

MinterEllison



L A W Y E R S



Townsville Enterprise - EUAA

North Queensland Energy Forum

*Emissions-intensive trade-exposed  
industries and offsets under the Carbon  
Pollution Reduction Scheme*

Scott Singleton

Senior Associate, Minter Ellison Lawyers

18 November 2008



## Agenda - this presentation will cover

- Overview of Carbon Pollution Reduction Scheme (**CPRS**)
- Emissions-intensive trade-exposed (**EITE**) industries – what the Green Paper says
- EITE industries – practical issues
- Offset opportunities under the Green Paper



# Carbon Pollution Reduction Scheme

- Cap and trade
- Coverage and point of obligation
- Penalty
- Offsets
- Caps and gateways
- Auctions
- Transitional assistance
- International links
- Governance



## EITE transitional assistance – policy rationale

- EITE industries may face a loss in profitability when the CPRS is introduced due to a constraint in their ability to pass through the increases in the carbon cost
- **'Carbon leakage rationale'** - EITE firms may choose to leave Australia or avoid expansion, resulting in 'carbon leakage'
- **'Transitional rationale'** - May assist in smoothing the transition of the economy toward one that embodies a price on carbon



## Form of EITE assistance

Options include:

- Exemption from liability under the CPRS
- Border adjustments – made to the export and import prices of goods according to the carbon costs embodied
- Cash payments by the Government

*Government's preferred position:*

- Free allocation of around 30% of permits to EITE industries



## Eligibility for EITE assistance – emissions intensive

- Assessment to be carried out at industry level
- Direct emissions and indirect electricity emissions
- Only emissions covered by the scheme
- A measure of emissions per unit of revenue is considered the most transparent and comparable indicator of materiality of carbon cost impact



# Eligibility for EITE assistance – trade exposed

- Trade exposure
  - export
  - import competing
- Not possible to provide a practical transparent and robust test
- Include all industries except those for which there are physical barriers to trade



# Initial rate of assistance

<b>Proposed eligibility threshold</b> (tonnes of CO2e per million dollars of revenue)	<b>Proposed assistance rate</b> (initial assistance as proportion of baseline emissions)	<b>Examples of potential activities</b>
> 2000	90%	Beef cattle production   Aluminium smelting   Lime production Cement clinker production   Sheep production Dairy cattle production   Integrated steel manufacturing Silicon smelting   Rice production
1500 to 2000	60%	Pig production   Ceramic product manufacturing Alumina refining   Parts of oil and gas sector Some basic metals manufacturing, non-metallic mineral product manufacturing, pulp and paper manufacturing and non-ferrous metals smelting



## Calculating EITE assistance

- Assistance provided for direct emissions and indirect electricity emissions associated with activity or process
- Assistance for **direct emissions** be calculated on the basis of:
  - Australian historical industry-average emissions-intensity baseline for activity
  - output of EITE activity for each entity
  - assistance rate for that EITE activity



# Calculating EITE assistance

- Assistance for **indirect electricity emissions** be calculated on the basis of:
  - Australian historical industry-average electricity-intensity baseline for activity
  - electricity factor determined to reflect the likely average electricity price impact
  - output of EITE activity for each entity
  - assistance rate for that EITE activity
- Electricity supply contractual arrangements



## Adjustment of EITE assistance over time

- Assistance would be provided until 2020, but gradually declining at pre-announced rates
- Post 2020, assistance would be:
  - withdrawn if broadly comparable carbon constraints in competitor economies
  - phased out over a five year period if acceptable international action or
  - continued, in the absence of above



## EITE – practical issues to consider

- Electricity Factor:
  - reference to contracts or average market uplift
  - distinction between existing and new contracts
  - consequences for variations and renegotiations
  - safeguards against manipulation for windfall gains
  - abatement incentives, self or co-generation



## EITE – practical issues to consider

- Permit price volatility
- Point of liability-point of eligibility disconnect
- High revenue industries may be disadvantaged
- Alternative is using a value added metric



## Offsets - forestry

- Reforestation included in CPRS on voluntary basis
- Opt-in on the basis of commercial opportunities and risk analysis
- Only where counts towards Australia's international commitments
  - established after 1 January 1990, previously cleared land
  - must meet international offset standards – permanently maintained and additional to BAU
- Detailed design issues – reporting, accounting, 'forest' definition



## Offsets - other

- Offset opportunities limited given breadth of covered sectors
- Incentive based mechanisms to be investigated to encourage avoided deforestation
- Abatement / early action credits ruled out
- Agricultural offsets depends on coverage, transitional strategies and administrative costs – decision in 2013 pending coverage 2015



# Questions

[Scott.Singleton@minterellison.com](mailto:Scott.Singleton@minterellison.com)

Telephone (07) 3119 6173



MinterEllison



LAWYERS

