

Registry options to facilitate linking of emissions trading systems

Consultation paper

This paper does not necessarily represent the views of the European Commission or any Commissioner, or the views of the Australian Government or any Government Minister. It is a paper prepared jointly by the Department of Climate Change and Energy Efficiency and the Directorate General for Climate Action. The proposals presented in this paper are preliminary only and are intended to promote discussion ahead of developing the link between the European Union Registry and the Australian National Registry of Emissions Units.

This document is without prejudice to the requirement on the European Commission to receive the authorisation from the Council to open negotiations with Australia for the conclusion of a two-way linking agreement, nor does it preempt the conclusion and content of an international agreement between Australia and the European Union on a full two-way link.

Written and published by the Department of Climate Change and Energy Efficiency and the Directorate General for Climate Action.

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Information for respondents

General information about the paper and consultation process

This paper has been jointly prepared by the Australian Department of Climate Change and Energy Efficiency and the European Commission Directorate General for Climate Action.

As the proposed policy and legislative changes set out in this paper relate to Australian legislation only, the consultation process will be run by the Australian Department of Climate Change and Energy Efficiency in line with Australian public consultation procedures. European and Australian stakeholders are invited to make submissions on the consultation paper to the Australian Department of Climate Change and Energy Efficiency copying the European Commission.

The Department of Climate Change and Energy Efficiency will share all submissions with the Directorate General for Climate Action. The submissions will be shared with the European Commission regardless of any confidentiality requests.

Submission guidelines

- Submissions relating to the policy positions described in this paper are due by **close of business on 28 March 2013**.
- General submissions relating to the operation of the proposed registry arrangements received after 28 March 2013 may be considered at the discretion of the Department of Climate Change and Energy Efficiency and the European Commission.
- Submissions are invited from all interested stakeholders.
- Comments should only be provided on policy issues relevant to the linking the European Union Registry and the Australian National Registry of Emissions Units.
- Where possible, submissions should be lodged electronically at the email address below, preferably in Microsoft Word or other text-based formats. Alternatively, submissions may be sent to the postal addresses below to arrive by the due date.
- **Submissions will not be treated as confidential unless this is specifically requested**, and may be made publicly available. If a submission (or any extract of a submission) is to be kept confidential, please indicate this in the submission.

Submissions should be emailed to: ce.regulations@climatechange.gov.au and copied to : clima-ets-linking@ec.europa.eu

Postal address:

Australia – EU Registry Linking
Carbon Pricing and Markets Division
Department of Climate Change and Energy Efficiency
GPO Box 854
Canberra ACT 2601

Contact details

Copies of this paper are available on the Department of Climate Change and Energy Efficiency website (www.climatechange.gov.au). Hard copies are available on request via email at: ce.regulations@climatechange.gov.au. Stakeholders seeking clarification on details relating to the European Union Registry may contact: clima-ets-linking@ec.europa.eu.

Glossary

The following key terms are used throughout this consultation paper.

Term	Acronym
AAU	Assigned Amount Unit, issued to Annex B parties under the Kyoto Protocol
ACCU	Australia carbon credit unit, issued under the Australian Carbon Farming Initiative
AFS licence	Australian financial services licence
AIU	Australian-issued international unit, issued under the Australian ETS to facilitate an indirect registry link
ANREU Act	<i>The Australian National Registry of Emissions Units Act 2011 (as amended)</i>
ANREU Regulations	<i>The Australian National Registry of Emissions Units Regulations 2011 (as amended)</i>
ASIC	The Australian Securities and Investments Commission
ASIC Act	<i>The Australian Securities and Investment Commission Act 2001 (as amended)</i>
AUSTRAC	Australian Transaction Reports and Analysis Centre
Australian carbon unit	The primary compliance unit issued under the Australian ETS
Australian Government Union Registry Account	The proposed account to be opened in the Union Registry by the Australian Clean Energy Regulator to facilitate the interim link. This account will be opened as a Commonwealth Foreign Registry Account in accordance with section 86A of the ANREU Act.
Australian Registry (or ANREU)	The Australian National Registry of Emissions Units
Cancellation/ Deletion	EU: The definitive disposal of a unit by its holder without it being considered surrendered for liabilities incurred under the EU ETS Australia: The removal of an entry for a unit from a person's Registry account without it being considered surrendered for liabilities incurred under the Australian ETS.

Term	Acronym
Corporations Act	<i>Corporations Act 2001</i> (as amended) (Australia)
CE Act	<i>Clean Energy Act 2011</i> (as amended) (Australia)
CFI	The Australian Carbon Farming Initiative
CFI Act	<i>The Carbon Credits (Carbon Farming Initiative) Act 2011</i> (Australia)
Clean Energy Regulator	The Australian independent statutory authority responsible for administering among other things the Australian ETS and the Australian Registry including monitoring, facilitating and enforcing compliance
The Commission	The European Commission
Direct registry link	A link between registry systems that involves the direct transfer of units
Eligible international emissions units	The class of international units eligible for surrender under the Australian ETS
ETS	Emissions Trading System/Scheme
EU	The European Union
EU ETS Directive	Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC
EU allowance	The general allowance or compliance unit established under the EU ETS, which does not include EU aviation allowances
EU ETS Registry regulations	Commission Regulation 1193/2011 of 18 November 2011 establishing a Union Registry for the trading period commencing on 1 January 2013, and subsequent trading periods, of the Union emissions trading scheme pursuant to Directive 2003/87/EC of the European Parliament and of the Council and Decision No 280/2004/EC of the European Parliament and of the Council and amending Commission Regulations (EC) No 2216/2004 and (EU) No 920/2010
EUTL	European Union Transaction Log
Full link	The mutual recognition of units for compliance purposes between two or more emissions trading systems. In the case of Australia and the EU, a link proposed to take effect from 2018 under which Australian carbon units and EU allowances would be recognised for compliance in both schemes.

Term	Acronym
European Union Deletion Account	Allowances transferred to this account are deleted
Indirect registry link	A link between registries that facilitates the in-kind use of emissions units for compliance but does not involve the direct transfer of units
Interim link	The proposed link from 2015 to 2018, under which EU allowances will be recognised for compliance in the Australian ETS, but Australian carbon units will not be able to be used for compliance in the EU ETS.
ITL	The International Transaction Log established under the Kyoto Protocol. The ITL verifies transactions proposed by registries to ensure they are consistent with rules agreed under the Kyoto Protocol.
Kyoto unit	An Assigned Amount Unit, a Certified Emission Reduction unit, an Emission Reduction Unit, a Removal Unit or a prescribed unit issued in accordance with the Kyoto rules
Ministerial determination	Australian subordinate legislation, in this case, made by the Minister for Climate Change and Energy Efficiency
Person	Europe: Any natural or legal person Australia: an individual, a body corporate, a trust, a corporation sole, a body politic, or a local governing body
Resolution	The transfer of AAUs or other agreed Kyoto units between the Australian Registry and the Union Registry (or vice versa) to ensure that Kyoto Protocol commitments are met in respect of emissions from the trading sector (installations/liable entities covered by the ETS).
Surrender	EU: The process of an installation transferring allowances or international credits to the competent authority for compliance purposes under the EU ETS. These allowances are subsequently deleted or retired. Australia: The process by which a registered holder of eligible emissions units may transmit units to the Regulator to meet their liabilities under the Australian ETS. These units are subsequently cancelled.
UNFCCC	United Nations Framework Convention on Climate Change.
Union Registry	The single European Union Registry
Validation	The process of checking proposed transactions within either the Australian Registry or the EUTL

The purpose of this paper and the way ahead

This paper sets out proposals for key design elements of a link between the Union Registry and the Australian Registry.

Linking the Australian ETS and the EU ETS

On 28 August 2012, the Australian Government and the Commission announced their intention to establish a full two-way link between the EU ETS and the Australian ETS by 1 July 2018 at the latest. In order to enter into negotiations on a full linking agreement, the Commission requested a mandate from the Council on 24 January 2013. A link enables liable entities in one ETS to acquire and use units issued under the other ETS for compliance purposes. Linking provides benefits to all parties involved by reducing the cost of cutting greenhouse gas emissions, increasing market liquidity and supporting global cooperation on climate change.

As an interim stage Australian businesses will be able to use EU allowances to meet liabilities under the Australian ETS from 1 July 2015 (the interim link) until a full link is established.

The arrangement represents the first step towards linking the established carbon market in Europe with developing carbon markets in the Asia-Pacific. Together, the linked Australian and EU ETS would form the world's largest carbon market and be a major driver of the global transition to a low carbon economy.

It is necessary to conclude a treaty between the EU and Australia for the establishment of a full two-way link, however no treaty and consequently no negotiating mandate is necessary for the interim arrangement. To facilitate the interim link, the Australian Government and the Commission agreed to finalise registry arrangements for the interim link by mid-2013 given that the development of registry arrangements is a technical requirement to operationalise the interim link. However, parties should note that Australian liable entities that have a Union Registry account can already purchase European allowances to use for compliance in the interim linking period and may transfer these units into the Australian Registry as soon as the registry link is operational.

There are two broad types of registry link that could be implemented: a direct registry link or an indirect registry link. A direct registry link provides for the registry-to-registry trade of Australian carbon units and EU allowances, effectively making them fully fungible units. An indirect registry link does not involve the direct transfer of an EU allowance to the Australian Registry.

This paper proposes that an indirect registry link be established by 1 July 2015 to enable trade between the Union Registry and the Australian Registry in the interim linking period.

This paper further proposes that this would transition to a direct registry link no later than the start of the full linking period, subject to the European Commission receiving the authorization from the Council to conduct two-way linking negotiations with Australia and the outcome of such negotiations.

Purpose of this document

Creating a robust interim link that supports the movement towards a full bilateral link will help build market confidence in the linking arrangement and facilitate a smooth integration of EU and Australian carbon markets. This document proposes a design of the registry link that will assist in achieving this objective.

This paper compares the design of the Australian and the Union Registry, outlines the objectives of the registry link, explains key design considerations and draws on this analysis to outline the detailed design of the registry arrangement for the interim linking period. This paper also provides a broad outline of how the registry link could operate in the full linking period.

As the proposed policy and legislative changes set out in this paper relate to Australian legislation only, the consultation process will be run by the Australian Department of Climate Change and Energy Efficiency.

Next steps

Submissions will be accepted on these proposed registry arrangements from 5 March 2013 until 28 March 2013. General submissions relating to the operation of the proposed registry arrangements received after 28 March 2013 may be considered at the discretion of the Department of Climate Change and Energy Efficiency and the European Commission. Registry arrangements for the interim linking period will be agreed by mid-2013.

Table 1 outlines the key dates associated with finalising the registry link between the Australian Registry and the Union Registry for the interim linking period.

Table 1: Key dates for the interim link

Date	Milestone
5 March 2013	Consultation on registry consultation paper opens
28 March 2013	Formal consultation on registry consultation paper closes
By May 2013	Updated Union Registry Regulations expected to take effect
By Mid-2013	Agreement of registry arrangements for the interim linking period
By 1 June 2013	Australia to introduce subordinate legislation to give effect to the registry arrangements for the interim linking period
By 1 July 2015	The proposed indirect registry link between the Australian Registry and the Union Registry would become operational, enabling AIUs to be issued in respect of EU allowances in the Australian Registry
1 July 2015	Australian entities could surrender AIUs for compliance as part of the interim link
By 1 July 2015	Target date for the Australian Government and the European Union agreeing the Treaty that would enable the proposed full link

Date	Milestone
By 1 July 2018	The proposed direct registry link between the EU ETS and the Australian ETS would commence

Introduction

A registry is the electronic database in which emissions units are held and transferred. Linking registries is necessary to enable the trade between emissions trading systems. This paper proposes a design for a link between the Union Registry and the Australian Registry.

