



australian network of environmental defender's offices

*Submission regarding abatement incentives
prior to the commencement of the Australian
Emissions Trading Scheme* 3 December 2007

The Australian Network of Environmental Defender's Offices (ANEDO) consists of nine independently constituted and managed community environmental law centres located in each State and Territory of Australia.

Each EDO is dedicated to protecting the environment in the public interest. EDOs provide legal representation and advice, take an active role in environmental law reform and policy formulation, and offer a significant education program designed to facilitate public participation in environmental decision making.

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Executive Summary

The urgent need for government action on climate change is clear. As the latest Intergovernmental Panel on Climate Change report notes: *observational evidence from all continents and most oceans shows that many natural systems are being affected by regional climate changes, particularly temperature increases.*¹ In this context, it is essential that measures are put in place to ensure firms do not cease abatement activities in the period prior the commencement of an Australian emissions trading scheme, and that increased genuine abatement activity is encouraged.

The Australian Network of Environmental Defender's Offices Inc (ANEDO) welcomes the opportunity to provide comment on the Discussion Paper: *Abatement Incentives prior to the commencement of the Australian Emissions Trading Scheme* ('Discussion Paper'). ANEDO is a network of community legal centres that specialise in public interest environmental law. Its functions include legal advice and representation, law reform and policy work, scientific advice and community legal education.

We refer to our submission on the broader scheme, *Submission on Prime Minister's Task Group on Emissions Trading –Issues Papers* 7 March 2007 for further detail. It is available at: http://www.edo.org.au/edonsw/site/pdf/nets_anedosub061221.pdf.

ANEDO broadly supports the establishment of a robust emissions trading scheme (ETS) in Australia, as part of a range of measures put in place to address climate change. A robust ETS can lead to environmental benefits, namely the reduction of greenhouse gas emissions. However, ANEDO has some concerns with the early abatement measures that have been proposed and the impact of the measures on the ultimate design of the ETS (for example in relation to the allocation of permits and permitted types of offsets). Our key points are:

- The allocation of emissions permits by auctioning is the most efficient and environmentally effective approach as it clearly applies the polluter-pays principle of ecologically sustainable development. It would also nullify the need to put in place temporary abatement measures;
- Assets eligible for compensation should be determined prior to 3 June 2007 as industry has had significant advance notice about compensation;

¹ Intergovernmental Panel on Climate Change, "Summary for Policymakers of the Synthesis Report of the IPCC Fourth Assessment Report", 16 November 2007 at p2.

- Prior to abatement being conducted, environmental impacts must be avoided first by using all cost effective and mitigation measures onsite;
- The ‘additionality’ of an abatement measure is difficult and often impossible to establish. Abatement projects should be subject to strict scrutiny to ensure substantive additionality;
- Offsets recognised under the ETS should be limited to projects for which there is a reasonable level of accuracy in measurement methodologies;
- Mandatory risk management arrangements are needed to ensure that permanence issues do not compromise the environmental integrity of the ETS;
- Only abatement activities that are ecologically sustainable should be permitted under the scheme;
- The use of forestry projects as offsets is problematic. There are issues as to their measurability, permanence and ecological sustainability;
- Projects involving native forest materials, municipal waste and nuclear materials should not be permitted as offsets under the ETS;
- Greenhouse Friendly needs to be strengthened as there are inherent problems in using a voluntary scheme as the basis for a mandatory one;
- A publicly accessible National Offsets Register is needed to track early action credits and offsets;
- Offset protocols and standards are needed to assist businesses seeking to invest in abatement activities;
- The initial cap under the ETS should not be substantially altered on the basis of abatement activities conducted in non-covered sectors; and
- Voluntary players should be allowed access to the offsets market with some qualifications.

Part 1. Introduction

The Discussion Paper's focus is to provide incentives for covered sectors under the future Australian Emissions Trading Scheme (ETS) to undertake abatement activities in the period prior to the scheme's commencement in 2011. Currently, there is no impetus for industry to do so as any abatement action taken may affect their free allocation of permits when the ETS commences.

