Environment and Communications Legislation Committee

Australian National Registry of Emissions Units Bills 2011; Carbon Credits (Carbon Farming Initiative) Bill 2011; Carbon Credits (Consequential Amendments) Bill 2011

Response to Question on Notice

Question No: 1

Topic: Regrowth on deforested land

Question:

Senator MILNE—Can we separate those, because they are two different things? Can you give me a number for both of those things? One is the re-clearance and the other is deforestation where you are converting an existing forest for the first time.

Mr Searson—It could be done, but that is not the way we have done it.

Ms Thompson—One of the challenges with that analysis is that in some cases the management actions are very similar. The management action might be something like fencing off, removing stock or whatever. We felt that it made the analysis easier to combine the two. Then we could give a figure for that. If, however, there is a policy interest in looking at re-clearing versus clearing of never-before cleared vegetation, then that is not the analytic task we set ourselves; but we could go away and have another look at that.

Senator MILNE—If you would, because I am interested in the basis on which you might get a reference level in relation to the creation of avoided deforestation credits. Is it the historical rate of logging? And wouldn't that be influenced by the level of panic clearing? Because of things in the past it might actually be an inflated level of clearance than otherwise might have been the case.

Ms Thompson—We can take that away and have another look at that.

Answer:

The estimate of abatement from avoided deforestation and managed regrowth on deforested land, reported in the *CFI Preliminary Estimates of Abatement Discussion Paper*, did not distinguish between the relative contributions of each component.

The Department can now advise that the respective contributions of avoided deforestation and managed regrowth on deforested land to the reported abatement estimate are as presented in the table below.

	Indicative estimate of abatement in 2020 (Mt CO_2-e)		
	Avoided deforestation	Managed regrowth on deforested land	Rounded total
Low scenario	1	0.4	1
High scenario	5	0.9	6

The assumptions behind these estimates were described in the discussion paper.

The estimate of abatement for avoided deforestation in the discussion paper did not attempt to distinguish between re-clearing and first time clearing.

The Department can advise that we estimate that 65 per cent of projected abatement for avoided deforestation is re-clearing and 35 per cent is first time clearing.

The estimate of abatement from avoided deforestation is underpinned by an assumption that each hectare of avoided deforestation reduces emissions by 100 tonnes of carbon dioxide equivalent (t CO_2-e). This value provides an approximation of the carbon stocks in woodland forests of western Queensland and New South Wales that may be most likely to be available for a Carbon Farming Initiative (CFI) project. The average figure used by the Department (100 t CO_2-e per hectare) is consistent with a rate of clearing of previously cleared land of approximately 65 per cent which is comparable with recent patterns of clearing and re-clearing in Australia.

To be eligible under the CFI, projects must use an approved CFI methodology. The Department will establish Technical Working Groups to inform the development of methodologies for native forest protection and managed regrowth on deforested land. These methodologies will detail the baseline scenarios which will need to show the emissions or sequestration that would occur in the absence of a project. In the case of avoided deforestation projects, CFI participants would need to show that the under the selected baseline scenario the land in question would be deforested under a business as usual scenario resulting in greenhouse gas emissions. See also answer to Question 10.

Each methodology, including the baseline scenarios, will be subject to public comment and consideration by the Domestic Offsets Integrity Committee before it is approved by the Minister for use in the CFI.

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Response to Question on Notice

Question No: 2

Topic: Never-before cleared forest

Question:

Senator COLBECK—On the question about the separation, when you do that could you give a definition of what you mean by 'never-before cleared forest'? That actually does have some significant implications on the calculation. Never-before cleared forest is effectively old-growth forest, and there are a whole series of classifications down the line from that. I am not trying to complicate the argument, but there may be other implications that flow from it.

Ms Thompson—We are happy to take that on notice and have a look at it.

Answer:

The Senator's question relates to the Department's answer to Question 1. In this context 'never before cleared forest' refers to forest that has not been previously cleared and that meets the Kyoto Protocol definition of deforestation on land that was forested on 31 December 1989. In general terms, it does not cover reducing rates of logging in harvested native forests but covers clearing of woodlands in western New South Wales and Queensland for grazing purposes.