Why do the Union Registry and the Australian Registry need to be linked?

Allowances issued under both the Australian ETS and EU ETS are solely represented by electronic entries in a registry. This means that a link between registries is necessary for the interim linking period and would also be required for the full linking period to enable allowances to be transferred from one system in order to be used for compliance in the other.

The design of the registry link is important as it may affect incentives to trade and invest in emissions reductions, and influence the development of secondary markets across the linked schemes. In addition, to support market confidence in the link, the link must have safeguards to ensure that transactions are protected to the greatest extent possible from risks of market misconduct or fraud. The registry arrangement should also avoid introducing distortions into the linked carbon market, and in doing this, drive market participants to make investment decisions that facilitate least cost abatement across the schemes.

The link between the Australian Registry and the Union Registry must be fit for purpose and reflect the longer term interests of both the EU and Australia. Creating a robust interim link that would also support the movement towards a full bilateral link will help build market confidence in the arrangement and facilitate a smooth integration of European and Australian carbon markets.

The Union Registry and the Australian Registry

The EU system of registries has been operational since January 2005 and provides a standardised and secure system of electronic registries which tracks the issuance, holding, transfer and cancellation of all allowances issued under the EU ETS. Initially each EU Member State had a registry. In 2012, these registries were replaced by the single Union Registry, which provides a harmonized basis to transfer allowances across the EU. The Union Registry also acts as the EU Party's registry under the Kyoto Protocol.

Established in 2011, the Australian Registry supports the operation of the Australian ETS and the Carbon Farming Initiative (CFI). The Australian registry also acts as Australia's registry to meet its commitments under the Kyoto Protocol.

Legislative Framework

In Australia, the design and operation of the Australian Registry is set out in *the Australian National Registry of Emissions Units Act 2011* (the ANREU Act), with technical and administrative details set out in the *Australian National Registry of Emissions Units Regulations 2011* (the ANREU Regulations). Further design features are specified in the *Clean Energy Act 2011*, particularly regarding the treatment of Australian carbon units, which are the domestic unit of compliance issued under the Australian ETS.

The Union Registry is established in *Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community* (the EU ETS Directive) while design and operational detail are provided in the Registry Regulation.

A summary of the key design features of the Australian Registry and the Union Registry is provided in the Appendix.

Kyoto Protocol

The Kyoto Protocol requires each country with an emission reduction target to establish a national registry to ensure accurate accounting of the issuance, holding, transfer, acquisition, cancellation, retirement and carryover of Kyoto units.

Design of the Australian Registry and international linking

The Australian Registry is an electronic registry that is operated and maintained by the Australian Clean Energy Regulator. Individuals and other legal persons can hold accounts within the Australian Registry.

Kyoto compliant registry

The Australian Registry meets the Kyoto Protocol requirements and allows Australian Registry account holders to acquire Kyoto units and hold them in their Australian Registry account.

The Australian Registry facilitates access to international carbon markets by allowing account holders to access and hold units issued under the Kyoto Protocol and, potentially, prescribed units issued by national or subnational organisations. Access to Kyoto units is provided by linking the Australian Registry and other Kyoto-compliant registries through the ITL – the centralised global system of validation and exchange for Kyoto units.

Registry to support domestic emissions trading

In 2011, the role of the Australian Registry was expanded to facilitate and track the issuance, holding, transfer, acquisition, voluntary cancellation and surrender of Australian carbon units issued under the Australian ETS and Australian Carbon Credit Units (ACCUs) issued under the CFI.

Enables linking with other emissions trading systems

Linking with other emissions trading systems may be facilitated through the existing provisions of the ANREU Act. A direct registry link involves the transfer of an international emissions unit from a foreign registry into the Australian Registry. Such transfers are enabled by making regulations specifying the unit type as a 'prescribed international unit' and the registry as a 'prescribed foreign registry'. This allows firms to transfer, cancel or surrender these units against liabilities under the Australian ETS.

In the absence of a direct registry link, an indirect registry link could be established by issuing a unit in the Australian Registry to shadow a unit held in a foreign registry. An indirect registry link could be implemented by making regulations under section 48D of the ANREU Act. These regulations may allow for the issuance of an Australia-issued international unit (AIU) when a foreign emissions unit is removed from circulation in a foreign registry. These AIUs may then be traded, cancelled or surrendered for liabilities under the Australian ETS. To facilitate such a link,

the Australian Clean Energy Regulator may open and operate a foreign registry account in which the shadowed foreign units could be held.

Design of the Union Registry and international linking

Operational since January 2005, the European Union system of emissions registries provides a standardised and secure system of electronic registries which tracks the issuance, holding, transfer and cancellation of all allowances issued under the EU ETS. While each EU Member State initially had its own registry, in 2012, these registries were centralised into a single Union Registry.

Kyoto compliant registry

The Union Registry is also the Kyoto Protocol Registry for the EU which allows account holders to acquire, hold and trade Kyoto units. As such, the registry complies with the data exchange standards established by the UNFCCC and maintained under the operational procedures of the Registry System Administrators forum. As the Union Registry is connected to the ITL, international credits such as CERs and ERUs can currently be transferred between accounts in the Union Registry and the Australian Registry.

Registry to support domestic emissions trading

The Union Registry supports all processes associated with the operation of the EU ETS, including issuance, transfer, deletion and surrender of allowance and verification of emissions.

Enables linking with other emissions trading systems

Article 25 of the EU ETS Directive provides that linking agreements may be made with compatible mandatory greenhouse gas emissions trading systems with absolute emissions caps established in third countries. These agreements must be in accordance with the rules set out in the Treaty establishing the European Union.¹ Furthermore, article 25 allows for the conclusion of non-binding arrangements with third countries to provide for administrative and technical coordination in relation to allowances issued under the EU ETS, or other mandatory emissions trading systems with absolute emissions caps. It is envisaged that such a non-binding arrangement is used for establishing an indirect registry link, via an indirect export possibility as proposed in this paper.

Overview of the registry link

This paper sets out proposals for an indirect registry link to be established by 1 July 2015 to facilitate trade between the Union Registry and the Australian Registry in the interim linking period. An indirect registry link does not involve the direct transfer of an EU allowance to the ANREU. Rather, the EU allowance will be held in an Australian Government account in the Union Registry and an Australian-issued international unit (AIU) will be issued in the Australian Registry to 'shadow' this allowance. These AIUs could then be transferred in the Australian Registry, surrendered for compliance under the Australian ETS, or even swapped-back for EU allowances.

¹ Specifically Article 218 which sets out the roles of the Council, the Parliament and the Commission.

This paper proposes that the indirect registry link would transition to a direct registry link no later than the start of the full linking period, subject to both the European Commission receiving the authorisation from the Council to conduct two-way linking negotiations with Australia, and the outcome of such negotiations. It also proposes a number of safeguards be implemented to ensure the environmental integrity of the link and secure the linked carbon markets.

The proposals put forward by the Commission and the Australian Government are outlined in Table 2.

Table 2: Key design elements of the registry linking arrangements

Issue	Proposals
Form of registry link in the interim linking period	An indirect registry link would be implemented to facilitate trade during the interim linking period. The indirect registry link would be in place by 1 July 2015 and operate until it would be replaced by a direct registry link, no later than the start of the full linking period.
A manual or automated arrangement in the interim and the full linking period	To facilitate trade, both the indirect and direct registry links would be supported by automated systems-based processes built into the registries.
Maintaining consistent functionality for end users in the interim and the full linking period	Both the indirect and the direct registry link would be implemented in a manner that ensures consistent functionality for users of the Australian Registry and the Union Registry.
Operating the Australian Government Union Registry Account in the interim linking period	The Union Registry's central administrator would open an Australian Government Union Registry Account to be managed by the Australian Clean Energy Regulator. This account would facilitate the issuance of AIUs and the swap-back of EU allowances. These processes would be automated.
Swapping-back AIUs in the interim linking period	The indirect registry link would include a facility for AIUs to be swapped-back for EU allowances.
Form of registry link in the full linking period	A direct registry link would replace the indirect registry link no later than the start of the full linking period.
Treatment of AIUs in the full linking period	AIUs would be automatically exchanged for EU allowances soon after the establishment of the full direct link.
Avoiding double counting in the interim linking period	Where an AIU is swapped-back for an EU allowance, the AIU would be cancelled. For every AIU cancelled on the closure of an account, voluntarily cancelled, relinquished or surrendered, the Australian Government would transfer one EU allowance to the Union Deletion Account.

Issue	Proposals
Resolution of transactions in the interim and the full linking period	AAUs or other agreed Kyoto units would be transferred between the Australian Registry and the Union Registry to ensure that Kyoto Protocol commitments are met in respect of emissions from the trading sector (installations/liable entities covered by the ETS). The frequency of the resolution of transactions would be determined through subsequent processes.
Validation of transactions in the interim and the full linking period	<p>A secure communications link would connect the Australian Registry and the EUTL to enable the validation of transfers and identification of any discrepancies in transaction records.</p> <p>The ITL would have no direct involvement in validating transactions in the link.</p>
Publication of serial numbers in the interim linking period	AllUs would have public serial numbers but which would be independent of the serial number of the backing EU allowance.
Responding to suspicious incidents/theft in the interim and the full linking period	The Australian Clean Energy Regulator, the European Central Administrator and National Administrators from EU Member States would work together to develop common protocols to respond to incidents involving misuse or criminal activity involving the registries and to protect the integrity of the registry link.

Principles for linking registries

The registry link must be fit for purpose and serve the longer term interests of both the EU and Australia. Creating a robust interim link that would also support the movement towards a full bilateral link would contribute to market confidence in the arrangement and facilitate a smooth integration of EU and Australian carbon markets.

Ensures the fungibility of allowances

Ensuring the fungibility of Australian carbon units and EU allowances would promote market integration and support the development of a liquid international carbon market. Avoiding price differentials that stem from the creation of subsets of emissions units would reduce the complexity of linking with other emissions trading systems in the future.

Ensures environmental integrity

The linking arrangement must not reduce the combined environmental integrity of the EU ETS and the Australian ETS. Any link must operate in conjunction with arrangements for transfers of Kyoto units and/or appropriate national accounting to ensure that Australia and the EU could meet their international obligations and commitments.

Ensures ease of use

The registry link should ensure that the process for transferring units internationally is as efficient as the existing process for the international transfer of Kyoto units.

The arrangement would ensure a smooth transition for account holders from the interim to the full linking period.

Complementary to the efficient operation of both registries for domestic purposes

While the registry arrangement would facilitate the trade of allowances, it must also be complementary to the efficient operation of each registry for domestic purposes, which would remain the core role of both the Australian Registry and the Union Registry.

Provides protected access to allowances

Governments and market participants must be confident in the integrity and security of the link. To ensure this the design of the link must include appropriate processes for authorising and validating transactions, safeguards to minimise the risks of fraud and criminal activity and agreed protocols to ensure an appropriate response when issues arise.

Supports the development of international carbon markets

Both the Commission and the Australian Government agree that, over time, further links to other mandatory emissions trading schemes in like-minded countries is in the interest of both parties and in the interests of the long-term development of international carbon markets and action on climate change. As such, the arrangement should be designed in a manner that facilitates linking to other emissions trading systems in the future; noting the approach to linking with other ETS's is subject to negotiations.

Establishing the interim link

This paper proposes that an indirect registry link between the Union Registry and the Australian Registry would operate in the interim linking period, before transitioning to a direct registry link no later than the start of the full linking period. An indirect registry link would facilitate early trade in EU allowances while supporting the transition to a direct registry link.