Although it is of course necessary to ensure that abatement activities commence now, ANEDO submits that that the early abatement scheme is more about establishing a framework for giving industry concessions, guarantees and certainty, not for driving them to change current practices. The primary focus of ETS should be on its overarching goal, which is the reduction of greenhouse gas emissions, not on compensation arrangements for industry. Furthermore, there are still significant problems associated with the use of offsets. ANEDO believe that there is a need to ensure that abatement activities are subject to robust rules before they are admitted for use in the ETS. Otherwise, the environmental integrity of the scheme will be at serious risk.

Part 2. Ensuring allocation rules maintain abatement incentives

2.0. Free permit allocation under Australian Emissions Trading Scheme

There is a simple way to remove uncertainties relating to how early abatement measures will impact upon permit allocation under an ETS. The simple answer is to auction permits instead of making free allocations.

The proposed emissions trading scheme (ETS) involves the free grant of permits to liable businesses who have suffered 'disproportionate loss' and also free permits to trade-exposed energy intensive industries. Consistent with previous comments,

ANEDO does not support the granting of free permits to emitters.² ANEDO instead supports an auctioning approach. The allocation of permits by auctioning is the most efficient and environmentally effective approach and should be supported. There are five main reasons for this:

First, the free allocation of permits to existing installations is inconsistent with the polluter-pays principle which requires emitters to bear the full costs of their activities. Auctioning clearly applies the polluter-pays principle as emitters will have to pay for their permits. Indeed, the Centre for Energy and Environmental Markets has found that auctioning is the best way for allocating permits “since any possible windfall gains from free allocation are avoided and the ‘polluter pays’ principle is applied.”³

Second, trade-exposed energy intensive industries should not be given free permits as they have had significant forewarning about the likelihood of emissions reductions. The risks of climate change have been widely known since 1990. Therefore, these industries have had a lot of time to commence their transition to a low-carbon economy. The free allocation of permits would send signals indicating that these emitters may continue with business as usual and consequently there will be little impetus for abatement and mitigation.

Third, the economic argument that trade-exposed, energy-intensive industries should be granted free permits to protect their international competitiveness is not sufficient justification for granting free permits. The ultimate goal of the ETS should be reducing greenhouse gas emissions, not on economic considerations. Although economic considerations are of course central to Ecologically Sustainable Development, in light of the 2006 *Stern Review of the economic impacts of climate change*⁴ it is apparent that without a primary focus on the potential environmental impacts of climate change, purely economic approaches are likely to fail to maintain economic and ecological sustainability in the long run.⁵ Indeed, the Stern Report estimates that unless real action is taken against climate change, the global economy may shrink by as much as 20%.

Alternatively, if trade-exposed, energy-intensive industries are made to buy their permits at auction, then this would give them a significant financial incentive to reduce their emissions or invest in abatement technologies rather than continue with business as usual and “write-off” penalties for exceeding their emissions quotas

² See our previous submission, *Submission on Prime Minister’s Task Group on Emissions Trading – Issues Papers* 7 March 2007 for further detail. It is available to be accessed at http://www.edo.org.au/edonsw/site/pdf/nets_anedosub061221.pdf.

³ Regina Betz, Iain MacGill, Robert Passey, Centre for Energy and Environmental Markets, ‘CEEM submission to: a National Emissions Trading Scheme’, November 2005 at 21.

⁴ *Stern Review on the economic impacts of climate change*, 2006. Full text available at http://www.hm-treasury.gov.uk/independent_reviews/stern_review_economics_climate_change/stern_review_report.cfm (27 November 2007).

⁵ Mark Diesendorf & Clive Hamilton (eds), *Human ecology, human economy- ideas for an ecologically sustainable future* (1997) at 71.

as a cost of business. ANEDO submits that without the drive for change that an auctioning approach would facilitate, the proposed scheme may be largely ineffectual in achieving greenhouse emissions reductions.

Fourth, it is unclear what is meant by ‘disproportionate loss’. ANEDO submits that this entails something more than a large loss of revenue. Otherwise the vast majority of liable entities would receive free permits. The term should be strictly defined and the circumstances where it is to apply need to be clearly enunciated prior to the scheme’s establishment. The current definition of “significantly larger than average” is insufficient.