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Response to Question on Notice

Question No: 3

Topic: NRM Groups

Question:

Senator COLBECK—When we were talking with your friends as part of this process, one of the concerns they had was a potential conflict of interest with NRM groups—we have talked about the variation in NRM plans; we do not need to go back there—with them as potential participants in this process but then their regional plans and that local process being, as you said, the place in which communities can have their input into this. The potential conflict of interest is their having oversight or influence over who is in the regional area as far as investment is concerned.

Ms Thompson—I must say I was a little surprise to hear that view. I would take the view that catchment management bodies and the people that serve on them are engaged in a lot of different activities in the land sector. I would presume that this issue of conflict comes up for them from time to time and that individual catchments would have mechanisms to deal with that, just as every one else who is dealing with matters that have commercial implications have conflict of interest approaches. That is not something I am expert on. I do not know whether Mr Gibbs wants to say anything further on that. I prefer to take the question on notice and we will see whether we can give you an answer.

Answer:

The Carbon Farming Initiative (CFI) requires project proponents to advise of any inconsistencies with regional NRM plans. This provision allows regional communities to have a say in the types of projects they want, and in what locations, in their region. Inconsistencies with regional NRM plans will be reported in the public Register of Offset Projects. This enables buyers to take this into account in their purchasing decisions.

Activities that have significant adverse impacts on biodiversity, water, employment and regional communities will be ineligible under the CFI, regardless of whether they are a part of the relevant regional plan.

NRM bodies that develop regional plans and could also participate in the CFI as proponents, brokers or aggregators. Similarly, regional NRM bodies and their board members plan for and engage in other land uses such as agricultural production, conservation and development.

It is the Australian Government's understanding that each of the 56 natural resource management organisations have procedures which require individual members to declare that they have a conflict of interest in an issue or decision being made. The regional board then decides whether it is a direct conflict (generally where there is potential for a direct financial benefit for them or a family member/friend) in which case the member would not take part in the discussion/decision process.

The Department is also talking to the Department of Agriculture, Fisheries and Forestry, the Department of Sustainability, the Environment, Water, Population and Communities, and NRM bodies about how potential conflicts of interest might be managed.

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Response to Question on Notice

Question No: 4

Topic: Rights of inspections

Question:

Ms Stuart-Fox—In terms of the provisions or the way that you ensure that those powers are correctly enforced, they are subject to the order of a magistrate. So in terms of the right of inspection or of the inspection powers, the project proponent would have to approve that or would have to agree to that.
Senator FISHER—Beforehand or after the event?
Ms Stuart-Fox—Before the event unless there was an order of a magistrate. So these things are subject to a warrant by a magistrate. These are standard.
Senator FISHER—I thought only in some cases.
CHAIR—We will go to Senator Milne in a second.
Senator FISHER—Yes.
Ms Stuart-Fox—No. I will take you to the enforcement chapter and to the enforcement provisions, so to 97 of the explanatory memorandum—
Senator FISHER—Proposed section 198 talks about it being in terms of a warrant.
CHAIR—Senator Fisher—
Senator FISHER—Please take it on notice, Ms Stuart-Fox.

Answer:

Powers of inspectors, including monitoring powers, are contained in Part 18 of the Carbon Farming Initivitive Bill and are in line with those in other comparable pieces of Commonwealth legislation, such as the *National Greenhouse and Energy Reporting Act 2007*.

Under section 198, before entering premises, an inspector must have either the consent of the occupier of the premises or a monitoring warrant issued by a Magistrate. An inspector can search the premises, inspect documents, and operate electronic equipment on the premises and secure items for up to 24 hours under a monitoring warrant pending issue of a warrant for seizure of those items. An inspector can only enter premises to determine whether the Act or associated provisions are being complied with or to substantiate information provided under the Act or associated provisions.

The occupier of the premises also has certain rights and responsibilities. These are outlined in sections 209 and 210 and include an entitlement to observe the execution of the warrant and a responsibility to provide reasonable facilities and assistance to the inspector.