An indirect registry link between the Union Registry and the Australian Registry

An indirect registry link does not involve the direct transfer of an EU allowance to the Australian Registry. Rather, the EU allowance would be held in an Australian Government account in the Union Registry and an AIU would be issued in the Australian Registry to 'shadow' this allowance. These AIUs could then be traded in the Australian Registry, surrendered for compliance under the Australian ETS, and may be swapped-back for EU allowances to facilitate trade back into the EU ETS. In addition, an indirect registry link could be implemented in a manner that is functionally near-identical to a direct registry link for end users.

A legislative framework exists to implement an indirect linking arrangement for the interim linking period. As such, an indirect registry link is the proposed option for the interim linking period.

An indirect registry link would be operational by 1 July 2015. This start date provides sufficient time to implement the processes required for the link (such as communications and validation processes) while enabling Australian liable entities to have AIUs issued in advance of the interim linking period, which would operate for the 2015-16 to 2017-18 Australian financial years.²

The development of registry arrangements is a technical requirement to facilitate the interim link. However, parties should note that Australian liable entities that have a Union Registry account can already purchase EU allowances to use for compliance in the interim linking period and may transfer these units into the Australian Registry as soon as the registry link is operational. Alternatively, parties may now enter into arrangements with holders of EU allowances for the delivery of AIUs into their Australian Registry account from the start of the indirect registry link.

It is proposed that the indirect registry link would continue to operate until a direct registry link is in place. This is intended to occur no later than 1 July 2018.

AIUs and indirect linking of registries

Section 48D of the ANREU Act provides that the Australian Clean Energy Regulator can only issue AIUs if the conditions set out in the regulations are satisfied. These regulations must:

*"Give effect to the principle that an Australian-issued international unit must not be issued unless a corresponding foreign emissions unit has been withdrawn from circulation within a foreign registry."*³

² The Australian financial year runs from July to June

³ ANREU Act, subsection 48D(2)

The issuance provisions establish the key principle of indirect registry linking arrangements, while maintaining appropriate capacity to implement the technical design of linking arrangements through regulations once policy design has been agreed. For the indirect registry link, the regulations would specify that an AIU may be issued if a corresponding unit is transferred to a Commonwealth (i.e. Australian) foreign registry account. This ensures that the person issued the AIU (or any person it is traded to) cannot recirculate the foreign unit unilaterally.

In order to hold an AIU a person must have an Australian Registry account. Given this, the issuance process for AIUs is similar to the process for issuing Australian carbon units set out in the CE Act, with the Clean Energy Regulator issuing an AIU by making an entry for the unit in the nominated Australian Registry account.

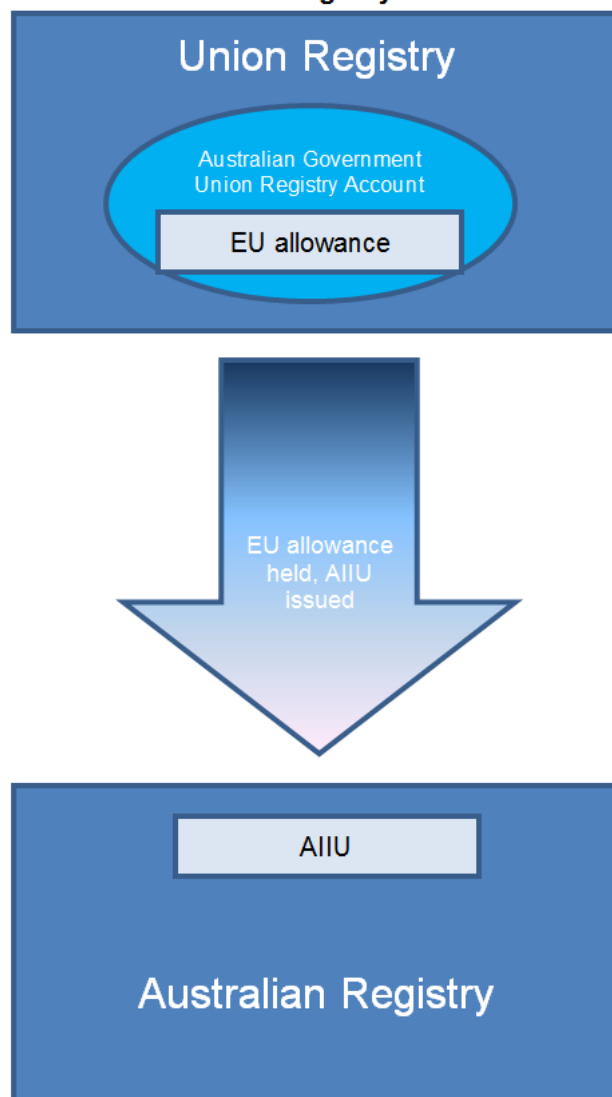
AIUs are 'prescribed international units', which means dealings in these units must be undertaken in accordance with Part 4 of the ANREU Act. To accommodate indirect registry links, provisions in Part 4 (such as those regarding transfers of units) may be altered through regulations for specific classes of AIUs.⁴

Issuing AIUs for EU allowances

The process for issuing AIUs would be:

1. The holder of EU allowances initiates the transaction in the Union Registry, identifying the EU allowances to be transferred, and the Australian Registry account to which AIUs should be issued.
2. The transaction is automatically verified by the EUTL and the Australian registry.
3. The identified EU allowances are transferred to the Australian Government Union Registry Account.
4. An AIU is issued to the identified Australian Registry account for each EU allowance transferred.
5. These AIUs could then be traded within the Australian Registry, surrendered to discharge liabilities under the Australian ETS or swapped-back for an EU allowance in the Union Registry.

The interim link with an indirect registry link



⁴ While it is also within the scope of the regulation making power to modify provisions regarding the status of AIUs as personal property under Australian laws, equitable interests in relation to AIUs and transmission of AIUs by operation of laws, the Government does not intend to alter such provisions.

Subordinate legislation required to implement the indirect registry link

The Australian Government has developed, and released in conjunction with this paper, draft subordinate legislation under the ANREU Act to implement the proposed interim link.⁵ Subordinate legislation includes regulations and a Ministerial determination made by the Minister for Climate Change and Energy Efficiency. These instruments could be disallowed by Parliament, but do not need to be approved by Parliament. The subordinate legislation would specify the process for issuing and transferring AIUs, the rules for operating the Australian Government Union Registry account, and other aspects of the linking arrangements as necessary.

In the draft EU ETS registry regulations, the Commission has provided for the Union Registry central administrator to create accounts and processes and undertake transactions and other operations at appropriate times to implement arrangements to link with other greenhouse gas emissions trading schemes. This amendment would facilitate the establishment of an indirect registry link for the interim linking period.

Proposal

An indirect registry link would be implemented to facilitate trade during the interim linking period. The indirect registry link would be in place by 1 July 2015 and operate until it would be replaced by a direct registry link, no later than the start of the full linking period.

A manual or automated registry link

In establishing the interim link there is a choice between introducing a manual arrangement which largely operates externally to the registry, and an automatic arrangement, which internalises the processes required to complete a transaction.

A manual arrangement would involve setting up a process for the issuance or swap-back of AIUs which would then be manually performed by officers of the Union Registry central administrator and national administrators and the Australian Clean Energy Regulator. In contrast, a more automatic arrangement would mean providing the registries with specific technical functionality to implement the link. This would minimise the need for personnel to manually perform transactions, and reduces administrative costs and risks.

While a manual arrangement has an advantage in that it may be established in a relatively short period of time, an automated, systems-based arrangement is preferred for a number of reasons:

- An automated approach reduces the risk of human error, which would reduce the risks involved in transferring units and provide market participants with more confidence in the link.
- There is a risk that a manual approach could slow down the trade in units. This could reduce market efficiency and create unnecessary delivery risk for market participants. An automated process helps reduce this risk.
- Ensuring that the processes to facilitate linking are internal to the registries would support a seamless transition for stakeholders between interim linking and full linking periods, as the method for initiated transactions would be much the same between both periods.

⁵ Draft regulations to implement the proposed indirect registry link and explanatory materials are available on the Department of Climate Change and Energy Efficiency website (www.climatechange.gov.au)

- An automated arrangement would also support the movement to a full bilateral link by putting in place the relevant technical infrastructure and communications links.

On this basis the Commission and the Australian Government propose to automate these processes. An automated arrangement would involve the initiator of the transaction entering all information necessary for the performance of the transaction at its outset. For example, to initiate the issuance of AIUs from a Union Registry account, an authorised representative of the account would need to specify in a transfer instruction the number of EU allowances to be transferred and the receiving Australian Registry account for the AIUs being issued.

Proposal

To facilitate trade, both the indirect and direct registry links would be supported by automated systems-based processes built into the registries.

Maintaining consistent functionality for end users

To ensure ease of use for users of the Union and Australian registries, it is proposed that both the indirect and the direct registry link would be implemented in a manner that maintains consistent functionality. This extends to ensuring that an account holder would go through similar processes and provide similar information to initiate the transfer of EU allowances for use in the Australian ETS as they would to transfer allowances between Union Registry accounts. This would also require the same information to be provided to initiate a transaction for both the indirect and direct registry link, to maintain consistency for market participants.

Some differences may be necessary. For example, when initiating the transfer of an EU allowance for use in the Australian ETS in the interim linking period, it must be clear to the initiator that the EU allowance is *not* being transferred directly to the identified account. Rather, on initiating the transfer, it would be clear that the EU allowance is being transferred to the Australian Government Union Registry Account and an AIU would be issued to the identified Australian Registry account for each of these allowances.

Proposal

Both the indirect and the direct registry link would be implemented in a manner that ensures consistent functionality for users of the Australian Registry and the Union Registry.

Operating the Australian Government Union Registry Account

It is proposed that an Australian Government Union Registry Account be opened to facilitate the operation of the indirect registry link. Its operation would give effect to the issuance, surrender and potential swap-back of AIUs. The account would be operated by the Australian Clean Energy Regulator on behalf of the Australian Government, in a manner specified in a Ministerial Determination made under section 86A of the ANREU Act.

This account would automate transactions that give effect to the issuance or swap-back of AIUs, in line with what occurs for domestic transactions. To enable this, the Commission has proposed amendments to the Union Registry regulations to allow the central administrator to create accounts and processes and undertake transactions and other operations to implement linking arrangements. Under this provision, the Australian Government would be able to open an

account through the Union Registry's central administrator, with the rules for the operation of the account to be agreed with the Commission.

Considerations in designing this account may include:

- The operational and jurisdictional implications of opening the account through the central administrator;
- Account accessibility by the Australian Clean Energy Regulator;
- The degree to which different transactions should be automated; and
- The degree to which different transactions should be restricted.

Transactions initiated to facilitate a swap-back of AIUs for EU allowances would also be automated. This process is outlined in the next section.

Proposal

The Union Registry's central administrator would open an Australian Government Union Registry Account to be managed by the Australian Clean Energy Regulator. This account would facilitate the issuance of AIUs and the swap-back of EU allowances. These processes would be automated.