Lastly, as noted, the auctioning of permits would easily solve the problems associated with measuring early action credits and putting in to place temporary measures. This is because if all emitters had to purchase their permits at auction, there would be no perverse incentives. The current proposal to grant free permits creates a perverse incentive for emitters to maintain business as usual in order to maximise their free permit allocations and, as a result, will conduct minimal abatement activities in the lead up to the ETS’s commencement. This had necessitated the need to put these interim complicated arrangements in place, which is the basis of the Discussion Paper. An auctioning approach will ensure a smoother transition. Indeed, the proposed US Regional Greenhouse Gas Initiative (RGGI) emissions trading scheme will involve 100% auctioning.⁶

As a result, ANEDO submits that all permits under the proposed ETS should be auctioned.

2.1. ‘No disadvantage’ arrangements

The Discussion Paper proposes to use emissions data prior to the Prime Minister’s announcement on 3 June 2007 in determining the free allocation of permits. Undertaking abatement projects prior to commencement of the ETS will only occur if firms know that they will not be disadvantaged in their free allocations if they take undertake emissions reduction actions now. ANEDO supports the removal of disincentives to undertaking abatement action now, and therefore supports the use of emissions data prior to June 3rd 2007 if 100% auctioning is not adopted.

The Discussion Paper states that verified emissions data from the first mandatory reporting period under the *National Greenhouse Emissions Reporting System* (‘NGERS’) will be used as an input into permit allocations. This is supposed to determine the level of emissions at the date of the ETS’s announcement. However, data will be used from 2008-09 in addition to verified abatement data from 2007-08. There are two problems with this approach.

⁶ At this stage, the states of New York, New Jersey and Connecticut are planning to use 100% auctioning. The formal rules require at least 25% of permits to be auctioned. See <http://www.rggi.org/index.htm> (27 November 2007).

First, the mandatory requirement to report through the NGERs has not yet commenced. Hence, although emissions data for 2007-08 may be available through state-based or voluntary schemes, this is not necessarily the case. The data collated under the NGERs is only for emissions after the ETS announcement date.

Second, as we have commented in a recent submission, some firms have a three year delay in reporting under the NGERs.⁷ The scheme establishes a threshold programme which is spread out over three years to enable certain companies to prepare for the scheme's commencement.⁸ Therefore, data from some emitters may not be available until 2011 by which emitters would have altered their activities in anticipation of the scheme's commencement.

These issues in permit allocation must be resolved prior to the scheme's commencement.

2.2. Assets eligible for compensation

The Discussion Paper makes it clear that only "assets in existence as at 3 June 2007" will be eligible for consideration under compensation arrangements. This presents difficulties for new assets, especially those that are yet to be constructed or acquired. The Discussion Paper proposes to use the National Electricity Market approach which defines "committed projects" as those which have all requisite planning approvals, where contracts have been finalised or where land has been acquired with a firm date set for construction to commence.

These arrangements are potentially problematic. Emitters, especially the stationary energy sector, have known that an emissions trading scheme may be implemented for some time. Therefore, they may have committed to new assets knowing this. Hence there is a strong argument that the date of relevance should be much earlier than June 2007. There should also be a process with clear criteria to verify project commencement.

Part 3. Positive incentives to undertake additional abatement

3.1. Standards for abatement recognised by the scheme

The Discussion Paper proposes that abatement credits will only be generated for activities that have actually occurred, that are additional, permanent, measurable and verifiable. ANEDO supports these requirements but makes the following general observations.

Our primary view is that offsets should not be relied upon as the predominant means of achieving compliance with the ETS. Clear guidelines limiting the

⁷ See ANEDO submission, *Submission on the National Greenhouse and Energy Reporting Bill 2007- 27 August 2007*. Found at: http://www.edo.org.au/policy/sub_ghg_reporting_bill070827.html (28 November 2007).

⁸ Clause 13, *National Greenhouse and Energy Reporting Bill*.

circumstances for the use of offsets should be developed. Furthermore, it is imperative that a reliance on offsets does not divert the focus from achieving GHG reductions to the lowest-cost offset options for emitters to achieve compliance. ANEDO submits that prior to abatement activity been undertaken, environmental impacts must be avoided first by using all cost-effective prevention and mitigation measures on-site. Offsets should then only be used to address remaining loads of pollutants.

