintenance of Forest Health and Productivity  
Principle 12: A Landscape Approach

**The UNFCCC Principle for Land Use and Land Use Change and Forestry (LULUCF)** for the first commitment period of the Kyoto Protocol (Decisions 11/CP.7<sup>4</sup>) place requirements that the implementation of the provisions that deal with forestry activities (Article 3.3 and 3.4) is consistent with conservation of biodiversity and sustainability:

“1. *Affirms* that the following principles govern the treatment of land use, land-use change and forestry activities:

...

(e) That the implementation of land use, land-use change and forestry activities contributes to the conservation of biodiversity and sustainable use of natural resources”;

Paragraph 26 of the Annex to Decision 22/CP.7 (CP/2001/13/Add.3, page 28<sup>5</sup>) states that:

Each Party included in Annex I shall provide a description of any national legislative arrangements and administrative procedures that seek to ensure that the implementation of activities under Article 3, paragraph 3, and any elected activities under Article 3, paragraph 4, also contributes to the conservation of biodiversity and sustainable use of natural resources.

### 3. The Legislation must discourage the establishment of Carbon Sink Forests in catchments where available water resources are fully or over-committed.

The establishment of plantation forests in water catchments can have severe negative impacts on the quality and quantity of in stream and ground water. The National Water Initiative<sup>6</sup> identifies large-scale afforestation as a land use change that may intercept significant volumes of surface and ground water. As trees use more water than annual crops and intercept more rainfall than pastures, there will be a substantial reduction in stream flows and groundwater recharge where plantation forests are established.

The NWI requires that:

...water entitlements be held for significant interceptions (including plantations) in catchments that are overallocated or are approaching overallocation. Over time, NWI reforms should result in full-cost pricing of water for all land-use purposes. As those reforms are implemented, plantation owners, like other water users, will need to factor the costs of water and other inputs into their production decisions.<sup>7</sup>

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<sup>4</sup> [http://unfccc.int/resource/docs/cop\\_7/13a01.pdf#page=54](http://unfccc.int/resource/docs/cop_7/13a01.pdf#page=54)

<sup>5</sup> [http://unfccc.int/files/meetings/workshops/other\\_meetings/application/pdf/5.1\\_guidelines.pdf](http://unfccc.int/files/meetings/workshops/other_meetings/application/pdf/5.1_guidelines.pdf)

<sup>6</sup> National Water Initiative: <http://www.nwc.gov.au/nwi/index.cfm#overview>.

<sup>7</sup> National Water Initiative: <http://www.nwc.gov.au/nwi/index.cfm#overview>

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This does not, however, take into account the social, cultural and environmental impacts that significant land use changes such as Carbon Sink Forest establishment may have on the water availability to existing water uses and the environment. Therefore Regulations attached to the Legislation must prohibit the establishment of Carbon Sink Forests in fully-allocated or over-allocated catchments

#### 4. The Legislation must specifically exclude tax benefits to persons who establish Carbon Sink Forests on land where natural ecosystems have been cleared for that purpose.

Under the Government's CPRS Green Paper, Carbon Sink Forest establishment may generate Carbon Pollution Permits that may be sold to carbon polluters. However, the preferred Government position articulated in the CPRS Green Paper is to not include emissions from deforestation, but will investigate options for incentive-based mechanisms to reduce deforestation.<sup>8</sup> As yet, no such incentive-based mechanism has been publicly announced. Greenpeace's preferred mechanism for dealing with emissions from deforestation is through Regulation. Nevertheless, until emissions from deforestation are addressed, providing incentives to establish Carbon Sink Forests will lead to a perverse incentive for native forests being cleared for plantation establishment.

The CPRS Green Paper claims that:

Some new forests would be commercial plantations, while others would be conservation and environmental plantings that enhance the productivity of degraded farmlands. Well-designed plantings can also make other positive contributions for example in salinity mitigation and biodiversity conservation.

Without Legislation that provides for such plantings, there can be little hope for conservation and environmental plantings to be established. Indeed experience has shown that pulp companies in particular "often locate their mills in or near large areas of natural forest with the intention of 'mining' the forests prior to establishing fast-wood plantations, which generally take at least 10 years to come on stream. In the meantime, the mills continue to use large quantities of timber from natural forests."<sup>9</sup>

Section 3.9 of the *Tax Laws Amendment Bill* excludes deductibility for plantations established on lands that in 1990 contained trees that attained, or were more likely than not to attain, a crown cover of 20 per cent or more; and reached, or were more likely than not to reach, a height of two metres or more.

To avoid the perverse outcome of the tax amendment encouraging further land clearing of native vegetation, section 3.16 should be amended to exclude land that contains **native vegetation** not just trees. This would provide for native grasslands, shrublands, woodlands and wetlands without crown cover of more than 2m in height.

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<sup>8</sup> <http://www.greenhouse.gov.au/greenpaper/report/pubs/greenpaper.pdf> at 135

<sup>9</sup> [http://www.cifor.cgiar.org/publications/pdf\\_files/Books/ForestPerspective.pdf](http://www.cifor.cgiar.org/publications/pdf_files/Books/ForestPerspective.pdf) at 16

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## 5. The Legislation must specifically exclude tax benefits to persons who establish Carbon Sink Forests with the intention of harvesting those forests.

Emissions from forests as a result of harvest or fire can be significant. If Carbon Sink Forests are harvested, these emissions will substantially reduce, if not totally cancel out any carbon sequestration benefit of the Carbon Sink Forest. Providing a tax incentive for the establishment of a Carbon Sink Forest while not restricting that incentive to only those forests that are intended to remain standing is perverse.

The establishment of plantations for Harvested Wood Products or Biomass should not be provided with Carbon Sink Forest taxation incentives. Section 3.9 of the *Tax Laws Amendment Bill* provides for this and should be retained.

## 6. The Legislation must specifically exclude tax benefits to persons who establish Carbon Sink Forests using tree species not found naturally the plantation is establishes.

Typical of the fast-wood plantations likely to be the recipient of the tax benefits envisaged by subsection 40-1010(3) of the *Income Tax Assessment Act 1997* are “short-rotation plantations consisting of single-species blocks of eucalypts, poplars, acacias and pines. These plantations generally constitute a major land use, or at least they dominate the landscape. This is plantation forestry at its most intensive—and controversial”<sup>10</sup>.

To minimise the environmental impacts and to ensure that co-benefits to biodiversity and land rehabilitation are encouraged, only those Carbon Sink Forests that utilise tree species that grow naturally in the area should be the recipients of tax benefits.

## 7. Tax incentives need to be expanded for climate change solutions.

If the Government wishes to use tax incentives to encourage investment in climate change solutions, then we encourage them to look beyond the establishment of Carbon Sink Forests. Changes to tax law could be used to encourage greater investment in renewable energy technologies, energy efficiency and renewable energy research and development through accelerated depreciation for capital expenditure on renewable energy and energy efficiency, and higher R&D tax concession for renewable energy.

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<sup>10</sup> Christian Cossalter and Charlie Pye-Smith, 2003. Fast-Wood Forestry Myths and Realities. Center for International Forestry Research, Indonesia. <http://www.cifor.cgiar.org>