



**Minister for Climate Change and Energy Efficiency  
Minister for Industry and Innovation**

B12/584

The Hon Tony Burke MP  
Minister for Sustainability, Environment, Water, Population and Communities  
Parliament House  
CANBERRA ACT 2600

Dear Minister

The European Commissioner for Climate Action, Ms Connie Hedegaard, and I announced on Tuesday 28 August 2012 that Australia and Europe will be linking their emissions trading systems.

I am writing to seek your approval to amend the *Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995* and the *Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Act 1995* to ensure that the equivalent carbon price applied to synthetic greenhouse gases is more clearly equivalent to the effective carbon price faced by liable entities under the carbon pricing mechanism given the linking agreement.

I propose that the Government introduce the Clean Energy Legislation Amendment Package, including the Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment (Equivalent Carbon Price) Bill 2012 and the Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Amendment (Equivalent Carbon Price) Bill 2012 into the Parliament in the week beginning 17 September 2012.

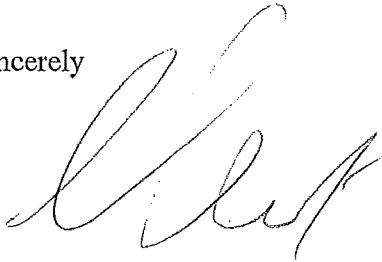
The Department of Climate Change and Energy Efficiency (DCCEE) has worked closely with your department to prepare bills to implement the Government's policy, as announced with the release of the draft Clean Energy Legislation Amendment (International Emissions Trading and Other Measures) Bill 2012 and associated bills on 28 August 2012.

For your reference, please find attached the relevant clauses of the Clean Energy Legislation Amendment (International Emissions Trading and Other Measures) Bill 2012 (Attachment A), and the relevant clauses of the Ozone Protection and Synthetic Greenhouse Gas Acts (Attachments B and C).

To provide for the introduction of the Clean Energy Legislation Amendment Package into Parliament in the week beginning 17 September 2012, I would be most grateful for your response before Friday 14 September 2012.

I have sent a copy of this letter to the Prime Minister for her information.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Greg Combet', written in a cursive style.

GREG COMBET

copy: The Hon Julia Gillard MP  
Prime Minister

**Attachment A – Clean Energy Amendment (International Emissions Trading and Other Measures) Bill 2012**

**76 After section 196**

Insert:

**196A Per-tonne carbon price equivalent**

- (1) Within 7 business days after the end of each designated 6-month period, the Regulator must publish on its website the per-tonne carbon price equivalent for the designated 6-month period.

Note: For *designated 6-month period*, see subsection (18).

*Per-tonne carbon price equivalent—basic rule*

- (2) The *per-tonne carbon price equivalent* for a designated 6-month period is to be worked out to 2 decimal places (rounding up if the third decimal place is 5 or more) using the formula:

$$\text{Total of adjusted reference prices} + \left[ \left( 1 - \frac{\text{Total of designated limit percentages}}{\text{Total of designated limit percentages}} \right) \times \text{Average carbon unit auction price} \right]$$

where:

*average carbon unit auction price* means the average carbon unit auction price for the designated 6-month period.

*total of adjusted reference prices* means the total of the adjusted reference prices for the designated 6-month period.

*total of designated limit percentages* means the total of the designated limit percentages for the classes of eligible international emissions units that are subject to designated limits for the financial year in which the designated 6-month period ends.

- (3) Subsection (2) has effect subject to subsection (4).

*Per-tonne carbon price equivalent—special rule*

- (4) If:

- (a) no instrument is in force under subsection (6) at the end of a particular designated 6-month period; or  
(b) the per-tonne carbon price equivalent worked out under subsection (2) for a particular designated 6-month period is greater than the average carbon unit auction price for the designated 6-month period;

the *per-tonne carbon price equivalent* for the designated 6-month period is equal to the average carbon unit auction price for the designated 6-month period.

*Reference prices*

- (5) If:

- (a) a particular class of eligible international emissions units is subject to a designated limit for a particular financial year; and

- (b) a designated 6-month period ends in the financial year;  
then, within 7 days after the end of the designated 6-month period, the Regulator must, by writing, declare that a specified amount is the *reference price* for the class of units for the designated 6-month period.
- (6) The Minister may, by legislative instrument, determine the method that is to be used by the Regulator in making a declaration under subsection (5).
- (7) In making a determination under subsection (6), the Minister must have regard to:
- (a) prices paid (whether in or outside Australia) for eligible international emissions units included in each of the relevant classes of eligible international emissions units; and
  - (b) such other matters (if any) as the Minister considers relevant.
- (8) In making a declaration under subsection (5), the Regulator must comply with a determination in force under subsection (6).
- (9) The Regulator must publish a copy of a declaration under subsection (5) on the Regulator's website.
- (10) A declaration made under subsection (5) is not a legislative instrument.

*Adjusted reference price*

- (11) For the purposes of this section, if there is a reference price for a class of eligible international emissions units for a designated 6-month period, the *adjusted reference price* for the class of eligible international emissions units for the designated 6-month period is worked out using the formula:

Reference price × Designated limit percentage

where:

*designated limit percentage* means the designated limit percentage for the class of eligible international emissions units for the financial year in which the designated 6-month period ends.

*reference price* means the reference price for the class of eligible international emissions units for the designated 6-month period.