Furthermore, a specified limit on the percentage use of offsets is required. This limit should be set as a percentage of the allocation of permits to each installation. If no specified limit is set, then it is feasible that carbon emissions across covered sectors could actually rise, but overall emissions would appear to be reduced due to a high level of offset activities. This situation should be avoided as it would endorse a business as usual approach. Consequently, ANEDO submits that under no circumstances should the overall level of direct emissions increase as a result of “abatement” through offset projects.

Additionality

A crucial element of offsets is the principle of the offset being additional to action already required by law or under current regulatory drivers. As has been noted, determining additionality is difficult and essentially unknowable.⁹ ANEDO submits that effectively addressing additionality will be critical to the environmental integrity of the ETS. As such, robust rules of additionality are needed to ensure that the environmental integrity of the scheme is maintained. This involves showing that activities go further than a business as usual approach. Additional abatement is defined as the difference between the emissions associated with an abatement project and the emissions under a business as usual approach.

A number of baseline methodologies have been developed recently to assess additionality. A recent study discussed the use of different baseline methodologies using four case studies. The study showed how difficult it is to determine additionality and get an accurate estimate of greenhouse gas reductions from offset projects. In one case study, four baseline methodologies were applied to an offset project and these resulted in large differences in estimated emissions reductions (between 3730 to 7240 t CO₂e).¹⁰ This reveals the inherent difficulties in determining additional action. An example under the current proposal demonstrates this. Under the ETS, a small fraction of emitters who have not suffered ‘disproportionate loss’ will have to buy their permits via auctioning. These emitters therefore already have an incentive to conduct abatement activities to reduce the number of permits they will have to buy once the scheme commences. This would not satisfy additionality requirements as it would be in

⁹ National Emissions Trading Taskforce, *Possible design for a National Greenhouse Gas Emissions Trading Scheme* – August 2006.

¹⁰ De Leeuw R. and van Ierland, C, ‘CDM in climate policies in the Netherlands: a promising tool?’ in *Climate Change and the Kyoto Protocol* (2003) (eds Faure, M. Gupta, J. and Nentjes, A.), Edward Elgar Pub., United Kingdom.

response to the announcement of the scheme, which is the regulatory driver. Thus, these abatement activities would not be allowed to generate credits under the scheme. On the other hand, emitters who will receive free permits do not have any incentive to conduct abatement and therefore abatement activities which are not commercially viable would be allowed to generate early action or offset credits. This highlights the difficulty in determining what the business as usual approach would have been. This can never be known with 100% certainty.

Greenhouse Friendly appears to contain robust rules relating to additionality which ANEDO supports, but the difficulties involved in ascertaining the level of additionality must be considered in relation to any potential abatement project.

Measurability

The measurability of genuine emissions abatement resulting from offset projects is a key constraint, with a clear danger of leakage especially in the uncovered sector, such as for forestry or land use projects. As a result, if early abatement actions are not adequately measured, then the integrity of the cap is at risk. ANEDO submits that offsets recognised under the ETS should be limited to projects for which there is a reasonable level of certainty as to the accuracy of measurement methodologies.

It is curious to note that various sectors which are not to be included in the ETS scheme due to problems of measurability, such as agriculture, will however be eligible to generate abatement credits. Abatement activities in these sectors will clearly be subject to the same measurability constraints that prevented these sectors from coming within the primary ETS scheme.

Permanence

The permanence of abatement projects such as forest plantations and carbon capture and storage projects is uncertain and cannot be guaranteed. An increased risk of fire, disease, pests, etc due to climate change makes the issue of permanence of great importance. ANEDO submits that in case abatement projects are compromised in any way, there should be a 'make good' provision attached to any projects for which credits have been generated in cases where the carbon abatement is not maintained. We note that Greenhouse Friendly criteria include risk management arrangements which may include commitments to replant and/or the purchase of alternative offsets. These arrangements should be mandatory under the proposed scheme.