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Response to Question on Notice

Question No: 5

Topic: Abatement Estimates

Question:

Ms Thompson—It is quite difficult. The abatement estimates included in Professor Garnaut's update paper on the land sector, and that were also included in the CSIRO 2009 report that focused on Queensland, were estimates of technical potential. What that actually refers to is the biophysical capacity of the land to carry carbon; it does not relate to any particular assumptions about the incentives that you might need to drive that level of abatement. What Professor Garnaut indicated in the update paper is an estimate of potential; it is not a forecast of what could be delivered on the ground. This is one of the areas of this particular debate that does cause some confusion because people look at these very big numbers in the CSIRO report or the Garnaut update and think that is what you could get on the ground. In fact, the next step is to try to work out what abatement you can drive through an incentive like the Carbon Farming Initiative. There is obviously going to be quite a significant difference between the two.
CHAIR—We are just about out of time. Could you take on notice some further analysis of all these different figures that are out there?

Answer:

The Department estimates the likely annual abatement outcomes as a result of the Carbon Farming Initiative (CFI) to be in the range 5-15 million tonnes of carbon dioxide equivalent (Mt CO_2-e) by 2020 for Kyoto-compliant activities.

The CSIRO report of 2009 and the Garnaut Update report provide analysis on the technical potential for abatement on the land. This is a very large number – in the order of 853 Mt CO_2-e per year. This refers to the potential for all the abatement that is possible in biophysical terms, irrespective of actual incentives or barriers to abatement uptake that may be in place in a given sector or geographical area.

The CSIRO report indicates the long term scale of mitigation potential rather than forecast outcomes. Professor Ross Garnaut pointed out that significant uncertainty remains as to how much of the technical potential can be realised. Estimating abatement that can be delivered on the ground requires judgements to be made about the extent to which land holders will change management practices in response to the CFI.

In some cases, methodologies needed to support abatement from the CFI are still to be developed. This will slow uptake and reduce abatement in the short to medium term. Key design features of the CFI such as the requirement for permanence for biosequestration projects as well as the additionality test will affect the cost of projects and hence uptake.

It will take time for participants in the CFI to learn about the possibilities and integrate the opportunities into their management practices. Over the medium term, as land holders benefit from learning by doing and as Carbon Farming practices become more widespread, the abatement could grow strongly. If the CFI is linked to the carbon price mechanism, individual firms may invest directly in CFI abatement projects and deliver more abatement than expected under current estimates.

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Response to Question on Notice

Question No: 6

Topic: 'For harvest' plantations

Question:

1. Are 'for harvest' plantations eligible, in principle, to create carbon credits under the CFI?

2. How would the 'not common practice' additionality test (s 41) be applied to 'for harvest' plantations?

3. Does the legislation in any way prevent proponents from arguing that the ability to secure carbon credits would be 'additional' because a project would not otherwise be commercially viable?

4. Does the legislation preclude plantations established for felling through Management Investment Schemes from being eligible to create carbon credits?

Answer:

1. Most commercial forestry activities are unlikely to be eligible for crediting under the Carbon Farming Initiative (CFI) because they are common practice and would not pass the additionality test.

2. Forestry activities that are not currently common practice, for example, longer rotations, low rainfall plantations, new species or management regimes and integrated farm forestry models could be considered additional and these projects may include some harvesting.

3. To be eligible for the CFI project activities must be on the positive list, which sets out activities that are beyond common practice rather than using a financial additionality test. The legislation does not provide for project-level assessment of additionality. This means that project proponents cannot argue that an individual project should be eligible for credit because it is not financially viable.

4. In combination, the requirements of the CFI and for Managed Investment Schemes make it highly unlikely that investors will be able to access tax benefits for Managed Investment Schemes in addition to carbon credits.

Managed Investment Schemes can be used to finance forests established for harvest only, not carbon sink forestry plantations.

For harvest forestry activities are unlikely to meet the CFI additionality test because they are commonly occurring.

