

111TH CONGRESS
1ST SESSION

H. R. 1790

To reduce global greenhouse gas emissions resulting from land conversion and deforestation in developing countries, to provide incentives for developing countries to increase forest carbon stocks, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 30, 2009

Mr. ENGEL introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To reduce global greenhouse gas emissions resulting from land conversion and deforestation in developing countries, to provide incentives for developing countries to increase forest carbon stocks, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Forest Carbon Emis-
5 sion Reduction Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) changes in land use patterns and forest sec-
2 tor emissions account for approximately 20 percent
3 of global greenhouse gas emissions;

4 (2) land conversion and deforestation are two of
5 the largest sources of greenhouse gas emissions in
6 the developing world, comprising approximately 40
7 percent of the total greenhouse gas emissions of the
8 developing world;

9 (3) with sufficient data, the rates of deforest-
10 ation and forest degradation and the level of forest
11 carbon stocks can be measured, subject to an accept-
12 able degree of uncertainty;

13 (4) encouraging reduced deforestation and re-
14 duced forest degradation in foreign countries
15 could—

16 (A) provide critical leverage to encourage
17 voluntary participation by developing countries
18 in emission limitation regimes;

19 (B) facilitate greater overall reductions in
20 greenhouse gas emissions than otherwise would
21 be practicable; and

22 (C) substantially benefit biodiversity, con-
23 servation, and indigenous and other forest-de-
24 pendent people in developing countries;

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

9 (6) providing emission allowances in support of
10 activities in countries that lack fully developed insti-
11 tutions for national-scale accounting could help to
12 build capacity in those countries, increase the se-
13 questration of additional carbon, and increase par-
14 ticipation by developing countries in international
15 climate agreements.

16 **SEC. 3. DEFINITIONS.**

17 In this Act:

18 (1) ADMINISTRATOR.—The term “Adminis-
19 trator” means the Administrator of the Environ-
20 mental Protection Agency.

21 (2) DEVELOPING COUNTRIES.—The term “de-
22 veloping countries” means countries considered to be
23 ‘emerging and developing economies’ according to
24 the International Monetary Fund’s World Economic
25 Outlook Report, April 2008, except the term does

1 not include countries determined by the Secretary to
2 have repeatedly provided support for acts of inter-
3 national terrorism, as designated pursuant to section
4 6(j) of the Export Administration Act of 1979, sec-
5 tion 40 of the Arms Export Control Act, and section
6 620A of the Foreign Assistance Act of 1961.

7 (3) INTERNATIONAL FOREST CARBON ACTIVI-
8 TIES.—The term “international forest carbon activi-
9 ties” means national or subnational activities in de-
10 veloping countries that are directed at—

11 (A) reducing greenhouse gas emissions
12 from deforestation and forest degradation;

13 (B) reducing greenhouse gas emissions
14 from conversion of peatlands; and

15 (C) increasing sequestration of carbon
16 through—

17 (i) restoration of forests;

18 (ii) restoration of degraded land that
19 has not been forested prior to restoration;

20 (iii) afforestation, using native species
21 where practicable; and

22 (iv) improved forest management.

23 (4) SECRETARY.—The term “Secretary” means
24 the Secretary of State.

1 **SEC. 4. VOLUNTARY PARTICIPATION IN PROGRAMS.**

2 (a) CONSULTATION REQUIREMENT.—No activity au-
3 thorized by section 5 or 6 shall be carried out in a devel-
4 oping country until at least 30 days after the date on
5 which the Administrator, in consultation with the Sec-
6 retary, completes consultation about the activity with the
7 government of that developing country.

8 (b) COMPLIANCE WITH LOCAL LAWS.—No activity
9 authorized by section 5 or 6 shall be carried out in a devel-
10 oping country if the activity is inconsistent with the laws
11 of that developing country.

12 **SEC. 5. SET-ASIDE OF EMISSION ALLOWANCES TO FOREST**
13 **CARBON ACTIVITIES IN DEVELOPING COUN-**
14 **TRIES.**

15 (a) PURPOSE.—The purposes of this section are—

16 (1) to facilitate voluntary participation in na-
17 tional-level activities and accounting in the forest
18 sector in developing countries to ensure market
19 readiness for emissions reductions and increased se-
20 questration from international forest carbon activi-
21 ties in developing countries; and

22 (2) to facilitate voluntary participation in inter-
23 national forest carbon activities at sub-national lev-
24 els in developing countries that achieve low-cost
25 emissions reductions or increased sequestration.

1 (b) REQUIREMENT TO SET-ASIDE EMISSION ALLOW-
2 ANCES.—To the extent emission allowances are estab-
3 lished under any provision of law to address greenhouse
4 gas emissions, the Administrator shall allocate each cal-
5 endar year, pursuant to subsection (c), a portion of the
6 emission allowances to assist developing countries in their
7 efforts to achieve emissions reductions or increase seques-
8 tration of carbon dioxide from international forest carbon
9 activities.

10 (c) ALLOCATION.—

11 (1) ONE-PERCENT ALLOCATION.—Not later
12 than 330 days before January 1 of each of calendar
13 years 2013 through 2050, the Administrator shall
14 allocate for distribution under this section one per-
15 cent of the aggregate quantity of emission allow-
16 ances established for that calendar year.