Ecological sustainability

ANEDO believes that only activities that are ecologically sustainable should be permitted to generate early action or offset credits. This is the approach taken by Gold Standard which is widely recognised as the international accreditation system for premium quality carbon credits generated by projects that have sustainable

development benefits.¹¹ Under that scheme only projects with an overall positive impact on the environment are recognised as Gold Standard.

It must therefore be borne in mind that although many abatement activities have positive carbon impacts, they may also affect other aspects of the environment such as groundwater recharge, pollution and biodiversity. Certain activities are therefore inappropriate. This will be discussed in further detail below.

Case study: Forestry projects

The problems associated with applying offsetting principles to current abatement activities are demonstrated most aptly by forestry projects. Although ANEDO broadly supports certain forestry offset projects (subject to the concerns outlined below), we have identified various shortcomings of the approach taken under Greenhouse Friendly, as well as more generally. There are issues surrounding their permanence, the measurement of carbon actually sequestered, and their ecological sustainability.

At the outset, it must be noted that forestry projects do not actually prevent greenhouse gas emissions as renewable energy projects do. Instead they encourage a business as usual scenario with forests planted to 'soak up' emissions. In the case of avoided deforestation, the forest does not soak up additional emissions at all, just eliminates a potential source of emissions from entering the atmosphere. Therefore, problems of additionality are immediately apparent.

Permanence

The impacts of climate change on forests, especially in Australia, also mean that the long term permanence of forests as a carbon sink is not assured. With an increasing number of droughts and higher temperatures across much of southern Australia, forests could turn from carbon sinks to carbon sources by the second half of this century¹². The permanence of forest sink projects is therefore often an issue, with disturbances such as harvesting, wildfire, drought, pest outbreaks and changed management intent having the potential to reverse the effects of the forest sink. To obtain Greenhouse Friendly certification for forest projects, proponents need to demonstrate a commitment to maintain the forest sink abatement project for a period of at least 70 years¹³. This means that secure ownership of the sequestered carbon, and adequate risk management arrangements need to be demonstrated to ensure permanence.

Risk management arrangements could include mandatory replanting, the purchase of alternative offsets, the establishment of a buffer to keep in reserve to cover potential shortfalls in sequestration, or taking a carbon pooling approach. As noted above, these arrangements should be mandatory.

¹¹ More information can be found at <http://www.cdmgoldstandard.org/> (28 November 2007)

¹² Reay, D. (2007) Spring-time for sinks. *Nature* 446 (727-728)

¹³ Greenhouse Friendly Forest Sink Abatement Projects. (2007) Australian Greenhouse Office.

Measurability

ANEDO believes that the *IPCC Good Practice Guidance for Land Use, Land-Use Change and Forestry*¹⁴ goes some of the way towards reducing the variability in measurement techniques in order to establish how much carbon is stored in forests.¹⁵ However, this area is still subject to considerable uncertainty. ANEDO calls for continuing research to improve the robustness of these measurement methodologies.

Ecological sustainability

Although forestry abatement activities have the potential to lead to measurable carbon benefits, their overall effect on the environment as an integrated whole needs to be examined. ANEDO submits that abatement projects cannot be considered in isolation with a singular focus on their carbon benefits. There is a need to also consider the potentially deleterious consequences of the project on other aspects of the environment such as on the impacts on water diversion, biodiversity, and soil. Therefore, the potential for forestry projects to assist in mitigating climate change is something that should not be exaggerated and other environmental factors associated with afforestation need to be carefully considered before contemplating forestry projects as a mitigation option.

Furthermore, the effect of afforestation on a global scale has been suggested to increase temperatures through changes in the landscape. There is scientific uncertainty on this; however modeling suggests that simply planting more forests will not be an adequate mitigation strategy for climate change due to this feedback loop¹⁶.

In summary, it is clear that there are problems associated with the use of forestry projects as offsets. There is considerable uncertainty as to the amount of carbon sequestered, and issues as to measurability, permanence and ecological sustainability. ANEDO submits that the largest short-term gains can be achieved through mitigation that aims to avoid emissions such as avoided deforestation. In the long term, sustainable forest management, aimed at increasing forest carbon

¹⁴ Found at <http://www.ipcc-nggip.iges.or.jp/public/gpglulucf/gpglulucf.htm> (28 November 2007).