As currently structured, for harvest forestry Managed Investment Schemes are for a single rotation, allowing investors to recover their capital and exit from the business after around 10 years. This model provided a significant upfront tax benefit and an expectation of high returns from sale of the timber over a relatively short time period.

Projects involving single rotation plantations are unlikely to benefit from the CFI because the scheme requires credits to be handed back if projects are terminated within 100 years.

In theory, Managed Investment Schemes could be structured to run a business involving more than one harvest rotation. In practice, such arrangements are unlikely to be attractive because, for example, individuals would have to invest in the business for a long period (at least two harvest rotations) in order to obtain the initial tax benefit. In addition, the amount of carbon credits received would have to be adjusted downwards to take account of harvest emissions.

The Government can exclude from the CFI types of projects that have significant potential for adverse outcomes, including projects funded through managed investment schemes, through the ‘negative list’.

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Response to Question on Notice

Question No: 7

Topic: Effectiveness of CFI

Question:

The CFI was designed for the voluntary carbon market, which implies a low price for carbon credits and relatively low levels of abatement compared with estimates of technically available abatement. However, the DCCEE preliminary indicative view of CFI abatement in 2020, tabled at the Committee hearing, assumes a price of $33 for Kyoto compliant credits (rising from $20/tonne CO2-e in 2013); for non Kyoto abatement, the assumed price is $5 per tonne in 2020 (rising from $3/tonne CO2-e in 2013).

a) What would be the estimated abatement for Kyoto compliant activities in a voluntary market (i.e. price in 2020 of $5 per tonne)?

b) What would be the estimated abatement for non-Kyoto compliant activities if they became eligible under new Kyoto rules (i.e. price in 2020 of $33 per tonne)?

c) When will estimates for 'forest management' relating to native forests (in particular native forest harvesting) be available? Can they be calculated at the two prices ($5 and $33 per tonne in 2020)?

Answer:

In relation to a), the Department has not attempted to make estimates of abatement for the prices identified for Kyoto compliant activities. This is because under the Carbon Farming Initiative it is proposed that credits generated by abatement through Kyoto-compliant activities would be available for sale on international Kyoto-compliant carbon markets. Consequently, the Department has utilised prevailing international carbon prices as the basis for the abatement calculations for these activities.

In relation to b) and c), the Department does not yet have estimates of abatement available for these scenarios. However, work is progressing on these topics and is expected to be finalised shortly.

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Response to Question on Notice

Question No: 8

Topic: Activities on protected land

Question:

1. What additionality rules might enable owners/managers of:
   (a) covenanted private land;
   (b) Indigenous Protected Areas; and
   (c) public land in conservation reserves to generate eligible carbon credits?

2. Can the Government give some examples of specific activities on these land categories that would be eligible to create carbon credits?

3. Similarly can the Government give an indication of the potential scale and value of these eligible activities?

Answer:

1. Under the Carbon Farming Initiative (CFI), there are two additionality criteria: a project must be beyond common practice and beyond regulatory compliance. All projects, including those on protected land, must meet these criteria to ensure that offsets generated under the CFI represent real abatement.

   Beyond common practice: The CFI includes a positive list of activities that go beyond common practice. Abatement activities on protected land, such as vegetation management and pest species management, are uncommon activities and therefore are likely to be included on the positive list.

   Beyond regulatory compliance: Owners and managers of covenanted private land, Indigenous Protected Areas and reserved public land could generate carbon credits by increasing carbon sequestration beyond mandatory requirements.

   In determining common practice, the Government recognises that in recent years landholders have acted to establish forests and other vegetation in anticipation of a carbon price.

Projects that have already been fully funded by Government would not be eligible for additional funding under the CFI.

2. Abatement activities that go beyond common practice are likely to include:

- vegetation management;
- savanna burning;
- feral species management;
- revegetation; and
- establishment of not-for-harvest forests.

Projects undertaking these activities on protected land would be eligible to generate offsets provided that the activity is not mandatory (that is, required by a covenant or regulation).

