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IETA Comments on Proposed Registry Options to Facilitate Linking of Australian and European Union Emissions Trading Systems

The International Emissions Trading Association (IETA) welcomes the opportunity provided for by the European Commission (EC) and the Australian Government's Department of Climate Change and Energy Efficiency (DCCEE), to comment on the consultation paper regarding the linking of registries between the EU ETS and the Australian ETS.

As a matter of principle IETA supports emissions trading systems linking with one another, as this enables a more robust carbon market to develop across different jurisdictions. As we see emissions trading schemes develop globally, IETA advocates for compatible systems emerging in view of potential linking in the future. IETA has regularly highlighted its support for the EU-Australia ETS link, but will focus this submission on its purpose to comment on the practical considerations of how registries should link.

IETA's comments are divided into three categories: 1) comments specific to the temporary indirect linking arrangements; 2) comments specific to the transition from the indirect to the direct linking arrangements; and 3) additional comments.

1. Temporary Indirect Linking Arrangements

IETA shares the goal of a two-way, direct link of the EU and Australian schemes, but recognises that this will take time. We therefore welcome the practical proposal of facilitating a temporary indirect registry link as a transition until the full two-way link is made possible.

Based on the consultation paper, our understanding of how this indirect link would work is the following:

- The indirect registry link will not involve a direct transfer of an EUA to the Australian Registry. Instead the Australian Government will hold the EUA in an account in the Union Registry, and will issue an Australian-Issued-International-Unit (AIU) in the Australian Registry, which would shadow the EUA.

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- AllIUs will have the possibility to be either (i) traded in the Australian Registry, (ii) surrendered for compliance under the Australian ETS or (iii) swapped-back for EUAs.

IETA generally supports the proposal for an indirect link to function in such a way, but has some requests for further clarity, which are listed below.

Swapping of EUAs to AllIUs and Vice Versa

IETA supports processes, such as the issuance of AllIUs or the swapping of AllIUs into EUAs, to be as simple and with as short time leads as possible, and preferably automated.

However, the DCCEE has indicated to Australian stakeholders over a recent conference call that the process could take up to three (3) business days. We are aware that the 26 hour EU registry delay on transfers will factor in to this time frame, but request further clarity as to where the additional 46 hours of delay arise from and why.

Legal / Jurisdictional Concerns

IETA would appreciate further clarity on legal and jurisdictional authority regarding the registry linking. During the temporary one-way linking phase, will all EU registry activity by Australian entities and the Australian government account be governed by EU legal jurisdiction? Once having swapped EUAs for AllIUs, and operating within the Australian registry, will Australian entities be subject to Australian jurisdiction only? More clarity on the legal risks and exposure to potentially two sets of laws during the indirect registry phase would be helpful to potential market participants who aim to minimise exposure to legal risk.

Security Considerations when Linking Registries

We welcome the Commission's proposals for addressing security risks when linking registries, such as requiring that the Australian Registry and the EU's Transaction Log would both validate transactions. Preventing criminal activity is essential for the viability of the schemes and credibility of future linking possibilities. We recognise the importance of a coordinated response in case of criminal activity, but also the importance of focusing on prevention.

We would also like to understand what arbitration mechanism would be put in place, in cases of conflict between both jurisdictions' authorities when dealing with criminal offences. Which court would be responsible for finding a solution in cases when the schemes' administrators are at a disagreement?



Initial Linking Time Frame

In terms of timing, IETA supports the objective that the one-way link be in place by 2015. We would suggest however that the technical implementation of linking registries be possible prior to that date, so that a one-way link can take place from a practical point of view as soon as the political support is established. The consultation document states the AIIUs would be issued in advance of the indirect linking period. Greater clarity on when this may take place, compared to the proposed date of 1 July 2015 would be helpful.

2. Transition from Indirect Registry Linking to Direct Registry Linking

The transition to the full two-way linking between both schemes should be conducted in a smooth, automated manner to avoid unnecessary delays and bureaucracy.

The consultation document highlights two possibilities for the future of AIIUs when full linking between both schemes occur. IETA supports the arguments put forward in the consultation document and believes an automatic exchange, rather than a voluntary exchange of AIIUs into EUAs makes sense whenever a transaction for such an exchange is made. This would ensure the complete fungibility of units as soon as a direct link is in place.

3. Additional Comments

Simple Process for Opening Registry Accounts in Different Jurisdictions

IETA believes a simple and direct process should be put in place for entities in one jurisdiction to open registry accounts in the other jurisdiction. Once an entity has gone through the various requirements to open an account in one particular jurisdiction, a simplified process should exist for that same entity to open an account in the other jurisdiction. Such arrangements would be helpful in anticipation of the two-way linking in 2018.

Consistency in the Terms ‘Trade’ and ‘Transfer’

The consultation paper interchanges the terms ‘trade’ and ‘transfer’. Where trade can take place without actual physical delivery of any unit, a transfer only takes place once a contract goes to expiry and the unit is physically delivered. It would be helpful for the wording to be consistent around this distinction.



Trade of AIUs in Australia During the One-Way Link

IETA is doubtful about seeing much trade of EUA-based AIUs under the one-way link, by Australian entities. Instead we believe we are more likely to see Australian market players open EU registry accounts, so EUAs could be traded amongst Australian entities, whilst remaining in the EU registry and having direct trading access to EU counterparts. Only once an Australian entity wants to utilize EUAs for compliance, would an Australian entity then swap its EUAs for AIUs. We would be interested in a further exchange with the EC and DCCEE, on the possibility of this lack of trade in EUA-based AIUs happening, and what the consequences would be.

Conclusion

IETA welcomes the linking of the EU ETS and Australia's ETS, and would like to ensure that such linking between jurisdictions be done in such a way so as to keep future linking possibilities with other emissions-trading-systems open. At this stage, we believe linking arrangements need to be made bilaterally between the parties concerned, but we would like to ensure that regulators don't preclude any future links with other jurisdictions.

IETA appreciates the efforts of both the EC and DCCEE to date to develop a functional and effective link between respective ETS. IETA supports the current proposal and welcomes the extensive level of information the document has addressed. We note that implementation details will be crucial. We look forward to working closely with the DCCEE and the EC and would welcome regular reports on progress as well as regular engagement with stakeholders to ensure a smooth implementation process as additional details and technicalities emerge.

We would be happy to discuss any further details or provide clarification if need be. To do so, please contact IETA's EU Director, Sarah Deblock (deblock@ieta.org), Senior Analyst, Robin Fraser (fraser@ieta.org), or IETA's Australian Representative, Rob Fowler (fowler@ieta.org).

Sincerely,

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