¹⁵ Penman, J., Gytarsky, M., Hiraishi, T., Krug, T., Kruger, D., Pipatti, R., Buendia, L., Miwa, K., Ngara, T., Tanabe K. and Wagner F. (2003) Good Practice Guidelines for Land use, land use change and forestry. Intergovernmental Panel on Climate Change National Greenhouse Gas Inventories Program

¹⁶ Gibbard, S., Caldeira, K., Bala, G., Phillips, T.J. and Wickett, M. (2005) Climate effects of global land cover change. *Geophysical Research Letters* 32 L23705

¹⁷ Nabuurs, G.J., Masera, O., Andrasko, K., Benitez-Ponce P., Boer, R., Dutschke, M., Elsiddig, E., Ford-Robertson, J., Frumhoff, P., Karjalainen, T., Krankina, O., Kurz, W.A., Matsumoto, M., Oyhantcabal, W., Ravindranath, N.H., Sanz Sanchez, M.J., Zhang, X. (2007) Forestry in Climate Change 2007: Mitigation. Contribution of the Working Group III to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change [B. Metz, O.R. Davidson, P.R. Bosch, R. Dave, L.A. Meyer (eds)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA

stocks will generate the largest sustained mitigation benefit¹⁷.

3.2. Eligible activities

The Discussion Paper says that there will be no restrictions on the types of activities that can earn early action or offset credits. As mentioned above, ANEDO has consistently advocated that only projects that are ecologically sustainable should be supported.¹⁸ To this end, we have specific concerns with three types of potential abatement activities.

First, ANEDO submits that projects involving the use of native forest materials, which includes sawdust, wood products and wood processing waste, as fuel should be excluded from eligibility. The burning of wood is not a clean technology as it contributes to particulate pollution. Furthermore, allowing wood waste projects to generate credits would provide an economic incentive to produce more wood waste. This would increase the impact of logging in our native forests, and in turn, increase greenhouse gas emissions.

Second, ANEDO does not support the burning of non-biomass municipal waste projects to generate energy as offsets. There are significant environmental consequences of burning waste. The by-products are known to produce toxic gas emissions, which is a significant environmental and health risk.¹⁹

Third, ANEDO is strongly opposed to the use of nuclear energy, which is flagged as a potential 'clean' source of energy for Australia. Nuclear energy has significant impacts on the natural and built environments. These include the landscape effects of uranium mining, the accumulation of long-lived radioactive wastes, the greenhouse gas emissions associated with mining activities and significant safety issues.²⁰

3.3. Administrative arrangements

3.3.1. Initial arrangements – approval via Greenhouse Friendly

Although Greenhouse Friendly seems to contain all the appropriate offset rules, it was essentially designed as a voluntary scheme. ANEDO has some concerns with the use of a voluntary scheme as the basis for a mandatory one. In essence, there is a great difference between a scheme established for voluntary players and one that creates legal obligations. Indeed, voluntary approaches have a poor track record. They often lack credible regulatory threats, credible and reliable monitoring, third

¹⁸ See EDO (NSW), *Submission on Renewable Energy (New South Wales) Bill 2007* - 27 July 2007. Found at: <http://www.edo.org.au/edonsw/site/policy.php> (28 November 2007).

¹⁹ Environmental Defender's Office (NSW), "Submission for the review of the mandatory renewable energy target under the *Renewable Energy (Electricity) Act 2000*" 2003 at 5.

²⁰ R Lyster & A Bradbrook, *Energy Law and the Environment*, Cambridge Press (2006) at pp 26-27.

party participation, penalties for non-compliance, etc. In particular, under Greenhouse Friendly, there are no legal enforcement and monitoring provisions to address issues such as mistakes in measurement and verification. ANEDO recognises there are time constraints in implementing an abatement scheme that will apply from 3 June 2007 until the establishment of the ETS in 2011. Therefore, the creation of a new legislative framework may not be feasible at this stage. Nevertheless, if Greenhouse Friendly is to be relied upon, enforcement provisions need to be introduced into the scheme to ensure that the environmental integrity of the ETS is not compromised.