Swapping-back AIUs

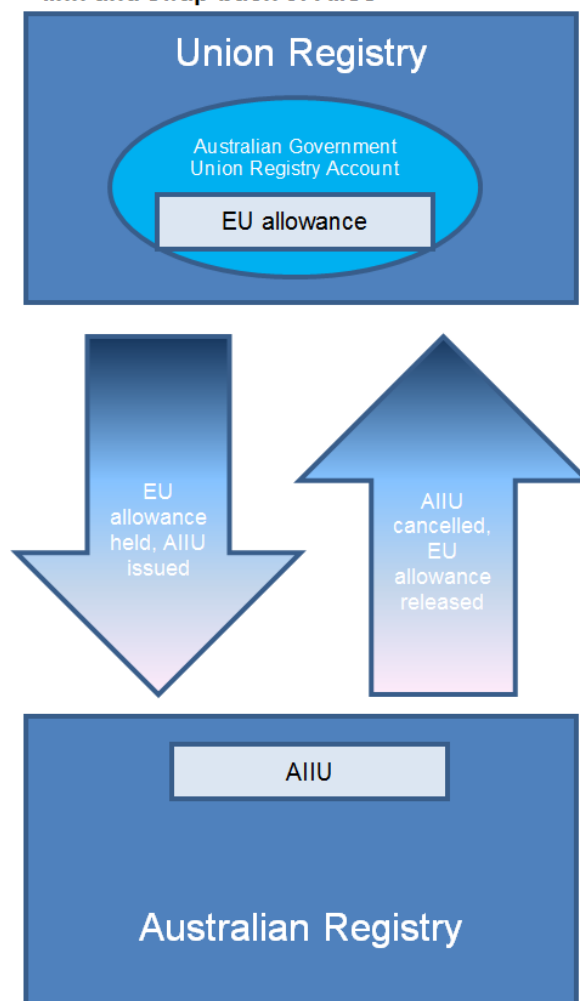
Another consideration in implementing an indirect registry link is whether to allow AIUs to be swapped-back for EU allowances, so that holders of AIUs could sell back to the EU ETS. This would involve cancelling an AIU and transferring an EU allowance from the Australian Government Union Registry Account to an account in the Union Registry identified by the holder of the AIU.

The swap-back process would work as follows:

1. The holder of an AIU initiates the transaction in the Australian Registry, identifying the AIUs to be swapped-back and the Union Registry account to which EU allowances should be issued.
2. The transaction is automatically verified by the EUTL and the Australian Registry.
3. The AIU is removed from the Australian Registry account and cancelled.
4. An EU allowance is transferred from the Australian Government Union Registry Account to the identified account in the Union Registry.

The swap-back of AIUs for EU allowances is possible under current legislation.

The interim link with an indirect registry link and swap-back of AIUs



The provision of a swap-back would increase certainty and drive price convergence in preparation for full linking.

A swap-back of AIUs would also support the development of links between the Australian and EU carbon markets. In the absence of a swap-back provision, it is possible that Australian liable entities and financial intermediaries would continue to hold EU allowances in the Union Registry until immediately before the compliance date in order to maintain flexibility regarding the use of EU allowances. This could limit trade pre-2017.

A swap-back may also support the development of derivatives markets operating across Australia and the EU, as the flexibility to swap-back units and financial intermediaries' ability to hedge exchange rate risks, could lead to the development of Australian dollar denominated derivative markets for AIUs.

Proposal

The indirect registry link would include a facility for AIUs to be swapped-back for EU allowances.

Establishing the full link

The Australian Government and the Commission intend to proceed with a full link between the Australian ETS and EU ETS from 2018, subject to the European Commission receiving the authorization from the Council to conduct two-way linking negotiations with Australia and the outcome of such negotiations

A direct registry link between the Union Registry and the Australian Registry

A direct registry link would allow an EU allowance or an Australian carbon unit to be transferred between Australian Registry and Union Registry accounts.

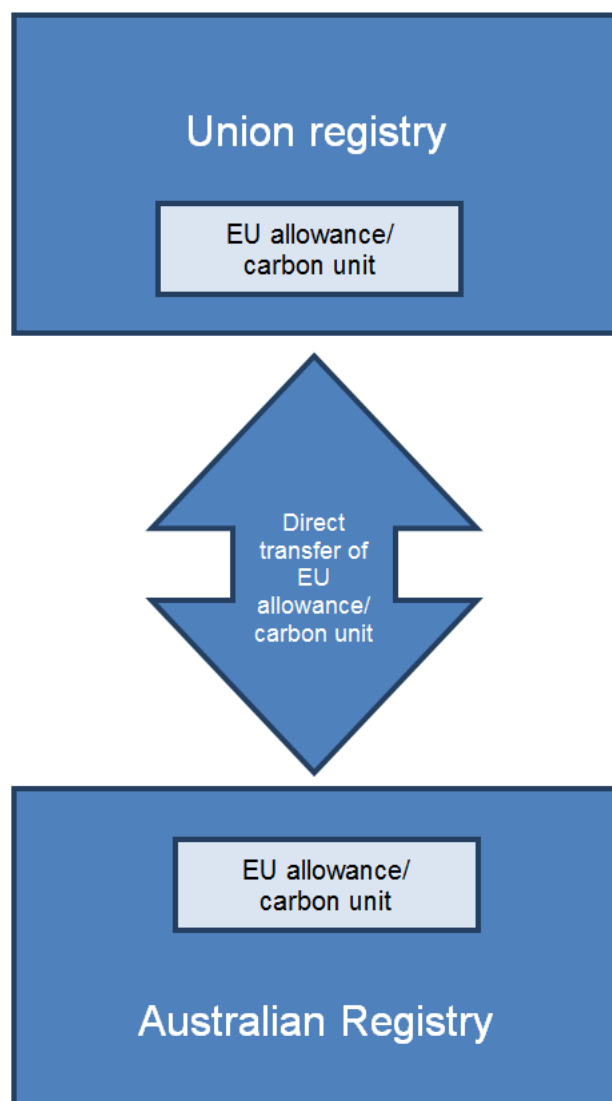
A direct registry link would provide for the registry-to-registry trade of Australian carbon units and EU allowances, effectively making them fully fungible. While a well-designed indirect registry link would drive the convergence of the price of EU allowances, AIUs and Australian carbon units, a direct registry link would provide greater certainty and further supports the integration of the EU and Australian carbon markets.

To enable the direct registry link, EU allowances have been classified as prescribed international units under section 4 of the ANREU Act. Prescribed international units are a unit type that is included in the definition of eligible international emissions units under the CE Act, which is the class of international units eligible for surrender under the Australian ETS. This means that from the start of the full linking period, EU allowances could be surrendered for compliance under the Australian ETS.

The process for transferring an EU allowance to the Australian Registry would be as follows:

1. The holder of an EU allowance initiates the transaction in the Union Registry, identifying the allowances to be transferred and the Australian Registry account to which the allowances should be transferred.
2. The transaction is automatically verified by the EUTL and the Australian Registry.
3. The EU allowance is transferred to the identified Australian Registry account.

A full link with a direct registry link



The process of transferring an Australian carbon unit from the Australian Registry to the Union Registry would be as follows:

1. The holder of an Australian carbon unit initiates the transaction in the Australian Registry, identifying the units to be transferred and the Union Registry account to which the units should be transferred.
2. The transaction is automatically verified by the EUTL and the Australian Registry.
3. The Australian carbon units are transferred to the identified Union Registry account.

Proposal

A direct registry link would replace the indirect registry link no later than the start of the full linking period.

Treatment of AIUs in the full linking period

AIUs would not be issued for EU allowances under a full link. However, it can be presumed that a number of AIUs would remain in circulation in the Australian ETS when the full link commences.

A number of options could be considered for dealing with AIUs that would exist in the Australian ETS after the full linking period would commence, ranging from allowing full banking of AIUs to automatically substituting them for the EU allowances backing them at the commencement of full linking. The choice in this spectrum is a trade-off between providing markets with flexibility in the use of these units and avoiding unnecessary complexity that would be created by enabling AIUs to be held for an extended period.

Giving markets flexibility to bank AIUs would be important to ensure that they continue to consider Australian carbon units and EU allowances as fungible in the interim linking period. This, in turn, would ensure that the market operates efficiently and prices of AIUs and carbon units continue to track the EU allowance price. Fungibility could be achieved by making units bankable or bankable-in-kind. Two options for the treatment of AIUs in the full linking period are presented below.

Option 1: Voluntary exchange

Under the Option 1, registered holders of AIUs would voluntarily request that the Clean Energy Regulator exchange their AIUs for EU allowances. The request would be in the form of a transaction similar to other account transactions. As EU allowances could be held in the Australian Registry in the full linking period, it is likely that most registered holders of AIUs would voluntarily request to exchange their AIUs for EU allowances.

EU allowances would be fully transferrable in both the EU ETS and Australia and could hold a different market value than AIUs after the start of the full linking period. A voluntary exchange would also allow liable entities to maintain flexibility to deal with their personal property on their own terms and reduce legal risks associated with automatically cancelling units that may be subject to security interests.

There is a risk with Option 1 that a person may not choose to exchange their AIUs and the EU allowances backing them would remain in the Australian Government Union Registry Account indefinitely.

Should the Australian Government wish to avoid a small number of AIUs remaining in the Australian Registry indefinitely, it could specify that any AIUs still held in the Australian Registry could be cancelled after a period, for example after the compliance date for the 2019-20 compliance year. The cancellation of these AIUs would trigger the deletion of EU allowances still held in the Australian Government Union Registry Account, enabling it to be closed. Under this approach, AIUs would be likely to trade for a lower price than Australian carbon units and EU allowances as the cancellation date approaches, enhancing the financial incentive to voluntarily exchange these units.

Option 2: Automatic exchange

Under the Option 2, there would be an automatic exchange of EU allowances for AIUs following the start of the full linking period. This would involve cancelling all AIUs held in the Australian Registry and transferring an equivalent number of EU allowances from the Australian Government Union Registry Account to the relevant Australian Registry accounts. As AIUs would be fungible with EU allowances in the full linking period, it is unclear what benefit there is in allowing firms to retain access to these units. Introducing an automatic exchange would mean firms would not need to actively manage their AIU holdings and would also remove the need for maintaining the Australian Government Union Registry Account, allowing it to be closed earlier. It is proposed that the automatic exchange would occur soon after the establishment of the full direct link.

As AIUs would be used by liable entities to manage their liability under the Australian ETS, the timing of an automatic exchange should have a minimal impact on account holders.

In the event that a voluntary swap-back were tied to the cancellation of units after a specified time, an automatic exchange would have the further advantage of removing the risk that AIUs may be inadvertently cancelled without being exchanged for EU allowances.

Proposal

AIUs would be automatically exchanged for EU allowances soon after the establishment of the full direct link.

Ensuring environmental integrity

The registry link would contain provisions to ensure the environmental integrity of the linked carbon market, including ensuring flows of units between Australia and the European Union consistent with respective international obligations.

Avoiding double counting

A link between the EU ETS and the Australian ETS would only be successful if there is certainty that the emissions reductions occurring across the linked schemes are real and additional. Safeguards would be incorporated into the treaty to ensure that environmental integrity across both schemes is maintained during the full linking period.

Double-counting of units can be avoided by ensuring that there is only one unit (either an AIU or an EU allowance) circulating at a given time for any one tonne of emissions. For the indirect registry link, this means that an EU allowance must be removed from circulation in the Union Registry for each AIU that is issued. This is reflected in section 48D of the ANREU Act, which states that regulations made for the issuance of AIUs, must provide that that an AIU cannot be issued unless a foreign emissions unit has been withdrawn from circulation.

It is proposed that the ANREU Regulations make it a condition that an EU allowance must be transferred into the Australian Government's account in the Union Registry, and the transaction verified, for an AIU to be issued. It is proposed that the Ministerial Determination on the operation of the Australian Government Union Registry Account would also specify that the Australian Clean Energy Regulator may only transfer EU allowances under the following circumstances:

- If an Australian Registry account holder requests to swap-back an AIU in their account, the AIU would be cancelled and the EU allowance would be transferred from the Australian Government Union Registry Account to the identified Union Registry account.
- When an AIU has been cancelled on the closure of an account, voluntarily cancelled, relinquished or surrendered for liabilities incurred under the Australian ETS, an EU allowance would be transferred from the Australian Government Union Registry Account to the Union Deletion Account and would not be counted against any emissions liability under the EU ETS.⁶

Proposal

Where an AIU is swapped-back for an EU allowance, the AIU would be cancelled. For every AIU cancelled on the closure of an account, voluntarily cancelled, relinquished or surrendered, the Australian Government would transfer one EU allowance to the Union Deletion Account.

