

Department for Environment, Food and Rural Affairs

Consultation on the draft Climate Change Bill

Response proforma

Please use this proforma to answer the questions in the above document. The closing date for the submission of responses is **12 June 2007**.

Responses should be clearly marked in the subject field "**Consultation on draft Climate Change Bill**", and should be sent:

- by email to: climatechangeconsultation@defra.gsi.gov.uk
- or by post to: Patrick Erwin / James Hardy, Climate Change Legislation Team, Area 4/F5, Ashdown House, 123 Victoria Street, London SW1E 6DE

The email address may also be used for general queries relating to this consultation. Please mark the subject field **Consultation on the draft Climate Change Bill**.

To help us analyse responses, please provide details of yourself or your organisation (* if appropriate) below.

In line with Defra's policy of openness, at the end of the consultation period copies of the responses we receive may be made publicly available through the Defra Information Resource Centre, Lower Ground Floor, Ergon House, 17 Smith Square, London SW1P 3JR. The information they contain may also be published in a summary of responses.

If you do not consent to this, you must clearly request that your response be treated confidentially. Any confidentiality disclaimer generated by your IT system in e-mail responses will not be treated as such a request.

You should also be aware that there may be circumstances in which Defra will be required to communicate information to third parties on request, in order to comply with its obligations under the Freedom of Information Act 2000 and the Environmental Information Regulations.

Defra's confidentiality statement in full can be found at www.defra.gov.uk/corporate/consult/climatechange-bill/letter.htm

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Organisation Type	Please mark/give details as appropriate
Non Governmental Organisation (NGO)	<input type="checkbox"/>
Public sector (e.g. local / central government, hospitals, universities) <i>(please give details)</i>	<input type="checkbox"/>
Retail sector (e.g. supermarkets) <i>(please give details)</i>	<input type="checkbox"/>
Service sector (e.g. cinemas, hotel chains, banks) <i>(please give details)</i>	<input type="checkbox"/>
Energy supply industry	<input checked="" type="checkbox"/>
Heavy industry / manufacturing	<input type="checkbox"/>
Property management	<input type="checkbox"/>
Trader / verifier	<input type="checkbox"/>
Academic / research	<input type="checkbox"/>
Individual	<input type="checkbox"/>
Other <i>(please give details)</i>	<input type="checkbox"/>

NB: on the form below, please leave the response box blank for any questions that you do not wish to answer. Any other comments can be recorded in the box at the end of this form. All boxes may be expanded as required.

Targets and Budgets

Setting statutory targets

1. Is the Government right to set unilaterally a long-term legal target for reducing CO₂ emissions through domestic and international action by 60% by 2050 and a further interim legal target for 2020 of 26-32%?

Having long-term targets set in law would bring additional and welcome certainty to the Government's direction of travel on climate change. This must, however, be backed up by clear and credible policies which will actually deliver on these legal commitments. BWEA would also welcome clarity on what action would actually follow failure to meet the 2020 or 2050 targets, or indeed the carbon budgets mooted later in this consultation.

It is also of concern that the 60% objective for 2050 was set in 2003, and was itself based on work by the Royal Commission on Environmental Pollution that was published in 2000. The science of climate change has moved on in the intervening seven years, and Government risks setting a target that will need to be changed soon after it has been set. However, while BWEA would prefer a credible long-term target to be set which will not need to be changed, we also see the value in having a framework that starts as soon as possible. On balance, therefore, we support the 60% target whilst believing that it will need to be revised in the near future.

2. Is the Government right to keep under review the question of moving to a broader system of greenhouse gas targets and budgets, and to maintain the focus at this stage on CO₂?

Since current EU policies such as the Emissions Trading Scheme are focused on CO₂, it is not unreasonable for the UK to follow suit. These international policies are subject to change, and therefore keeping flexibility to extend the system to the full basket of greenhouse gases is important. While the Bill is passing through Parliament, the Government should outline as far as possible the ways in which the framework would have to change to accommodate other greenhouse gases, in order to give investors the chance to assess how their long-term plans might be affected.

Carbon budgeting

3. Should the UK move to a system of carbon management based upon statutory five-year carbon budgets set in secondary legislation?

The concept of five-year budgets is reasonable, giving flexibility to deal with such natural variables as temperature and wind conditions. That these should be set in secondary legislation is also reasonable, avoiding the need for primary legislation every five years.

4. Do you agree there should be at least three budget periods in statute at any one time?

The longer-term visibility that this 15-year rolling budgetary process can bring will be most welcome. However, BWEA is concerned that locking in the budget too far ahead can be detrimental if carbon savings are ahead of the budget and thus carbon prices remain low. The criteria for revising the budget must account for this, as noted below.

Reviewing targets and budgets

5. Do you agree there should be a power to review targets through secondary legislation, to ensure there is sufficient flexibility in the system?

The 2020 and 2050 targets are to be set in primary legislation and thus intentionally difficult to change (and hence why we are concerned about the level of the 2050 target as mentioned above). Being able to change them through secondary legislation will allow for them to be changed quickly, which while it may be necessary, could leave the targets vulnerable to being changed frequently. There should therefore be clear and high hurdles to be crossed before such secondary legislation is contemplated. The Government is right to restrict the circumstances that these targets can be changed, though we would note that these should be expanded as set out in the answer below.

6. Are there any factors in addition to, or instead of, those already set out that should enable a review of targets and budgets?

If carbon emissions are consistently below budget, even though those budgets are in line with the 2020 and 2050 targets, then the carbon price will be consistently low. This is inconsistent with the call in the Stern Review for a carbon price that rises over time. While this currently appears to be an unlikely scenario, it is a risk that should be guarded against. Government should take the power to change targets and budgets if this is the case, which will underpin confidence in the carbon price and help achieve the objective of moving to a low-carbon economy.

