

Legislative Provisions for International Forest Carbon Activities

The following contains the 4 key provisions of a coherent package on international forest carbon activities for inclusion in U.S. climate legislation:

- (1) Definition of international forest carbon activities
- (2) Findings
- (3) Set Aside for international forest carbon activities program
- (4) Offsets for international forest carbon activities

Definitions

- 1) International forest carbon activities.—The term “international forest carbon activities” means national or subnational activities in countries other than the United States that are directed at—
 - a) reducing greenhouse gas emissions from deforestation and forest degradation;
 - b) reducing greenhouse gas emissions from conversion of peatlands; and
 - c) increasing sequestration of carbon through—
 - i) restoration of forests;
 - ii) restoration of degraded land that has not been forested prior to restoration;
 - iii) afforestation, using native species where practicable; and
 - iv) improved forest management.

Findings

Congress finds that—

- (a) changes in land use patterns and forest sector emissions account for approximately 20 percent of global greenhouse gas emissions;

(b) land conversion and deforestation are two of the largest sources of greenhouse gas emissions in the developing world, comprising approximately 40 percent of the total greenhouse gas emissions of the developing world;

(c) with sufficient data, deforestation and forest degradation rates and forest carbon stocks can be measured with an acceptable degree of uncertainty;

(d) encouraging reduced deforestation and reduced forest degradation in foreign countries could—

(1) provide critical leverage to encourage voluntary participation by developing countries in emission limitation regimes;

(2) facilitate greater overall reductions in greenhouse gas emissions than otherwise would be practicable; and

(3) substantially benefit biodiversity, conservation, and indigenous and other forest-dependent people in developing countries;

(e) in addition to forest carbon activities that can be readily measured, monitored, and verified through national-scale programs and projects, there is great value in reducing emissions and sequestering carbon through forest carbon projects in countries that lack the institutional arrangements to support national-scale accounting of forest carbon stocks; and

(f) providing emission allowances in support of activities in countries that lack fully developed institutions for national-scale accounting could help to build capacity in those countries, sequester additional carbon, and increase participation by developing countries in international climate agreements.

Set Aside – International Forest Carbon Activities Program

(a)PURPOSE.—The purpose of this subsection is to—

(1) facilitate national-level activities and accounting in the forest sector in developing countries in order to ensure market readiness for emissions reductions and increased sequestration from international forest carbon activities in developing countries in a manner that will contribute to the reduction of costs imposed by this Act on covered entities in the United States; and

(2) facilitate international forest carbon activities at sub-national levels in developing countries that achieve low-cost emissions reductions and/or increased sequestration in a manner that will contribute to the reduction of costs imposed by this Act on covered entities in the United States.

(b) ESTABLISHMENT. –Not later than 18 months after the date of enactment of this Act, the Administrator, in consultation with the Secretary of the Interior, the Secretary of State, and the Secretary of Agriculture, shall promulgate regulations to establish programs or recognize existing programs under which the Administrator shall provide emission allowances allocated pursuant to subsections (c) and (d) to assist developing countries in their efforts to achieve emissions reductions or increased sequestration of carbon dioxide from international forest carbon activities.

(c) ALLOCATION. –Not later than 330 days before January 1 of each of calendar years 2012 through 2050, the Administrator shall allocate for distribution under this section 1 percent of the aggregate quantity of emission allowances established for the applicable calendar year pursuant to section (b).

(d) EARLY ACTION. –Not later than 2 years after the date of enactment of this Act, the Administrator shall allocate for early action distribution for each of calendar years 2010 and 2011 not more than 10 percent of the aggregate quantity of emission allowances allocated under subsection (c) for each of calendar years 2012 through 2022.

(e) CARRYOVER. –If the sum of the emission allowances for a calendar year is not allocated for distribution in the calendar year, the Administrator shall carry over to the next calendar year the residual emission allowances.

(f) ENSURING MARKET READINESS IN DEVELOPING COUNTRIES. –

(1) IN GENERAL. –The Administrator shall–

(A) set aside a portion of the allowances to be allocated under subsections (c) and (d) for the purpose of ensuring market readiness in forested developing countries; and

(B) auction those allowances with the proceeds deposited into a market readiness account.