Resolution of transactions

The resolution of transactions would ensure that there are appropriate flows of AAUs or other agreed Kyoto units to back the surrender, deletion, cancellation or relinquishment of units across

⁶ A transfer to the Union Deletion Account is equivalent to a voluntary cancellation under the Australia ETS, as it removes the unit from the Registry account, but does not count it as being surrendered for liabilities.

the linked emissions trading systems as appropriate.⁷ These transfers of Kyoto units mean that for each additional tonne of emissions in one ETS there is a corresponding reduction in emissions in the other.

AAUs or other agreed Kyoto units would be transferred between the Australian Registry and the Union Registry to ensure that Kyoto Protocol commitments are met in respect of emissions from the trading sector (installations covered by the ETS). It should be noted that there is only a need to account for Kyoto units in net terms, that is for transactions over a given period. Details of the resolution of transactions including their frequency would be determined through subsequent processes.

Proposal

AAUs or other agreed Kyoto units would be transferred between the Australian Registry and the Union Registry to ensure that Kyoto Protocol commitments are met in respect of emissions from the trading sector (installations/liable entities covered by the ETS). The frequency of the resolution of transactions would be determined through subsequent processes.

⁷ Due to the temporary nature of tCERs and ICERs, these units will not be considered for the resolution process.

Securing the registry link

The Australian Government and the Commission have developed a number of safeguards to minimise delivery risk across the linked registries and to protect the linked carbon market from risks of market misconduct and fraud. These safeguards would remain as part of the movement to full linking.

Validation of transactions

Secure communications and accurate transaction information are integral to ensuring the integrity of the link. A secure communications link would be established between the Australian Registry and the EUTL to facilitate the indirect and direct registry links. This would facilitate the validation of transactions between the registries and ensure that the link is supported by robust infrastructure which would allow the confirmation and validation of registry-to-registry transactions.

The process for transferring units would be similar to the process that already occurs for the domestic transfers of units in both EU and Australian entities, with the additional level of validation from the respective registries. The process for validating a transaction to issue AIUs is outlined in table 3 below.

Table 3: The validation process under an the indirect registry link⁸

Process	Details	Responsible Party
Initiation of transaction	An authorised representative of a Union Registry account initiates the transactions for the issuance of AIUs. This identifies the allowances to be transferred (these cannot include aviation allowances), and the Australian Registry account to which the AIUs should be issued.	Authorised representative
Confirmation of transaction	Where relevant, an additional authorised representative approves the transaction.	Additional authorised representative
Delay of transaction	Where relevant, the transaction is delayed.	Union Registry
Validation of transaction in Europe	The EUTL verifies that all relevant information has been provided and the initiating account is not subject to restrictions applicable to the transaction. The transaction request is sent to the Australian Registry for validation.	Union Registry and EUTL

⁸ This process is much the same as the process for validating transactions under a direct registry link

Process	Details	Responsible Party
Validation of transaction in Australia	The Australian Registry verifies that the account receiving AIUs is open and is not subject to restrictions applicable to the transaction. It then notifies the EUTL.	Australian Registry
Transfer of EU allowances	The EUTL instructs the Union Registry to transfer the specified EU allowances to the Australian Government holding account and the EUTL notifies the Australian Registry.	EUTL and Union Registry
Issuance of AIUs	The Australian Registry issues AIUs to the receiving account and notifies the EUTL.	Australian Registry

The role of the International Transaction Log (ITL)

The ITL is the centralised system of validation and exchange for Kyoto units, including AAUs, CERs and ERUs.

The ITL would play no direct role in validating the issuance or swap-back of AIUs for the indirect registry link, nor would it play a role for the direct registry link. However the ITL would continue to validate transfers of Kyoto units from the Australian Registry to the Union Registry and vice versa, including transactions of Kyoto units that occur during resolution.

Proposal

A secure communications link would connect the Australian Registry and the EUTL to enable the validation of transfers and identification of any discrepancies in transaction records.

The ITL would have no direct involvement in validating transactions in the link.

Publication of serial numbers

The European Union Registry Regulations partially hide the serial number of EU allowances and other units from the user. In the Australian Registry, the full unit block serial numbers are visible to the user. To ensure that the serial numbers of any EU allowances held by the Australian Government are not revealed, the AIU serial numbers would not be linked to the serial numbers of the backing EU allowance.

Proposal

AIUs would have serial numbers that would be made public but would be independent of the serial number of the backing EU allowance.

Safeguarding the registry link and responding to suspicious incidents and theft

Effective security and anti-fraud measures would safeguard the integrity of emissions registries. Any misuse of the registries that support emissions trading schemes could undermine public and stakeholder confidence in the schemes and could result in financial losses to businesses that rely on a secure system to meet legislative and contractual obligations.

Regulatory agencies

The Australian Clean Energy Regulator administers the Australian Registry and the operation of the Australian ETS and acts as a specialised enforcement agency. The Australian Clean Energy Regulator works with the Australian market regulator, the Australian Securities and Investments Commission (ASIC), which is responsible for overseeing activities that involve financial services for regulated emissions units and the financial markets that trade them. A number of other regulatory agencies are involved in regulating aspects of Australia's ETS and the carbon market including the Australian Taxation Office, the Australian Competition and Consumer Commission, and the Australian Transaction Reports and Analysis Centre (AUSTRAC) which administers the Anti-Money Laundering and Counter Terrorism Financing Act 2006.

The Central Administrator (as appointed by the Commission) operates and maintains the centralised Union Registry in accordance with the Commission Regulation (EU) No 1193/2011. The Regulation has binding legal force throughout every Member State and makes provision for the central administrator and the Commission to implement, and make available to National Administrators, systems and security requirements to ensure the integrity of the registry infrastructure underpinning the EU ETS. Oversight of the European carbon market is provided by the European Securities and Markets Authority (ESMA) and to a lesser extent by the European Banking Authority (EBA). Both of these bodies work with national financial market supervisory bodies to ensure that the relevant EU legislation is adhered to within the carbon markets of each EU member state. Finally, the European Police Office (Europol) works with the law enforcement agencies of EU member states to prosecute and prevent criminal conduct related to European carbon markets.

Measures to prevent fraud

The Commission and the Australian Government have both implemented preventive measures to avoid fraud involving registries.

Under the ANREU Regulations, applicants who wish to open an Australian Registry account must undergo identification procedures, consistent with the *Anti-Money Laundering and Counter-Terrorism Financial Act 2006* guidelines, and must satisfy the Australian Clean Energy Regulator that they are a 'fit and proper' person before they are issued with system access credentials. Such measures recognise that the Australian Registry is the only point of direct access to the Australian carbon market. A person may access the carbon market indirectly through a financial intermediary. Financial intermediaries are subject to the same Australian Registry account opening procedures, as well as Australian Financial Services licensing requirements, discussed below.

Similar security measures have been implemented in the Union Registry including strengthened proof of identity requirements for account holders and their representatives. In 2012, the Commission introduced new measures to reduce the risk of fraud in the Union Registry. These measures included the introduction of two-factor authentication for transactions, requiring out-of-band confirmation for some transactions, the introduction of a trusted account list and strengthened know-your-customer checks for account holders and their representatives.

Measures to respond to abuse and misuse of the registry

The Commission and the Australian Government have both implemented measures to respond quickly and effectively in case of fraud. Under the ANREU Act, the Australian Clean Energy

Regulator can delay transactions and allow additional validation checks to be made before transactions are processed. The Australian Clean Energy Regulator can also suspend operation of a registry account or the registry as a whole, and impose conditions to restrict the use of a registry account.

Similar security measures have been implemented in the Union Registry including power for national administrators to freeze allowances and accounts in case of suspicion of fraud; stronger anti-money laundering provisions; and wider access to confidential information has been granted to competent national authorities.

The Commission and the Australian Government have both implemented measures to minimise disruption to the market, if fraud were to occur. Emissions units held in the Australian Registry, including AIUs in the interim linking period and EU allowances in the full linking period, are personal property for the purposes of certain Australian laws. This provides certainty to investors about the status of emissions units under Australian laws. Regulations may provide that if a prescribed international unit is held in a person's Australian Registry account, then that person is the legal owner of the unit. The regulations would protect a bona fide purchaser of prescribed international units if they purchased the units for value and without knowledge of any defect in the register holder's title to the affected units.

Similarly, in the EU, buyers in good faith would acquire full entitlement to purchased EU allowances. EU allowances are fully fungible, which means that in the case of a legal claim an allowance could be substituted for any other allowance.

Regulation of carbon markets

All emissions units recognised under the Australian ETS and held in the Australian Registry are classified as financial products under the *Corporations Act 2001* (Corporations Act) and the *Australian Securities and Investments Commission Act 2001* (ASIC Act). This means that a person may require an Australian Financial Services licence (AFS licence), issued by ASIC, to carry on financial services business in relations to emissions units. Consistent with the treatment of other emissions units, AIUs issued during the interim linking period and EU allowances held in the Australian Registry during the direct linking period, would be regulated as financial products in Australia. This market oversight framework will ensure Australia's financial markets, including the carbon market, are fair and transparent, supported by confident and informed investors and consumers and have mechanisms to actively prevent and sanction market misconduct.

The EU has recently adopted a proposal to tighten existing financial market regulation and extend the regime to cover previously uncovered aspects of the EU ETS, ensuring that all sales of EU allowances fall under financial market regulation. To the extent that the allowance derivatives market is within the scope of financial markets legislation, it benefits from the regular safeguards and supervisory arrangements that apply to any other market for commodity derivatives.

Further harmonisation of financial market regulation operating in the EU will further increase efficiency and liquidity in the already well developed secondary market. It would also encourage participation in secondary markets across Australia and the EU. ASIC can exempt foreign financial services providers (FFSPs) from the obligation to hold an AFS licence, where the provision of financial services in Australia is to wholesale clients only and other requirements are met, including that the FFSP is regulated by a competent overseas regulatory authority and the regulatory regime overseen by the regulatory authority is equivalent to the Australian regime. If

the overseas regulatory regime is not deemed to be equivalent to the Australian regime then the FFSP would need to apply for an AFS licence to provide financial services in Australia. If financial market regulation in the EU is harmonised, then ASIC would only need to deem the Commission as a competent regulatory authority to allow European banks to trade in the Australian carbon market.

Technical security considerations

At an administrative level, the Australian Registry has rigorous technical architecture in line with the Australian Government's Defence Signals Directorate IT security requirements and United Nations Framework Convention on Climate Change standards. Hosting arrangements, system password and logon procedures also accord with the Australian Government security standards.

In the Union registry, security measures are implemented through Commission Regulation (EU) No. 920/2010 which provides a set of measures to ensure the security of the Union Registry. The introduction of these measures means that the security of the Union Registry is equivalent to state-of-the-art security measures used in the financial sector.

More information on security measures in the Australian Registry and the Union Registry is provided in the Appendix.

A secure registry link

The growth of carbon markets depends in part on regulation that effectively deals with the risks of market abuse and other forms of misconduct. Given that effective response security measures have been implemented in both registries, the focus for linking should fall on ensuring the efficiency of these measures to respond quickly and effectively in the case of fraud.

Harmonisation of response measures would ensure their effectiveness and timeliness is maintained and duplication of effort avoided. This would, for example, avoid any confusion about jurisdiction which may slow down a decision to suspend, delay or refuse a transaction when fraud is suspected. It would also provide an opportunity to develop arrangements for information sharing so that regulators could proactively monitor the activity of market participants. Similar relationships would need to be developed with other regulatory agencies including those with responsibility for market oversight. This would ensure that relevant regulators share a common understanding of the risks, roles and responsibilities, levels of accountability and effective responses.