17 (2) EARLY ACTION.—For each of calendar
18 years 2011 and 2012, the Administrator shall allo-
19 cate for early action distribution not more than 10
20 percent of the aggregate quantity of emission allow-
21 ances available for each of calendar years 2013
22 through 2022.

23 (3) CARRYOVER.—If the aggregate quantity of
24 emission allowances for a calendar year is not allo-
25 cated for distribution in the calendar year, the Ad-

1 administrator shall carry over to the next calendar
2 year the remaining emission allowances.

3 (d) ENSURING MARKET READINESS IN DEVELOPING
4 COUNTRIES.—

5 (1) SET-ASIDE AND AUCTION.—The Adminis-
6 trator shall—

7 (A) set-aside a portion of the allowances to
8 be allocated under subsection (c) for the pur-
9 pose of ensuring market readiness in developing
10 countries; and

11 (B) auction those allowances, with the pro-
12 ceeds deposited into a market readiness account
13 for distribution as provided in paragraph (2).

14 (2) ELIGIBILITY FOR PROCEEDS.—The Admin-
15 istrator shall establish criteria under which devel-
16 oping countries will be eligible to receive amounts
17 from the market readiness account for the purpose
18 of preparing a national forest carbon strategy, in-
19 cluding—

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

23 (B) defining the national emission ref-
24 erence baseline for the developing country based
25 on past emission rates;

1 (C) specifying options for reducing emis-
2 sions; and

3 (D) implementing mechanisms that will
4 support policies, programs, and projects to re-
5 duce emissions.

6 (e) INCENTIVE PAYMENTS FOR LOW-COST EMISSION
7 REDUCTIONS AND SEQUESTRATION ACTIVITIES.—

8 (1) IN GENERAL.—The Administrator shall es-
9 tablish criteria under which developing countries will
10 be eligible to receive emission allowances allocated
11 under subsection (c), other than the allowances set-
12 aside under subsection (d), to implement national
13 strategies—

14 (A) to reduce emissions from deforestation
15 and forest degradation;

16 (B) to implement low-cost emission reduc-
17 tion or sequestration projects in the forest sec-
18 tor; and

19 (C) to implement activities with respect to
20 largely intact native forests to guard against
21 deforestation.

22 (2) PRIORITY.—Emission allowances under this
23 subsection shall be awarded in a manner that fa-
24 vors—

1 (A) achievement of the greatest quantity of
2 carbon sequestration or emission reductions for
3 the lowest cost;

4 (B) broad geographical distribution of
5 projects; and

6 (C) reduction of international leakage, par-
7 ticularly in developing countries with largely in-
8 tact native forests.

9 (3) PROHIBITION BASED ON CERTAIN CRI-
10 TERIA.—No emission allowances under this section
11 shall be awarded to countries, or entities for projects
12 in countries, that meet the criteria established to
13 carry out subsection (d), as determined by the Ad-
14 ministrator, after the two-year period beginning on
15 the date the Administrator determines that those
16 criteria first apply.

17 (4) PROHIBITIONS BASED ON EMISSIONS.—

18 (A) INITIAL THRESHOLD.—For any cal-
19 ender year after calendar year 2015 and before
20 calendar year 2021, no allowances shall be
21 awarded with respect to a project or activity in
22 a country that generates greenhouse gas emis-
23 sions accounting for more than one percent of
24 global greenhouse gas emissions during the pre-
25 ceding calendar year.

1 (B) SUBSEQUENT THRESHOLD.—For cal-
2 endar year 2021 and any calender year there-
3 after, no allowances shall be awarded with re-
4 spect to a project or activity in a country that
5 generates greenhouse gas emissions accounting
6 for more than 0.5 percent of global greenhouse
7 gas emissions during the preceding calendar
8 year.

9 (C) EXCEPTION.—Upon a determination
10 by the Administrator that provision of allow-
11 ances to a project or activity in a country that
12 would otherwise be subject to the exclusions in
13 subparagraph (A) or (B) is in the interest of
14 building needed capacity or reducing inter-
15 national carbon leakage, allowances may be
16 issued to the project or activity subject to other
17 criteria in this subsection.

18 (f) QUALITY AND ELIGIBILITY REQUIREMENTS.—

19 Not later than 18 months after the date of enactment of
20 this Act, the Administrator, in consultation with the Sec-
21 retary, shall promulgate regulations establishing eligibility
22 requirements for the allocation of emission allowances
23 under this section for international forest carbon activi-
24 ties, recognizing that the purpose of this section is to as-
25 sist forested developing countries in achieving emission re-

1 ductions or increased sequestration of carbon dioxide from
2 international forest carbon activities, to ensure market
3 readiness, and to build capacity to participate in inter-
4 national forest carbon activities.

5 (g) OTHER NATURAL LAND THAT SEQUESTERS CAR-
6 BON.—The Administrator may provide emission allow-
7 ances under this section for a project for storage of carbon
8 in other natural land if the Administrator determines
9 that—

10 (1) the natural land is capable of storing car-
11 bon; and

12 (2) the project for storage of carbon in the nat-
13 ural land is capable of meeting the eligibility and
14 quality criteria established pursuant to subsection
15 (f).