3. The Government has published estimates of the abatement likely to be achieved under the CFI in the *CFI Preliminary Estimates of Abatement Discussion Paper* which is available on the Department's website at www.climatechange.gov.au/en/publications/carbon-farming/cfi-abatement.aspx.

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Response to Question on Notice

Question No: 9

Topic: Risk of reversal buffer

Question:

In deciding upon a risk of reversal buffer of 5%, did the Government take into consideration CSIRO projections indicating that many parts of the Australia will become significantly warmer and dryer over coming decades, increasing the risk of bushfire for example? If not, why not?

Answer:

The risk of reversal buffer in the Carbon Farming Initiative (CFI) applies to biosequestration projects on a scheme wide basis, which means it is set at a relatively low level compared to other voluntary schemes. It is underpinned by a number of legislative compliance provisions that require scheme proponents to maintain the carbon stocks on their land or hand back credits.

The 5 per cent risk of reversal buffer in the CFI covers losses that cannot be recovered through the legislated compliance mechanisms (that is, because a landholder becomes insolvent or land is improperly transferred) or wrong doing by a third party. It also covers the temporary carbon loss due to bushfire. It does not cover the full amount of carbon lost due to bushfire because the legislation requires the project proponent to take reasonable action to ensure that carbon stores are restored.

The magnitude of the risk from cases such as a landholder becoming insolvent, wrong doing by a third party, or natural disturbance, such as pest attack or drought, are difficult to determine. For this reason, the CFI Bill includes provision to change the risk of reversal buffer as data are collected and scientific knowledge improves.

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Response to Question on Notice

Question No: 10

Topic: Baselines for crediting avoided deforestation projects

Question:

The Government has indicated that there are problems with using historical rates of clearing for setting baselines for crediting avoided deforestation projects. During the hearing the Department said: "So what you think will or will not be cleared into the future is probably a better indication or a better basis for a baseline than historic data."

If not using historical data, what sort of methods or information might the Government use to set baselines for crediting avoided deforestation projects?

Answer:

Baselines for native forest protection projects should reflect what is expected to occur in the absence of the Carbon Farming Initiative. This could be determined using land use change projections that take into account historic land use as well as a range of economic and social factors that influence decisions to clear.

Baselines for native forest protection projects will be determined in consultation with a Technical Working Group, evaluated by the Domestic Offsets Integrity Committee and made available for public comment before it is approved in a methodology.

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Response to Question on Notice

Question No: 11

Topic: Capacity Building

Question:

I asked the Department during the hearing about what the Government was doing to assist aboriginal communities in dealing with the legal barriers preventing them from benefiting from the CFI. In response the Department indicated that it was "talking to both FaHCSIA and DEEWR about how we might work together to address some of those capacity issues and enable participation" and "The government has engaged in the Closing the Gap work so there I think what we are wanting to explore with our colleagues in other departments is the best mechanisms we can use to assist with that capacity building effort."

1. How many meetings have been held between the DCCEE and other Departments regarding this problem, and who attended the meetings?

2. Has there been any allocation of funding from any Department to build capacity in, and enable participation by, indigenous communities?

Answer:

1. Approximately 20 meetings have been held between the Department and other Commonwealth agencies on these issues. Meetings have involved representatives of the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA), Department of Education, Employment and Workplace Relations (DEEWR), the Attorney-General's Department, and the Department of Sustainability, Environment, Water, Population and Communities (DSEWPAC). These discussions are ongoing.

2. DSEWPAC and the Department jointly implement the $10 million Indigenous Emissions Trading election commitment (under the Caring for Our Country program) which seeks to facilitate Indigenous engagement in carbon markets. DEEWR is working with agencies including DSEWPAC, the Department of Agriculture, Fisheries and Forestry, and the Australian Bureau of Agricultural and Resource Economics and Sciences to develop a Carbon Farming Initiative (CFI) resource toolkit to assist Indigenous landowners and managers in assessing the economic development potential of their lands, including through the CFI. DEEWR's Indigenous Employment Program is also available to support Indigenous businesses interested in participating in the CFI.