Proposal

The Australian Clean Energy Regulator, the European Central Administrator and National Administrators from EU Member States would work together to develop common protocols to respond to incidents involving misuse or criminal activity involving the registries and to protect the integrity of the registry link.

Appendix: Comparison of the Union Registry and the Australian Registry

Policy		Union Registry	Australian Registry
General provisions	<i>Registry Access</i>	The Union Registry is accessible to the public and allows any natural or legal person to hold an account.	The Australian Registry is accessible to the public and allows any natural or legal person to hold an account.
	<i>Units that can be held in the registry</i>	<p>The European Union Registry (Union Registry) can hold the following unit types:</p> <ul style="list-style-type: none"> • Kyoto units (including AAUs, CERs, ERUs and RMUs)⁹ • General allowances (EU allowances) • Aviation allowances <p>Allowances are represented by an electronic entry in an account. All allowances are now held in the Union Registry, having recently been migrated from Member State registries.</p>	<p>The Australian Registry can hold the following unit types:</p> <ul style="list-style-type: none"> • Kyoto units (including AAUs, CERs, ERUs and RMUs) • Australian carbon units (CUs) • Australian carbon credit units (ACCU) • Prescribed international units (defined to include EU allowance units and Australian-issued international units) <p>All units, including international units, will be solely represented by an electronic entry in an account which is to include a serial number or unique identifier (however described).</p>

⁹ It should be noted that the amended Registry Regulation (entry into force in early May 2013) restricts the holding of some categories of CERs and ERUs in the Union Registry.

Policy		Union Registry	Australian Registry
Oversight	<i>Types of account</i>	<p>The Union Registry contains all accounts necessary under the Kyoto Protocol and for the operation of the EU ETS. National administrators have the primary responsibility for opening and updating registry accounts.</p> <p>Participants in the EU ETS will generally hold one of three types of account:</p> <ul style="list-style-type: none"> • operator holding accounts; • person holding account; or • trading accounts. <p>Operators of installations and aircraft operators covered by the EU ETS must open an operator holding account or aircraft operator holding account. These accounts cannot be held by other entities.</p> <p>An external trading platform may open an external trading account in the Union Registry to facilitate secondary market trade.</p>	<p>The Australian Registry contains all accounts necessary under the Kyoto Protocol and for the operation of the carbon pricing mechanism (CPM) and the CFI.</p> <p>The Clean Energy Regulator is responsible for opening and updating registry accounts.</p> <p>Legal persons can open Australian Registry accounts for the purposes of transferring, holding, surrendering or cancelling emissions units. There is only one type of Registry account available to market participants.</p> <p>Commonwealth administered accounts to support the CPM and the CFI and to meet requirements under the Kyoto Protocol have been added under the ANREU Regulations 2011. Other Commonwealth accounts may be added through regulations or on instruction from the Minister if required.</p>
	<i>Registry administrators</i>	<p>The Commission will designate a Central Administrator to operate and maintain the registry and to maintain an independent transaction log (the log) recording the issue, transfer and cancellation of allowances.</p> <p>Each Member State has a designated national</p>	<p>The Clean Energy Regulator will administer the Australian Registry and implement the relevant legislation and regulations.</p>

Policy	Union Registry	Australian Registry
	<p>administrator that accesses and manages its own accounts and the accounts in the registry under its jurisdiction, including opening and updating these accounts.</p> <p>Accounts are governed by the laws and fall under the jurisdiction of the Member State of their administrator and the units held in them are considered to be situated in that Member State's territory.</p> <p>The Commission coordinates the implementation of the registry regulation with the national administrators of each Member State and the central administrator.</p> <p>The central administrator, the competent authorities and national administrators must only perform processes necessary to carry out their respective functions.</p>	
<i>Review of administrative decisions</i>	<p>Decisions will be reviewed in line with national laws and processes. Note that national laws must be consistent with the provisions of the Directive and Regulations.</p>	<p>Some decisions of the Clean Energy Regulator are subject to merit reviews, this is to ensure that administrative decisions are correct and represent the best decision based on the relevant facts.</p> <p>For administrative decisions made through delegated powers, internal reconsideration is the first point of review. Following internal reconsideration, or in the event that the decision was made by the Regulator (rather than a delegate) the person affected may</p>

Policy		Union Registry	Australian Registry
International Linking	<i>Linking to Kyoto Protocol markets</i>	Account holders can acquire and hold Kyoto units of any type, with the exception of ERUs issued from 2013 by nations that have not entered a target under the second commitment period of the Kyoto Protocol. Specified classes of Kyoto units may also be surrendered for liabilities under the EU ETS.	<p>appeal a decision at the Administrative Appeals Tribunal (AAT), without undertaking internal reconsideration. The AAT is an independent body which reviews administrative decisions made by the Australian Government.</p> <p>Decisions where the Regulator has no discretion (for example, cancelling tCERs in accordance with Kyoto rules) are not subject to review.</p> <p>Account holders can acquire and hold Kyoto units of any type. Each Kyoto unit has a unique serial number that provides tracking information.</p> <p>The Regulator will issue removal units (for net land sector removals) on direction from the Minister in accordance with Kyoto rules.</p>
	<i>Full linking with other emissions trading schemes</i>	<p>The EU ETS Directive provides for the linking of the EU ETS through a direct registry link with compatible schemes in third countries or emissions trading systems with an absolute emissions cap. The Directive provides that agreements for the mutual recognition of allowances should be concluded with third countries if they are listed in Annex B to the Kyoto Protocol and have ratified the Kyoto Protocol.</p> <p>An agreement may also be entered to fully link the EU ETS to any other emissions trading system</p>	<p>The Australian clean energy legislative package provides for a full link through a direct registry link with other emissions trading schemes by ‘prescribing’ international emissions units and foreign registries. Prescribed international units are defined to include “European allowance units” and Australian-issued international units (discussed below). Other international emissions units may be prescribed through regulations.</p> <p>Prescribed units may be used for compliance</p>

Policy	Union Registry	Australian Registry
	<p>established by another country or a sub-federal or regional entity if the scheme is compatible, mandatory and has an absolute cap on emissions.</p> <p>These agreements must be in accordance with the rules set out in Article 218 of the Treaty establishing the European Union (EU)¹⁰, which described the circumstances under which the EU may enter international agreements.</p> <p>Where an agreement has been concluded, the Commission will adopt any necessary provisions relating to the mutual recognition of allowances under that agreement. These regulations would be subject to the regulatory procedure with scrutiny.</p>	<p>purposes under the carbon pricing mechanism. A unit will only be prescribed where the intention is to add it to the types of international units that can be held in the Registry or that are eligible for surrender under the CPM.</p> <p>The Regulator will publish statements within specified time frames that set out concise descriptions of the characteristics of prescribed international emissions units, including EU allowance units and AIUs, to assist less sophisticated investors in these units. Detailed arrangements for the transfer of prescribed international units may be specified in regulations.</p>
<i>Indirect linking with other emissions trading schemes</i>	<p>The Directive provides for non-binding arrangements to be made to provide administrative and technical coordination in relation to EU allowances with mandatory greenhouse gas emissions trading systems with absolute emissions caps.</p> <p>This could include facilitating an indirect registry link. Note this would be an 'export' only link, as there is no capacity for units to be issued to support an 'import' arrangement.</p>	<p>An indirect registry link can be facilitated though the issuance of Australian-issued international units (AIUs), to entities in Australia in exchange for overseas emissions units. The Regulator must issue AIUs in accordance with regulations that satisfy the principle that an AIU must not be issued unless a corresponding foreign emissions unit has been withdrawn from circulation. A corresponding foreign unit could include a European allowance unit.</p>

¹⁰ Note that the EU ETS directive refers to Article 300 of the Treaty Establishing the European Community, subsequent amendments to the Treaty mean that the relevant Article is now Article 218

Policy	Union Registry	Australian Registry
	<p>There are no specific provisions for operating an account in a foreign registry.</p>	<p>The Commonwealth may open and operate an account in a foreign registry with the Regulator to operate the account on the Commonwealth's behalf in accordance with a Ministerial direction.</p> <p>As the Commonwealth foreign registry account will operate under the rules of a foreign registry, any legislative instrument will be consistent with the relevant rules of the foreign registry. The administrator of the foreign registry will ultimately determine whether the Commonwealth may open and operate an account in the foreign registry.</p> <p>In addition to opening and operating a foreign registry account, the Commonwealth may do anything incidental to, or ancillary to, the opening or operation of such an account. This recognises that the Government may need to perform operations, in addition to opening and operating a foreign registry account, in order to facilitate a link.</p>
<p>Opening and closing accounts</p>	<p><i>Opening an account</i></p> <p>National administrators have the responsibility for opening and updating registry accounts.</p> <p>A national administrator may refuse to open an account for reasons set out in national law, or if the prospective account holder has been recently convicted of, or is under investigation for, fraud involving allowances or Kyoto units, money</p>	<p>The Clean Energy Regulator is responsible for considering and approving or rejecting applications to open a registry account.</p> <p>There are specific requirements for the opening of an account. Applicants must provide proof of identity and pass a fit and proper person test. Details of</p>

Policy	Union Registry	Australian Registry
	<p>laundering, terrorist financing or other serious crimes or if the national administrator suspects that the account may be used for the purposes of these crimes.</p> <p>The administrator may also refuse to accept (or may remove after the fact) specific account representatives for the reasons outlined above.</p> <p>If provided necessary information, a national administrator will, within 20 days, open or provide reasons for refusal to open an account. National administrators have 40 days to respond to an application for an aircraft operator holding account.</p>	<p>requirements to open an account can be found at: www.cleanenergyregulator.gov.au/ANREU/opening-an-ANREU-account/Pages/default.aspx</p> <p>Accounts will be opened in the name of a person and have a unique account number. A person may have more than one account.</p>
<i>Account representatives</i>	<p>Each account must have at least two authorised representatives with the exception of verifier accounts which need only one representative. These authorised representatives can initiate transactions and other processes on behalf of the account holder.</p> <p>Accounts may also have one or more <i>additional</i> authorised representatives these representatives must be nominated when requesting an account</p> <p>The National Administrator may require that information not in the regulations also be supplied.</p>	<p>A person holding, or applying for, a registry account must nominate an authorised representative who can operate the account. This is only required if the person holding the account is not a natural person.</p> <p>The authorised representative must provide proof of identity and proof that they are a fit and proper person – that is, they must provide the same information required of the account holder.</p> <p>An account holder or an authorised representative of a holder may request that an authorised representative be removed or added to the account.</p>

Policy		Union Registry	Australian Registry
Transfers of units	<i>Voluntary closure of an account</i>	The national administrator will close an account within 10 working days the account holder’s request.	If there are no units in an account, the Regulator can close an account at the account holder’s request.
	<i>General transfer process</i>	<p>Authorised representatives of an account can initiate a transfer by electronic notice to the national administrator. Transfers will be initiated immediately if they are confirmed between 10am and 4pm (CET), on working days. Other transfers will be initiated at 10am on the next working day.</p> <p>A delay of 26 hours applies between the initiation and finalisation of a transfer, except for transfers from a trading account to an account on their trusted list. This delay is suspended on Saturdays and Sundays and may also be suspended by national authorities on national public holidays.</p> <p>On initiation a notification will be sent to all account representatives indicating the proposed transfer. The account representative may request the national administrator cancel the transfer up to two hours before the end of the delay window if they suspect that a transfer was initiated fraudulently. In this case the account holder <i>must</i> report the suspected fraud to the relevant national law enforcement authority and this report must be forwarded to the national administrator within seven days.</p> <p>Transactions will not be completed if prevented by</p>	<p>Account holders or their authorised representative will request that units be transferred by sending an electronic notice to the Regulator. Transfers will be completed as soon as practicable where the receiving account exists and is not subject to any restrictions on its operation.</p> <p>The Regulator has the power to defer a transfer instruction for up to five business days as it is expected that routine processing of transfer transactions, including checking for fraudulent transactions, could in some circumstances take this long. This decision is not subject to administrative review.</p>