*Modifications of formula etc.*

- (12) If:
- (a) there is a reference price for a class of eligible international emissions units for a designated 6-month period; and
  - (b) the reference price is higher than the average carbon unit auction price for the designated 6-month period;
- then:
- (c) the adjusted reference price for the class of eligible international emissions units for the designated 6-month period is to be disregarded for the purposes of the *total of adjusted reference prices* component of the formula in subsection (2); and
  - (d) the designated limit percentage for the class of eligible international emissions units for the financial year in which the designated 6-month period ends is to be disregarded for the purposes of the *total of designated limit percentages* component of the formula in subsection (2).
- (13) If:

- (a) a class of eligible international emissions units (the *principal class*) is subject to a designated limit for a particular financial year; and
- (b) there is a class of eligible international emissions units (the *secondary class*) that:
  - (i) is included in the principal class; and
  - (ii) is subject to another designated limit for the financial year;

the designated limit percentage for the secondary class of eligible international emissions units for the financial year is to be disregarded for the purposes of the *total of designated limit percentages* component of the formula in subsection (2).

(14) If:

- (a) a class of eligible international emissions units (the *principal class*) is subject to a designated limit for a particular financial year; and
- (b) a designated 6-month period ends in the financial year; and
- (c) there is a class of eligible international emissions units (the *secondary class*) that:
  - (i) is included in the principal class; and
  - (ii) is subject to another designated limit for the financial year; and
- (d) the reference price for the secondary class of units for the designated 6-month period is greater than or equal to the reference price for the principal class of units for the designated 6-month period;

the adjusted reference price for the secondary class of units for the designated 6-month period is to be disregarded for the purposes of the *total of adjusted reference prices* component of the formula in subsection (2).

(15) For the purposes of this section, if:

- (a) a class of eligible international emissions units (the *principal class*) is subject to a designated limit for a particular financial year; and
- (b) a designated 6-month period ends in the financial year; and
- (c) there are one or more classes of eligible international emissions units (the *secondary classes*) each of which:
  - (i) is included in the principal class; and
  - (ii) is subject to another designated limit for the financial year; and
  - (iii) has a reference price for the designated 6-month period that is less than the reference price for the principal class of units for the designated 6-month period;

the *adjusted reference price* for the principal class of units for the designated 6-month period is taken to be the amount worked out using the following formula (instead of the amount worked out under subsection (11)):

$$\text{Reference price for principal class} \times \left( \frac{\text{Designated limit percentage for principal class}}{\text{Total of designated limit percentages for secondary classes}} \right)$$

where:

*designated limit percentage for principal class* means the designated limit percentage for the principal class of units for the financial year.

*reference price for principal class* means the reference price for the principal class of units for the designated 6-month period.

*total of designated limit percentages for secondary classes* means the total of the designated limit percentages for the secondary classes of units for the financial year.

*Interpretation*

- (16) For the purposes of this section, if:
- (a) a particular class of eligible international emissions units is subject to a designated limit for a particular financial year; and
  - (b) a designated limit percentage is applicable to that designated limit;
- then:
- (c) the designated limit percentage is taken to be the designated limit percentage for the class of eligible international emissions units for the financial year; and
  - (d) the class of eligible international emissions units is taken to be subject to the designated limit percentage.
- (17) For the purposes of this section, listed units form a single class of eligible international emissions units.
- (18) In this section:

*adjusted reference price:*

- (a) has the meaning given by subsection (11); and
- (b) has a meaning affected by subsection (15).

*class of eligible international emissions units means:*

- (a) the class mentioned in subsection (17); or
- (b) a class specified in regulations made for the purposes of subsection 123A(1).

*designated 6-month period means:*

- (a) the 6-month period ending at the end of May 2015; or
- (b) each later 6-month period ending at the end of May; or
- (c) the 6-month period ending at the end of November 2015; or
- (d) each later 6-month period ending at the end of November.

*listed unit* has the same meaning as in section 123A.

*reference price* has the meaning given by subsection (5).

**Attachment B – Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995**

**Schedule 1—Amendments**

***Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Act 1995***

**1 Section 2A (definition of *benchmark average auction charge*)**

Repeal the definition.

**2 Section 2A**

Insert:

*per-tonne carbon price equivalent* has the same meaning as in the *Clean Energy Act 2011*.

**3 Subsection 3A(7) (paragraph (b) of the definition of *applicable charge*)**

Omit “benchmark average auction charge for the previous financial year”, substitute “per-tonne carbon price equivalent most recently published under section 196A of the *Clean Energy Act 2011* before the start of the quarter”.

**4 Subsection 4A(5) (paragraph (b) of the definition of *applicable charge*)**

Omit “benchmark average auction charge for the previous financial year”, substitute “per-tonne carbon price equivalent most recently published under section 196A of the *Clean Energy Act 2011* before the start of the quarter”.

**Attachment C – Ozone Protection and Synthetic Greenhouse Gas  
(Manufacture Levy) Act 1995**

**Schedule 1—Amendments**

***Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Act  
1995***

**1 Section 2A (definition of *benchmark average auction charge*)**

Repeal the definition.

**2 Section 2A**

Insert:

*per-tonne carbon price equivalent* has the same meaning as in the *Clean Energy Act 2011*.

**3 Subsection 3A(5) (paragraph (b) of the definition of *applicable charge*)**

Omit “benchmark average auction charge for the previous financial year”, substitute “per-tonne carbon price equivalent most recently published under section 196A of the *Clean Energy Act 2011* before the start of the quarter”.