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Department of the Environment
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SUBMISSION ON UNREFUNDED LANDFILL CARBON LIABILITY MONIES

The Australian Industry Group appreciates the opportunity to provide input into the proposed voluntary arrangements for managing excess funds collected by landfill operators to cover expected future liabilities under the former carbon pricing mechanism. Ai Group represents thousands of Australian businesses across a wide range of sectors, including many waste generators and some waste handlers. We also take a close interest in the efficient development of Australian climate policy, which impacts on all sectors of the economy. Ai Group has comments on the overall approach to an arrangement, and to the specifics of potential abatement.

A voluntary approach to refunds and abatement

Some landfill operators and other parties signed contracts with waste producers or other customers with terms providing for refunds in the event of the repeal of the carbon pricing mechanism. In other cases, operators made specific undertakings outside of contract to provide refunds. Where these factors apply Ai Group expects that landfill operators will fulfil their obligations and commitments. After consultation with our members, we are confident that this is happening, though discussions may continue for some time.

The Australian Industry Group welcomes the opportunity to provide input on the future of the NCTRS, which is both an important experiment in Australian product stewardship and a significant source of costs for businesses that manufacture or import computer equipment and televisions. Improvements to the scheme are urgently needed, and the proposed changes to scheme targets – which would increase industry costs in the near term, despite potential longer term savings – are of intense interest to the many affected businesses represented by Ai Group. This submission provides our initial feedback on the proposals in the Operational Review. We look forward to further discussions with the Department and the Government before these issues are resolved.

Targets

While the Department's paper makes a number of findings and recommendations, for our members the most important issues by far relate to the level of targets under the scheme.

The proposed corrections to the calculation of liabilities, through revision of product weightings

and the scaling factor, are welcome and industry is cooperating to ensure they can be made. Further improvements will be needed as soon as possible, including new tariff codes and ultimately an option to report real weights. We recognise that these improvements will take time.

Beyond these circumstances, Ai Group recognises that there is no legal obligation on landfill operators to refund monies collected to cover expected future carbon price liabilities. The retrospective institution of a mandatory requirement for such refunds would be complex and unwise. It is appropriate to deal with the fate of these funds through a purely voluntary approach: the role of government is to help agree and support a credible framework for this approach. If landfill operators and others choose to operate outside the framework there should be no legal sanction, though the framework should provide enough reputational and other benefit to make participation attractive.

The framework should encourage operators to refund carbon monies to their customers where the customers are identifiable and willing to receive a refund and the sums involved can be identified accurately. We understand that operators have already diligently pursued direct customers on this issue, and that a substantial sum of collected funds remains that cannot accurately and efficiently be refunded to customers or end users.

Given the original purpose of the collection of the funds and the considerable challenge of meeting Australia's current emissions reduction commitments, Ai Group does not object to the proposal that the voluntary arrangement focus on the use of unrefunded monies to abate greenhouse gas emissions.

Calculating funds to invest

The paper considers two approaches to calculating how much investment in abatement should be expected:

- a. Abatement based – calculate expected future emissions for the waste collected and multiply by a proxy price for carbon; or
- b. Revenue based – calculate how much revenue was collected and set aside and expect that sum (minus reasonable administrative costs) to be invested in abatement.

At first blush the abatement based approach appears to be more appropriate, since it links to the quantity of emissions expected from waste landfilled during the operation of the carbon pricing mechanism. However, the selection of a proxy price introduces a major element of arbitrariness. The sums collected by individual landfill operators reflect their individual estimates of the future carbon prices that were likely to apply. We understand that those estimates are likely to have varied widely. A one-size-fits-all proxy would be inaccurate and potentially inequitable.

The option of an \$8 price based on the price of European Union Allowance carbon units on 30 June 2014 has the advantage of being a single simple number, but there are many numbers that could potentially be chosen, perhaps with equally compelling arguments in their favour. Had the former scheme not been repealed the price would not have converged with Europe's until July 2015. The funds collected presumably represented an estimate of a future price trajectory, not a point estimate. For some of the period of the carbon price the scheme was expected to

reflect a price floor, then a comparable European price, then a lower estimate of European prices. The trajectory of EUA prices has continued to shift: today's price is already around \$10, and the deeper targets and market stability mechanisms that are in the process of implementation in Europe make higher prices very likely. Of course, unexpected developments could easily change this picture. These facts do not suggest a different number to pick – they call into question the whole notion of picking a number.

The better approach is for the voluntary framework to use a revenue-based calculation. It is considerably simpler for parties to identify the sums they have collected to manage future liabilities than to develop a universal rational basis for subsequently second-guessing what they ought to have collected. We understand that the sums involved may be commercially sensitive for some businesses, reflecting varying market conditions and ability to pass through costs in different regions. We therefore suggest that if a revenue-based calculation is used, voluntary participants are only expected to divulge the revenue information to the Government, and that this information is treated as commercial-in-confidence.