Policy	Union Registry	Australian Registry
	the status of the initiating or receiving account is blocked, suspended or closed.	
<i>Restrictions on transfer of units</i>	An administrator may suspend access to allowances or Kyoto units held in accounts it administers for up to two weeks if it suspects that these units have been the subject of a transaction constituting fraud, money laundering, terrorist financing or other serious crime or in accordance with national law provisions. The Commission (or national law enforcement agency) may also instruct the central (or national) administrator to suspend units for up to two weeks.	The Regulator cannot suspend access to specific allowances, it can however refuse the import of an emissions unit, including domestically issued units, Kyoto units and prescribed international units, if it has reasonable grounds to suspect that the transfer instruction is fraudulent.
<i>Import and export of domestically issued units</i>	Allowances can be imported or exported where such transfers are recognised under a linking agreement or arrangement.	<p>Australian carbon units may be imported and exported from prescribed foreign registries from July 2018 (after the price controls period). These transfers must be in accordance with any conditions specified in the regulations.</p> <p>The CFI Act provides for import and export of ACCUs in two-ways. Firstly, an ACCU can be traded internationally if regulations are made to facilitate this. Alternatively, existing provisions provide for an ACCU that is issued for Kyoto-compatible activities performed during the first commitment period to be exchanged for a Kyoto unit (an AAU or, with some limitations, an ERU or RMU) which can be traded internationally. The request for exchange must be</p>

Policy	Union Registry	Australian Registry
		made before 1 July 2013.
		AllUs can be traded internationally if regulations are made to facilitate this (discussed below).
<i>Import and export of Kyoto units</i>	Each registry must ensure that there are no transfers which are incompatible with the obligations resulting from the Kyoto Protocol. Each Member State will fulfill authorised operations under the UNFCCC and Kyoto Protocol.	Kyoto units can be transferred internationally. The Regulator will carry out these transfers except where it is in breach of regulations or other relevant rules including the Kyoto rules (such as breaching Australia's commitment period reserve).
<i>Import and export of other international units</i>	There are no specific provisions regarding the import or export of third party units other than Kyoto units. However, the Commission is empowered to make regulations in relation to third party units in the event of a link that meets the requirements of the Directive.	<p>Prescribed international units can be imported and exported internationally. Detailed arrangements for the transfer of prescribed international units may be specified in regulations.</p> <p>The Minister has the power to instruct the Regulator (through a Ministerial determination) to engage in the transfer of prescribed units on behalf of the Commonwealth.</p> <p>AllUs are prescribed international units; however, the Government has powers to modify provisions applying to specified classes of AllUs, including provisions for transferring these units domestically and internationally. This provides the Government flexibility to implement a range of arrangements relating to these units.</p>

Policy	Union Registry	Australian Registry
Surrender, cancellation or deletion of units	<p><i>Surrender</i></p> <p>An operator or aircraft operator will surrender allowances by instructing the registry to transfer a specified number of allowances from their operator holding account into the Union Deletion Account recording these allowances as having been surrendered for the emissions of the operator's installation (or aviation emissions).</p> <p>An allowance that was already surrendered may not be surrendered again.</p> <p>Aviation allowances may only be surrendered by aircraft operators.</p>	<p>Liabe entities can only surrender units that meet requirements under the legislation (for example not surrendering a fixed charged unit in a flexible price year).</p> <p>If an Australian carbon unit or ACCU is surrendered by a person the unit is cancelled and the Regulator removes the entry for the unit from the person's Registry account.</p> <p>If an eligible international emissions unit is surrendered by a person, the Regulator must take such action in relation to the unit as is specified in the regulations and the Regulator must remove the entry for the unit from the person's Registry account.</p>
	<p><i>Voluntary cancellation/deletion</i></p> <p>The registry will carry out any request from an account holder to delete allowances held in their account by transferring the specified number of allowances into the Union Deletion Account and recording them as having been deleted.</p> <p>These allowances are not considered to have been surrendered for any emissions.</p>	<p>Australian carbon units (with the exception of fixed price units), ACCUs, Kyoto units and prescribed international units may be voluntarily cancelled by an electronic notice to the Regulator. For Kyoto units, this cancellation involves transferring the unit to the voluntary cancellation account before the end of the 'true up period' for the relevant Kyoto year.</p> <p>Provisions relating to the cancellation of prescribed units and AIU's will be specified in regulations.</p>

Policy		Union Registry	Australian Registry
System security	<i>Accessing the registry</i>	Account representatives can access their accounts through a secure area of the registry that is accessible through the Internet. To access an account requires the entry of a user name and password and secondary authentication. The authorised representative must take all necessary measures to prevent the loss, theft or compromise of its credentials and immediately report to the national administrator if their credentials are compromised.	Account representatives can access their accounts through a secure connection. This is accessible through the Internet, accessed by user name and password.
	<i>Trusted accounts</i>	Auction delivery accounts, holding accounts and trading accounts may have a trusted account list. Accounts held by the same account holder are automatically included on the trusted account list. A transfer to a trusted account involves fewer layers of authorisation.	There are no specific limitations on transactions that can be initiated by specific registry accounts. However note that regulations may be introduced to limit transactions from or to certain accounts.
	<i>Authorising transactions</i>	All transactions, except those initiated by an external platform, require an out-of-band confirmation (a confirmation outside of the registry system) by an <i>additional</i> authorised representative before the transaction can be initiated. In addition to the approval of an authorised representative, the approval of an additional authorised representative is required in order to initiate a transaction, except for:	An authorised representative may initiate and approve transactions in relation to the account. Transactions require an out-of-band confirmation (an emailed PIN) by an <i>additional</i> authorised representative before the transaction can be submitted. The Regulator will only allow a transaction if it is satisfied of the authorised representative's identity and that the representative is fit and proper.

Policy	Union Registry	Australian Registry
	<ul style="list-style-type: none"> transfers to an account on the trusted account list in the registry of the account holder; and transactions initiated by external platforms. <p>If an authorised representative cannot access the registry, the national administrator may initiate transactions on behalf of the authorised representative.</p>	
<i>External platforms</i>	<p>A transfer through an external platform involves fewer layers of authorisation. Account holders may enable their accounts to be accessed through an external platform. The central administrator will ensure that accounts that may be accessed through external platforms are accessible to the holder of the external platform account.</p> <p>External platforms must prove that they have a level of security that is equivalent to or higher than the security ensured by the registry and that they conform to its technical and data security requirements.</p>	There are no specific provisions regarding external platforms use of the registry.
<i>Serial numbers</i>	The Union Registry masks the serial block start and end numbers from account holders.	The Australian Registry does not mask the serial block start and end numbers from account holders.
<i>Security and data exchange</i>	Communication between the secure area of the registry and authorised representatives or external	The registry legislation is designed such that in most cases changes to the Kyoto rules are automatically

Policy		Union Registry	Australian Registry
Regulatory measures	<i>standards</i>	<p>platforms must meet the required security and data exchange specifications.</p> <p>For communications between the registry and the EUTL, the EUTL will authenticate the identity of the registry as indicated in the data exchange and technical specifications.</p> <p>Data exchange and technical specifications necessary for exchanging data between registries and transaction logs are consistent with the standards set out under the Kyoto Protocol.</p> <p>When new software is required, the central administrator will test that software before it is released and before a communication link is established with the EUTL or ITL.</p> <p>The central administrator will take all necessary steps to ensure that unauthorised access to the registry website does not occur.</p>	<p>reflected as registry rules, including ITL data specifications.</p> <p>There are no minimum requirements for data security provided for in the legislation.</p>
	<i>Suspension of accounts</i>	<p>An administrator may suspend an account if:</p> <ul style="list-style-type: none"> • There has been incorrect or improper use of the account or account processes, including attempting to compromise the registry or the EUTL. • The account holder has died, ceased to exist as a legal person or has not meet requirements for 	<p>The Regulator may suspend the operation of an account without prior notice to protect the integrity of the Registry or to prevent, mitigate or minimise criminal activity or abuse in relation to the Registry.</p> <p>The Regulator must inform the person operating the account suspension as soon as practicable.</p> <p>The person operating the account may request that</p>

Policy	Union Registry	Australian Registry
	<p>registry use (e.g. agreeing to terms and conditions) specified by the national or central administrator.</p> <ul style="list-style-type: none"> The security of the credentials of an authorised representative or additional authorised representative has been compromised. <p>An administrator may suspend an authorised representative/s if:</p> <ul style="list-style-type: none"> They have incorrectly or improperly used the account or account processes, including attempting to compromise the registry or the EUTL. The administrator believes that the account was or may be used for fraud, money laundering, terrorist financing or other serious crimes or in accordance with relevant national laws. <p>The Commission or a competent national authority may instruct the national administrator or central administrator to implement a suspension.</p> <p>If access to an external platform account is suspended or an authorised representative of an external platform account is suspended, the administrator will also suspend the platform's access to user accounts.</p>	<p>the Regulator lift the suspension, but must provide reasons why it should be lifted. The Regulator may request further information and has up to seven days from the receipt of the request or receipt of further information to respond.</p> <p>An account holder may also request that the Regulator suspend their Registry account.</p> <p>A decision not to revoke the suspension of an account is subject to administrative review.</p>

Policy	Union Registry	Australian Registry
	<p>A suspension will be lifted immediately once the situation giving rise to the suspension is resolved. If the situation leading to the suspension is not resolved within a reasonable period of time, the competent authority may instruct the national administrator to close or block the account until the situation is rectified.</p> <p>The account holder may object to a suspension to the competent authority or the relevant authority under national law.</p>	
<i>Other restrictions on accounts</i>	<p>If an operator has not entered a verified emissions number by 1 April of the year following a compliance year, their Registry account will be blocked. It will only be reopened when the relevant emissions have been verified/ entered.</p> <p>The account holder may appeal the blocking of an account with the relevant national authority within 30 calendar days.</p>	<p>Regulations may restrict identified registry accounts without prior notice to protect the integrity of the Registry or to prevent, mitigate or minimise criminal activity or abuse in relation to the Registry.</p> <p>These restrictions will apply in prescribed circumstances, and may prohibit, restrict or limit transfers to or from the account. The Regulator must inform the person operating the account of restrictions as soon as practicable. The person operating the account may appeal this restriction.</p> <p>An account holder may request that their registry account be suspended or restricted or that transaction limits be place on their account.</p>
<i>Closure of</i>	The national administrator will close an operator	Regulations may give the Regulator authority to

Policy	Union Registry	Australian Registry
<i>accounts</i>	<p>holding account if the competent authority instructs them that there is no reasonable prospect of further allowances being surrendered. The competent authority must notify the national administrator of the revocation or suspension of a greenhouse gas emissions permit or the closure of an installation within 10 working days. If the installation has met all its liabilities then the national administrator may close their operator holding account from 30 June of the year following.</p> <p>Aircraft operator holding accounts will only be closed if the aircraft operator has been merged into another aircraft operator or has permanently ceased its covered operations.</p> <p>If a person holding account or a trading account has no units and has recorded no transactions for a year, the national administrator may notify the account holder that (unless requested otherwise) the account will be closed within 40 working days.</p> <p>If there are any allowances or Kyoto units in an account that is to close, the administrator will request the account holder transfer these units to another account. If the account holder has not responded within 40 working days, the units will be transferred to its national holding account.</p>	<p>close an account without the account holder's consent. The Regulator must provide the account holder 30 days' notice before closure.</p> <p>Any units within accounts on closure will be cancelled or transferred to cancellation accounts.</p> <p>A person who has had an account involuntarily closed may not open another account.</p> <p>A decision to close an account is subject to administrative review.</p>