(2) ELIGIBILITY FOR PROCEEDS. –The regulations promulgated pursuant to subsection (b) shall delineate the requirements for developing countries to be

eligible to receive proceeds from the auction of emission allowances under paragraph (1) to be used for the preparation of a national forest carbon strategy, including–

(A) developing a reliable estimate of the national forest carbon stocks and sources of forest emissions of the developing country;

(B) defining the national emission reference baseline for the developing country based on past emission rates;

(C) specifying options for reducing emissions; and

(D) implementing mechanisms that will support policies, programs, and projects to reduce emissions.

(g) INCENTIVE PAYMENTS FOR LOW-COST EMISSION REDUCTIONS AND SEQUESTRATION ACTIVITIES.–

(1) IN GENERAL.–Subject to paragraph (2), the regulations promulgated pursuant to subsection (b) shall delineate the requirements for forested developing countries or other entities to be eligible to receive emission allowances under subsections (c) and (d) to implement national strategies to reduce emissions from deforestation and forest degradation or to implement low-cost emission reduction or sequestration projects in the forest sector, or to implement activities in developing countries with largely intact native forests to guard against emissions from deforestation.

(2) REQUIREMENTS.–Under the regulations promulgated under paragraph (1) –

(A) emission allowances under this section shall be awarded in a manner that favors–

(i) achievement of the greatest quantity of carbon sequestration or emission reductions for the lowest cost;

(ii) broad geographical distribution of projects; and

(iii) reduction of international leakage, particularly in developing countries with largely intact native forests.

(B) no emission allowances under this section shall be awarded to countries, or entities for projects in countries, that meet the criteria established under section (f)(1)(A), as determined by the

Administrator, after the 2-year period beginning on the date the Administrator determines that those criteria apply;

(C) no allowances shall be issued in a calendar year beginning more than 5 years after the date of enactment of this Act to a project or activity in a country that generates greenhouse gas emissions accounting for more than 1 percent of global greenhouse gas emissions;

(D) no allowances shall be issued in a calendar year beginning more than 10 years after the date of enactment of this Act to a project or activity in a country that generates greenhouse gas emissions accounting for more than 0.5 percent of global greenhouse gas emissions; and

(E) upon a determination by the Administrator that provision of allowances to a project or activity in a country that would otherwise be subject to the exclusions in subparagraph (C) or (D) is in the interest of building needed capacity or reducing international leakage, allowances may be issued to the project or activity subject to other criteria in this subsection.

(h) QUALITY AND ELIGIBILITY REQUIREMENTS. –Not later than 18 months after the date of enactment of this Act, the Administrator, in consultation with the Secretary of the Interior, the Secretary of State, and the Secretary of Agriculture, shall promulgate regulations establishing eligibility requirements for the allocation of emission allowances under this subsection for international forest carbon activities, recognizing that the purpose of this subtitle is to assist forested developing countries in achieving emissions or increased sequestration of carbon dioxide from international forest carbon activities and to ensure market readiness.

(i) OTHER NATURAL LAND THAT SEQUESTERS CARBON. –The Administrator may provide emission allowances under this section for a project for storage of carbon in other natural land if the Administrator determines that—

(1) the natural land is capable of storing carbon; and

(2) the project for storage of carbon in the natural land is capable of meeting the eligibility and quality criteria established pursuant to section (h).

(j) LIMITATION ON DOUBLE COUNTING.— Notwithstanding any other provision of this Act, activities that receive credit under [**cross ref to provision on international forest carbon offsets**] shall not be eligible to receive emission allowances under this subtitle.

(k) EFFECT OF SUBTITLE.—Nothing in this subtitle supersedes, limits, or otherwise affects any restriction imposed by Federal law (including regulations) on any interaction between an entity located in the United States and an entity located in a foreign country.

Offsets for International Forest Carbon Activities

(a) REGULATIONS.—Not later than 2 years after the date of enactment of this Act, the Administrator, in consultation with the Secretary of the Interior, the Secretary of State, and the Secretary of Agriculture, shall promulgate regulations (including quality and eligibility requirements) for the use of offset allowances for international forest carbon activities.