3.3.2. Streamlining administration of offsets and early action credits

The Discussion Paper outlines a proposal to develop streamlined protocols for certain types of early action and offset projects. Priority areas are to be identified based on how quickly they can commence, whether they deliver significant abatement and how they can demonstrate additionality. Given the difficulties associated with the permanence, additionality, measurability and sustainability of offset projects, ANEDO supports the drafting of protocols to assist emitters in investing in abatement activities and in ensuring that offsets are robust and effective.

3.4. National Register for offsets and early action credit

ANEDO supports the establishment of a national offset register to track early action credits and offsets. However, there is nothing in the Discussion Paper to indicate that the national register will be publicly accessible. ANEDO submits that the register should be made available to the public. This is consistent with accountability and transparency and will enable the community to determine who is conducting abatement activities. This will also give emitters an opportunity to substantiate their environmental claims, such as 'carbon neutrality' and will help promote environmentally conscious businesses.

3.5. Developing offset standards for the emissions trading scheme

The scheme proposes that offset standards will be developed that are not confined to Kyoto-recognised offsets. These include avoided deforestation and carbon sequestered in harvested wood. As above, ANEDO supports the creation of protocols and standards to provide guidance and thresholds to assist businesses who seek to invest in offsets. These standards need to contain guidelines on additionality, measurability, sustainability etc. We note that following the change in the federal government and the proposal to ratify the Kyoto Protocol, there may be more scope for Australia to utilise the mechanisms under the Protocol.

3.6. Transitioning early action credits into the emissions trading scheme

The Discussion Paper proposes that early abatement that is conducted prior to the scheme's commencement will be taken into consideration when setting the

emissions cap in the initial phase of scheme. However, no detail is provided on what this will entail. ANEDO is concerned that the overall cap of the ETS may be inflated on the basis of abatement activities conducted in non-covered sectors. It is clear that real reductions in greenhouse gas emissions in covered sectors are required to ensure that Australia meets its emissions reduction targets. Offset activities should be treated as complementary emissions reduction measures but the primary focus of the ETS should be on a reduction of GHG emissions in covered sectors. The overall cap of the upcoming scheme should therefore not be substantially altered on the basis of abatement activities conducted in non-covered sectors.

3.7. International activities and abatement recognised by other domestic mandatory schemes

The Discussion Paper states that no decision has yet been made on how international offsets will intersect with the Australian scheme (although as noted, the potential for engagement will increase following the ratification of the Kyoto Protocol by Australia). Further consultation on this issue will occur in 2008. ANEDO will be keen to engage on this issue.

3.8 Voluntary market access to offsets accredited for use in the emissions trading scheme

ANEDO supports the proposal to allow market access to emissions trading offsets for the voluntary market. This is consistent with the encouragement of corporate social responsibility. Environmentally and socially conscious businesses should be encouraged to conduct abatement activities that reduce their carbon footprint.

However, there are potential problems with the recent proliferation of claims of “carbon neutrality” in the marketplace. Although there are consumer protection laws, such as those for misleading and deceptive conduct, it is clear that “greenwash” is on the rise.²¹ Businesses are claiming that they are ‘carbon neutral’ based on carbon abatement projects that are not proven or that are not consistent with established offset principles. ANEDO has previously called on the government to strictly regulate the field of environmental claims to ensure that consumers and the environment are protected.²² Although Australian standards do exist, legislation should be implemented as part of the consumer protection framework to provide strict rules regulating these claims. The establishment of a publicly accessible National Offsets Register will assist in this process as the

²¹ Total Environment Centre, *Reputation or Reality? A Discussion Paper on Greenwash and Corporate Sustainability*. (2005).

²² Environmental Defenders Office (NSW), *Submission to Productivity Commission Inquiry into Australia's Consumer Policy Framework* - 11 May 2007. Found at: http://www.ANEDO.org.au/ANEDONsw/site/policy/consumer_sub070512.php (26 November 2007).

community will be able to search the register to verify that offsets have occurred and that they comply with robust offsetting principles.

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