Policy	Union Registry	Australian Registry
	A verifier account may also be closed (within 10 working days) if their accreditation has expired or been withdrawn or it has ceased operation.	
<i>Suspension of processes</i>	The Commission may instruct the central administrator to temporarily suspend the EUTL's acceptance of some or all registry processes if it is not being operated and maintained in accordance with the Regulations. A national administrator may request the Commission reinstate suspended processes if it considers that these issues have been resolved.	As there is not a transaction log separate to the Australian Registry, relevant processes will be suspended when the registry or part thereof is suspended.
<i>Suspension of the operation of the registry</i>	<p>The Commission may instruct the central administrator to suspend access to the registry or the EUTL or parts thereof if it has a reasonable suspicion that there is a breach of security or there exists a serious security risk that threatens the integrity of the system.</p> <p>A national administrator may suspend access to accounts they administer. If practicable, they will inform the central administrator and account holders with prior notice of the suspension.</p> <p>Access may be temporarily suspended to carry out maintenance of the registry.</p>	<p>The Regulator may temporarily suspend the operation of the Registry to prevent, mitigate or minimise the impact of abuse or criminal activity or to carry out maintenance.</p> <p>A notice of this suspension will be published on the Regulator's website.</p>

Policy	Union Registry	Australian Registry
Compliance and enforcement	<p><i>Penalties for non-compliance with provisions</i></p> <p>Member States will impose penalties for infringements of the national provisions adopted pursuant to the Directive and must take all measures necessary to ensure that such rules are implemented.</p> <p>These penalties must be effective, proportionate and dissuasive. Member States will notify the Commission of these provisions and any subsequent amendment affecting them. Where appropriate, detailed rules may be established in respect of these penalties, these rules will be subject to the regulatory procedure with scrutiny.</p> <p>Member States have developed compliance and enforcement regimes that apply the provisions of this Directive.</p>	<p>Australia has a regime that applies civil or criminal penalties for failing to abide by the provisions of the ANREU Act.</p> <p>The ANREU Act includes criminal penalties for serious misconduct. For example, making a false entry in the registry or producing a document that falsely claims to be an extract of an entry in the Registry, carry with them penalties that range from fines to imprisonment.</p> <p>There are also a range of civil penalties that can be imposed by federal or competent state and territory courts. Civil penalty provisions will apply if a person contravenes or aids a contravention of a requirement of the regulations, illegally discloses information from the Registry or contravenes a requirement of a civil penalty that has been imposed.</p> <p>Only the Regulator may apply for a civil penalty order and a civil penalty order may be started no later than 6 years following the alleged contravention.</p>
	<p><i>Cooperation with competent authorities</i></p> <p>The national administrator must cooperate fully with the relevant authorities to establish adequate and appropriate procedures to forestall and prevent operations related to money laundering or terrorist financing. This includes assisting the financial intelligence unit (FIU, see Directive 2005/60/EC) who</p>	<p>The Clean Energy Regulator will work with other agencies, such as the Australian Securities and Investment Commission, the Australian Transaction Reports and Analysis Centre and the Australian Tax Office, as necessary.</p>

Policy	Union Registry	Australian Registry
Records and reporting	<p>must be informed of any such operations and will be provided with all necessary information and assistance (consistent with national laws).</p>	
	<p><i>Changes to account information</i></p> <p>All account holders must notify the national administrator of changes of information relevant to their account within 10 working days. Account holders must also confirm at the end of each year that the information for their account is correct.</p> <p>Aircraft operators must notify the administrator if they have merged with another aircraft operator or if they have split into two or more aircraft operators.</p>	<p>The registered holder must notify the Regulator of any of the following within 28 business days:</p> <ul style="list-style-type: none"> • a change of the account holder's name, business name or trading name or a change of the an authorised representative's name; • a change of the account holder's or authorised representatives contact details; or • a change in relation to whether the account holder or an authorised representative, continues to meet the fit and proper person criteria.
	<p><i>Records</i></p> <p>The registry and other Kyoto Protocol registries store records concerning all processes, log data and account holders for at least 15 years, national administrators can access, query and export all records held in the registry in relation to accounts that are (or were) administered by them.</p>	<p>Among other things, the Australian Registry will record details of the opening or closure of accounts, issuance, transfer, surrender, cancellation, retirement or relinquishment of units and the rejection of any transfers by the ITL.</p>
	<p><i>Reporting</i></p> <p>The central administrator will make available certain prescribed information in a transparent and organised manner via the EUTL website. The central administrator will not release confidential information</p>	<p>The Regulator will publish up-to-date information regarding the holder of each Registry account and their address.</p>

Policy	Union Registry	Australian Registry
	<p>held in the EUTL or in the registry.</p> <p>National administrators may also make available part of the information listed in Annex XII in a transparent and organised manner on a site publicly accessible via the Internet. National administrators must not release confidential information.</p> <p>Account holders may request that the national administrator not include certain data on the registry website. The EUTL and the registry will not require account holders to submit unit price information.</p>	<p>The Regulator will also publish:</p> <ul style="list-style-type: none"> • information regarding auction's (including average prices); • information regarding the recipients of free Australian carbon units; • information regarding significant holders of units; • the total number of banked and borrowed Australian carbon units; • the total number of each type of unit in the Registry; • information regarding voluntarily cancelled units, including the number of units cancelled and by who; • information regarding the relinquishment of units; • other information relating to units or their registered holders as required in regulations; and • information required under Kyoto rules. <p>The Regulator must keep a database known as the Liable Entities Public Information Database (the Information Database), which records the persons who are liable entities under the CPM, the Information Database will also publish information</p>

Policy	Union Registry	Australian Registry
		including a liable entities emissions, and any unit shortfall or unit shortfall charge owing.
<i>Confidentiality</i>	<p>Information regarding the holdings of accounts, transactions made, and the unique identification code or serial number of the units affected by a transaction, are considered confidential except as otherwise required by Union law, or by provisions of a national law.</p> <p>European and national law enforcement agencies, competent authorities and national administrators may obtain data stored in the registry and the EUTL upon their request to the central administrator or to a national administrator if such requests are necessary for the performance of their tasks. This data may not be made available to persons not involved in the intended purpose of the data use. The central administrator may also provide access to anonymous transaction data for the purpose of looking for suspicious transaction patterns.</p> <p>National administrators make available to all other national administrators and the central administrator the names and identities of persons for whom they have:</p> <ul style="list-style-type: none"> refused to open an account; 	<p>Privacy and confidentiality provisions are set out in the ANREU terms and conditions. These provide that the Regulator may collect, use and disclose the Account holder's personal information and data for purposes related to the operation of the Registry and to any Commonwealth Government agency.</p> <p>Information relating to the Account holder held in the Registry and to which the Administrator has access or held by the Administrator will be treated as confidential by the Administrator, except where:</p> <ul style="list-style-type: none"> the information is specified as information to be published or is already in the public domain; the disclosure is made for the purposes of operating or maintaining the security of the Registry; the disclosure is made to any Commonwealth Government agency, the ITL or relevant authority under law; or the disclosure is made to prevent or investigate fraud, money laundering or any other unlawful activity.

Policy	Union Registry	Australian Registry
Administrative processes	<p> <ul style="list-style-type: none"> • refused to provide access to an account; • suspended an account; or • closed an account. <p>Europol has permanent read-only access to data stored in the registry and the EUTL for the purpose of the performance of its tasks. Europol must keep the Commission informed of its use of the data.</p> <p>The auction monitor will have access to all information concerning the auction delivery account.</p> <p>The central administrator is responsible for the maintenance of the registry and must take all reasonable steps to ensure that the Registry is available for access, and communication links are maintained 24 hours a day, 7 days a week</p> <p>The central administrator must ensure that the registry and the EUTL respond promptly to requests made by account representatives.</p> <p>The central administrator must keep interruptions to the operation of the registry and EUTL to a minimum and must provide backup hardware and software to respond in the event of a breakdown in operations.</p> <p>The central administrator will ensure that the registry and EUTL incorporate robust systems to safeguard</p> </p>	<p>The Australian Registry is an electronic registry and is maintained, by electronic means, by the Clean Energy Regulator (the Regulator).</p> <p>The Regulator will ensure that secure access to the registry and its systems and processes is maintained.</p> <p>The Australian Registry will be operational 24 hours a day, 7 days a week.</p>
	<p><i>Maintenance of registry</i></p>	

Policy	Union Registry	Australian Registry
	data and facilitate the prompt recovery of data and operations in the event of failure.	
<i>Validation and reconciliation</i>	<p>The registry must check that the correct information is exchanged during each process and ensure that discrepancies are detected and incorrect processes are terminated before they are sent to the EUTL. The EUTL conducts automated checks to identify discrepancies in all registry processes.</p> <p>The EUTL conducts periodic data reconciliation to ensure that its records of accounts and holdings match the registry records. If discrepancies are detected, then the process is terminated and all relevant account holders are informed of the termination. Where transactions are completed through the ITL, the ITL will terminate any processes where discrepancies are identified either by the ITL or the EUTL and all relevant account holders are informed of the termination.</p> <p>The EUTL will automatically abort the completion of a transaction if it cannot be verified and completed within 24 hours of its communication.</p>	<p>All transactions occurring in the Australian Registry are overseen by the Clean Energy Regulator and internally verified.</p> <p>The Regulator has administrative power to correct errors (e.g. unauthorised entries) in the Registry resulting from unauthorised actions. The decision to correct an entry in the Registry or refuse to do so is a reviewable decision.</p>
<i>Resolving transaction errors</i>	<p>If an account holder (or an administrator acting on the account holders behalf) unintentionally or erroneously surrenders or deletes allowances, the account holder may request the administrator</p>	<p>The Regulator may alter entries in the Registry in cases of obvious (uncontroversial) errors or defects. The Regulator may alter the Registry by request or on its own initiative. A notice of any alteration will be</p>

Policy	Union Registry	Australian Registry
	<p>reverse the transaction.</p> <p>If the administrator agrees with the request, it may ask the central administrator to reverse the transaction. A transaction will only be reversed if:</p> <ul style="list-style-type: none"> the surrender or deletion of an allowance occurred within thirty days of the account administrator's proposed reversal; and no operator would become non-compliant for a previous years emission as a result of the reversal. <p>A national administrator may reverse an erroneous allocation of allowances in certain circumstances.</p>	<p>published on their website.</p> <p>The Regulator, or an affected person may apply for rectification of the Registry in the Federal Court regarding the omission of an entry, a wrong entry, an error in an entry, a wrongly removed entry or an entry made without sufficient cause. The Regulator must comply with a court order directing rectification.</p> <p>Note that the Regulator cannot correct the Registry to alter the registration of an indefeasible interest in Australian carbon units or ACCUs or make a correction that is contrary to regulations specifying the ownership of Kyoto units or prescribed international units.</p>
<i>Helpdesks</i>	National administrators operate national helpdesks to assist and support the holders and representatives of accounts that they administer. The central administrator provides support to national administrators through a central helpdesk.	Account holders can request technical assistance from the Regulator by phone or email.
<i>Fees</i>	National administrators may charge reasonable fees to holders of accounts administered by them. The central administrator will publish details of these fees on a public website.	Any fees for use of the Australian Registry will be specified in regulations. Fees are not currently charged.