Some administrative costs will have been incurred in managing and maintaining these sums, and in complying with the voluntary framework by managing projects or acquiring carbon units, and we defer to the input of landfill operators as to how substantial these costs are. There is no reason why the voluntary framework should not encourage that the full value of the remaining sum, less these expenses, be used to abate emissions.

However, it is possible that funds could be used for projects with very high abatement costs, whether because they use extremely expensive technologies or because they are only marginally related to abatement. In line with Ai Group's core climate policy principle that Australia should achieve its emissions reduction goals at least cost, we recommend that the voluntary framework combine the revenue based calculation with a clear expectation of value for money. Parties wishing to participate would be expected to achieve or acquire the maximum amount of additional abatement possible with that sum. If well spent, the substantial funds involved could make a large contribution to the achievement of Australia's targets. That would reduce the call on limited public funds and reduce the risk that onerous adjustments have to be made to the safeguard mechanism of the Emissions Reduction Fund.

The nature of a voluntary arrangement means that parties cannot be compelled to spend money in a particular way. Those wishing to spend different sums, based on their own preference for a particular carbon price proxy, or to spend on more expensive abatement options with additional non-greenhouse benefits, would be free to do so and, if they chose, make their case to stakeholders that this was a better course.

Forms of investment

The paper currently envisages that two forms of abatement would be permitted within the voluntary framework: the purchase and retirement of Australian Carbon Credit Units (ACCUs) issued under the former Carbon Farming Initiative or the current Emissions Reduction Fund, or investment in a new category of projects defined by a set of proposed criteria (new, not receiving ACCUs already, to operate for at least 7 years, produce at least 100 tonnes of emissions per year, employing commercially proven methods, co-funded at least 25%, based on an approved methodology).

Ai Group has two major comments on forms of abatement encouraged under the voluntary framework.

Firstly, it is unclear why there is a need to define a new project category beyond the existing ERF processes. The ERF is already the focus of significant effort to ensure credible methodologies, strong participation and efficient administration; duplicating this structure with a new set of partly independent processes and criteria seems likely to waste effort and dilute the ERF market. While participation in ERF reverse auctions requires minimum project sizes and imposes other contractual requirements that may well be so onerous as to dissuade participation by councils and landfills with potential project ideas, as far as we are aware these issues do not apply to a project that merely seeks registration and issuance to engage with the private market.

Given the ERF's design objectives of accessibility and wide activity coverage we would expect that the early provision of multiple methodologies relevant to activities landfills and councils may wish to pursue will make the ERF an adequate vehicle for projects under the voluntary framework. The costs of meeting assurance and verification requirements would be deductible from the total amounts invested, as proposed. The process to hand over ACCUs to the Government for retirement should therefore be adequate to handle any domestic abatement, whether landfills or others wish to initiate their own projects or invest in existing projects.

Secondly, the range of units able to be handed to the Government for retirement should be expanded to encompass all credible carbon units, including those from outside Australia, that are recognised under the Kyoto Protocol or any successor treaty. Emissions reductions benefit the global environment wherever they occur, and high-quality international abatement can be extremely affordable – currently United Nations Certified Emission Reduction (CER) units can be purchased for around AUD\$0.75 per tonne. If participants in a voluntary arrangement wished to maximise value for money by purchasing and retiring international carbon units, and if the unrefunded monies involved were close to the \$200m suggested in the consultation paper, they could deliver around 250 million tonnes of abatement – a substantial fraction of the gap to meet Australia's current -5%-by-2020 emissions commitment. This option should be open to participants.

We recognise the Government's position that ERF funds will not be spent on overseas abatement. While Ai Group continues to argue this stance should be revisited, allowing others to acquire such units is entirely consistent with existing policy. Indeed, the Government's ERF legislation provides (in s22XK and s22XM of the amended *National Greenhouse and Energy Reporting Act 2011*) that liable parties may use international units prescribed by the Minister to avoid exceeding their emissions safeguard baselines.

We suggest that the voluntary framework allow participants to submit (and the Clean Energy Regulator to accept) United Nations Certified Emission Reductions credits, with the exception of categories of unit that have been previously excluded in Europe and Australia as not credible. That would exclude credits issued to projects involving the destruction of trifluoromethane (HFC-23) and nitrous oxide (N₂O) from adipic acid production, and to large hydroelectric projects not consistent with criteria adopted by the European Union based on the World Commission on Dams guidelines.

Overall a voluntary approach along the lines described above should be able to meet the needs and expectations of landfill operators and other stakeholders while contributing efficiently to Australia's emissions reduction goals.

If you require further information, please contact our adviser Tennant Reed on 03 9867 0145 or at tennant.reed@aigroup.com.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter Burn', with a stylized flourish at the end.

Peter Burn
Director, Public Policy