(b) QUALITY AND ELIGIBILITY REQUIREMENTS.—The regulations promulgated pursuant to subsection (a) shall require that, in order to be approved for use under this section, offset allowances for an international forest carbon activity shall meet such quality and eligibility requirements as the Administrator may establish, including requirements that—

(1) the activity shall be designed, carried out, and managed—

(A) in accordance with widely-accepted, environmentally sustainable forestry practices;

(B) to promote native species and conservation or restoration of native forests, if practicable, and to avoid the introduction of invasive nonnative species;

(C) in a manner that is supportive of the internationally-recognized rights of indigenous and other forest-dependent people living in the affected areas; and

(D) in a manner that enhances the capability, if consistent with the applicable laws in the country involved, of local communities to exercise prior informed consent regarding projects or other activities; and

(2) the emission reductions or sequestrations are real, permanent, additional, verifiable, and enforceable, with reliable measuring and monitoring and appropriate accounting for leakage.

(c) NATIONAL LEVEL ACTIVITIES—

(1) IN GENERAL.—The Administrator, in consultation with the Secretary of State, shall identify and periodically update a list of the names of countries that have—

(A) demonstrated the capacity to participate in international forest carbon activities at a national level, including—

(i) sufficient historical data on changes in national forest carbon stocks;

(ii) the technical capacity to monitor and measure forest carbon fluxes with an acceptable level of uncertainty; and

(iii) the institutional capacity to reduce emissions from deforestation and forest degradation;

(B) capped greenhouse gas emissions or otherwise established a credible national baseline or emission reference baseline;

(C) achieved national-level reductions of deforestation and degradation below an historical reference baseline, taking into consideration national circumstances and the average annual deforestation and degradation rates of the country during a period of at least 5 years;

(D) implemented an emission reduction program for the forest sector; and

(E) demonstrated those reductions using remote sensing technology, taking into consideration relevant international standards.

(2) PERIODIC REVIEW OF NATIONAL LEVEL REDUCTIONS IN DEFORESTATION AND FOREST DEGRADATION.—The Administrator, in consultation with the Secretary of State, shall periodically review and update the list of the names of countries included under paragraph (1).

(3) CREDITING AND ADDITIONALITY.—A verified reduction in greenhouse gas emissions from deforestation and forest degradation under a cap or resulting from a nationwide emissions reference scenario described in paragraph (1) (B) shall be—

(A) eligible for offset allowances; and

(B) considered to satisfy the additionality criterion.

(d) SUBNATIONAL LEVEL ACTIVITIES.—With respect to foreign countries other than the foreign countries described in subsection (c), the Administrator shall recognize project-scale international forest carbon activities as eligible for offset allowances, subject to the quality criteria for forest carbon activities described in subsection (b).

(e) OTHER INTERNATIONAL FOREST CARBON ACTIVITIES.—An international forest carbon activity other than a reduction in deforestation or forest degradation shall be eligible for offset allowances under this section, subject to the eligibility requirements and quality criteria for forest carbon activities described in subsection (b) or other regulations promulgated pursuant to this Act.

(f) DISCOUNT—

(1) INITIAL DISCOUNT.—If, after the date that is 10 years after the date of enactment of this Act, the Administrator determines that a foreign country that, in the aggregate, generates greenhouse gas emissions accounting for more than 0.5 percent of global greenhouse gas emissions has not capped those emissions, established an emissions reference scenario based on historical data, or otherwise reduced total forest emissions of that foreign country, the Administrator shall apply a discount to distributions of offset allowances to international forest carbon activities in that country under this section.

(2) SUBSEQUENT DISCOUNT.—If, after the date that is 15 years after the date of enactment of this Act, the Administrator determines that a foreign country that, in the aggregate, generates greenhouse gas emissions accounting for more than 0.5 percent of global greenhouse gas emissions has not capped those emissions, established an emissions reference scenario based on historical data, or otherwise reduced total forest emissions of that foreign country, the Administrator shall cease distributions of offset allowances to international forest carbon activities in that country under this section.

(g) FACILITY CERTIFICATION.—The owner or operator of a covered entity that submits an offset allowance generated under this section shall certify that the offset allowance has not been retired from use in any greenhouse gas emissions registry.

(h) MAXIMUM USE.—The regulations promulgated pursuant to this section shall ensure that offset allowances are not issued for sequestration or emission reductions that have been used or will be used by any other country for compliance with a domestic or international obligation to limit or reduce greenhouse gas emissions.

(i) REVIEWS.—Not later than 3 years after the date of enactment of this Act and every 5 years thereafter, the Administrator, in consultation with the Secretary of State, shall conduct a review of the activities undertaken pursuant to this subtitle, including the effects of the activities on indigenous and forest-dependent peoples residing in affected areas.