Counting overseas credits towards the budgets and targets

7. Do you agree that, in line with the analysis in the Stern Review and with the operation of the Kyoto Protocol and EU ETS, effort purchased by the UK from other countries should be eligible in contributing towards UK emissions reductions, within the limits set under international law?

It is reasonable that credits bought in various international markets be counted towards UK targets, within limits. Government should be careful, however, to ensure that project-level credits (ie JI and CDM) should be of the highest quality in order not to undermine domestic emission reductions. Any credits bought directly by Government should be verified to the highest standards, possibly restricting them to certain types to project, and Government should also take steps to encourage private-sector buyers to exercise similar discretion.

Banking

8. Do you agree it should be permissible to carry over any surplus in the budget? Are there any specific circumstances where you consider this provision should be withdrawn?

Banking should be permitted: it will encourage early action, though if it leads to a consistently low carbon price then the budgets should be revised to account for this as noted above.

Borrowing

9. Do you agree that limited borrowing between budget periods should be allowed?

Borrowing limited to 1% of the following budget's carbon should bring suitable flexibility to the system, and minimise the need to revise budgets, which will increase confidence in the system.

Compliance with carbon budgets and targets

10. Is it right that the Government should have a legal duty to stay within the limits of its carbon budgets?

Yes, though we are still unclear as to the penalties that can be imposed should Government fail to deliver on these budgets.

The Committee on Climate Change

The need for an independent analytical organisation

11. Do you agree that establishing an independent body will improve the institutional framework for managing carbon in the economy?

Much of the mooted Committee's ability to improve the framework will depend on its terms of reference and its members, so it is difficult to make a definitive judgement. There is much activity around the same subject undertaken in DTI, DEFRA, the Office of Climate Change and other Departments, so duplication of effort will be hard to avoid. In general, an independent committee may help to depoliticise the climate change agenda, though this would require active buy-in from parties across the political spectrum from the start. It should also be noted that an appeal to expertise does not always end an argument, and there should be ongoing political work to build consensus around the recommendations of the Committee.

Functions of the Committee on Climate Change

12. Do you agree that the Committee on Climate Change should have an advisory function regarding the pathway to 2050?

This is appropriate, though it is clear that the final responsibility must always rest with the Government of the day to implement (or not) the Committee's recommendations. Government has also, however, started to add to its duties through proposing a role for the Committee in setting future banding levels in a reformed Renewables Obligation, and presumably in setting new Obligation levels through the 'guaranteed headroom' mechanism (though the latter is not clear in the RO consultation document). BWEA is concerned that the responsibilities of the Committee will grow through such 'mission creep', and that it will thus be overburdened with duties. Government should take care not to pass to the Committee roles that it should be retaining.

13. Do you agree with the proposal that the Committee on Climate Change should have a strongly analytical role?

In order to carry out its role as foreseen in the consultation paper, the Committee will have to have strong in-house analytical capability, or else have the resources to draw on outside expertise. Whether expertise is in-house or bought-in, the Committee will need a budget commensurate with its wide range of responsibilities.

Factors for the Committee on Climate Change to consider

14. Are these the right factors for the Committee on Climate Change to take into account in assessing the emissions reduction pathway? Do you consider there are further factors that the Committee should take into account?

The list as set out in the consultation appears reasonable, though BWEA would add the need to minimise policy uncertainty for companies, which will actually be delivering the emissions reductions. A clear example here is the Renewables Obligation, which has been subject to change in every year of its operation, culminating in the major reform now being consulted on. Such uncertainty is a deterrent to investment and the Committee should have cognisance of this factor when giving its advice.

Membership and composition

15. Do you agree the Committee on Climate Change should be comprised of technical experts rather than representatives of stakeholder groups?

Given the Committee's advisory role, having technical experts as its members is right, though great care should be taken to ensure that as wide a range of expertise as possible is represented. Whilst stakeholders should not be directly represented, Government would be wise to seek views on candidates from them, since the Committee members will have to have the confidence of these bodies to ensure support for the advice given. Government should also place a requirement on the Committee to consult with stakeholders and take into account their views when formulating its advice.

16. Are these the appropriate areas of expertise which should be considered? Do you consider there are further areas that should be considered or any areas that are less important?

The list is quite comprehensive, though the area 'energy production and supply' should be amended to 'energy production, supply and use', and Government should also consider adding in expertise on energy markets as a further area which needs to be covered.

Enabling powers

Extending the suite of domestic trading schemes

17. Do you agree with the principle of taking enabling powers to introduce new trading schemes?

Given the urgency of tackling climate change, taking powers that will speed the introduction of additional instruments is reasonable. However, care should be taken to limit these powers given the wide-ranging impact such schemes will have.

Benefits and structure of enabling powers

18. Do you consider that these powers are sufficient to introduce effective new policies via secondary legislation? If not, what changes would you make?

The powers proposed in the consultation seem more than adequate to ensure the policies can be implemented via secondary legislation.

Reporting

The need for regular, independent monitoring of the UK's progress

19. Do you agree that the Committee on Climate Change should be responsible for an independent annual report on the UK's progress towards its targets which would incorporate reporting on a completed budget period every five years?

Additional scrutiny of the UK's progress towards its unilateral and multilateral commitments on climate change is welcome. An independent report from the Committee on Climate Change would appear to be helpful in this respect.

Adaptation

20. Is statutory reporting the best way to drive forward progress on adaptation while at the same time ensuring Government is able to develop flexible and appropriate measures reflecting developments in key policy areas?

BWEA does not have the expertise to comment on this in detail, but the proposal would appear to be an improvement on the current situation.

Other responses or comments

(Please use the following space for any other responses or comments)