16 (h) LIMITATION ON DOUBLE COUNTING.—Notwith-
17 standing any other provision of this Act, activities that
18 receive credit under section 5 shall not be eligible to re-
19 ceive emission allowances under this section.

20 (i) EFFECT ON INTERACTION BETWEEN ENTI-
21 TIES.—Nothing in this section supersedes, limits, or other-
22 wise affects any restriction imposed by Federal law (in-
23 cluding regulations) on any interaction between an entity
24 located in the United States and an entity located in a
25 foreign country.

1 **SEC. 6. OFFSETS FOR INTERNATIONAL FOREST CARBON**
2 **ACTIVITIES.**

3 (a) REGULATIONS.—Not later than two years after
4 the date of enactment of this Act, the Administrator, in
5 consultation with the Secretary, shall promulgate regula-
6 tions (including regulations relating to quality and eligi-
7 bility requirements) for the use of offset allowances for
8 international forest carbon activities.

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

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

18 (A) in accordance with widely-accepted, en-
19 vironmentally sustainable forestry practices;

20 (B) to promote native species and con-
21 servation or restoration of native forests, if
22 practicable, and to avoid the introduction of
23 invasive nonnative species;

24 (C) in a manner that is supportive of the
25 internationally-recognized rights of indigenous

1 and other forest-dependent people living in the
2 affected areas; and

3 (D) in a manner that enhances the capa-
4 bility, if consistent with the applicable laws in
5 the country involved, of local communities to
6 exercise prior informed consent regarding
7 projects or other activities, and to prevent the
8 improper taking of property; and

9 (2) the emission reductions or sequestrations
10 are real, permanent, additional, verifiable, and en-
11 forceable, with reliable measuring and monitoring
12 and appropriate accounting for leakage.

13 (c) NATIONAL LEVEL ACTIVITIES.—

14 (1) IN GENERAL.—Not later than two years
15 after the date of enactment of this Act, the Adminis-
16 trator, in consultation with the Secretary, shall pre-
17 pare a list of countries that have—

18 (A) demonstrated the capacity to partici-
19 pate in international forest carbon activities at
20 a national level, including—

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

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

1 (iii) the institutional capacity to re-
2 duce emissions from deforestation and for-
3 est degradation;

4 (B) capped greenhouse gas emissions or
5 otherwise established a credible national base-
6 line or emission reference baseline;

7 (C) achieved national-level reductions of
8 deforestation and degradation below an histor-
9 ical reference baseline, taking into consideration
10 national circumstances and the average annual
11 deforestation and degradation rates of the coun-
12 try during a period of at least five years;

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

15 (E) demonstrated those reductions using
16 remote sensing technology, taking into consider-
17 ation relevant international standards.

18 (2) PERIODIC REVIEW OF NATIONAL LEVEL RE-
19 Ductions in deforestation and forest deg-
20 RADATION.—The Administrator, in consultation with
21 the Secretary, shall periodically review and update
22 the list of the names of countries included under
23 paragraph (1).

24 (3) CREDITING AND ADDITIONALITY.—A
25 verified reduction in greenhouse gas emissions from

1 deforestation and forest degradation under a cap or
2 resulting from a nationwide emissions reference sce-
3 nario described in paragraph (1)(B) shall be—

4 (A) eligible for offset allowances; and

5 (B) considered to satisfy the additionality
6 criterion.

7 (d) SUBNATIONAL LEVEL ACTIVITIES.—With respect
8 to foreign countries other than the foreign countries de-
9 scribed in subsection (c), the Administrator shall recognize
10 project scale international forest carbon activities as eligi-
11 ble for offset allowances, subject to the quality criteria for
12 forest carbon activities described in subsection (b).

13 (e) OTHER INTERNATIONAL FOREST CARBON AC-
14 TIVITIES.—An international forest carbon activity, other
15 than a reduction in deforestation or forest degradation,
16 shall be eligible for offset allowances under this section,
17 subject to the eligibility requirements and quality criteria
18 for forest carbon activities described in subsection (b) or
19 other regulations promulgated pursuant to this section.

20 (f) DISCOUNT.—

21 (1) INITIAL DISCOUNT.—If, after the date that
22 is 10 years after the date of enactment of this Act,
23 the Administrator determines that a foreign country
24 that, in the aggregate, generates greenhouse gas
25 emissions accounting for more than 0.5 percent of

1 global greenhouse gas emissions has not capped
2 those emissions, established an emissions reference
3 scenario based on historical data, or otherwise re-
4 duced total forest emissions of that foreign country,
5 the Administrator shall apply a discount to distribu-
6 tions of offset allowances to international forest car-
7 bon activities in that country under this section.

8 (2) SUBSEQUENT TERMINATION.—If, after the
9 date that is 15 years after the date of enactment of
10 this Act, the Administrator determines that a for-
11 eign country that, in the aggregate, generates green-
12 house gas emissions accounting for more than 0.5
13 percent of global greenhouse gas emissions has not
14 capped those emissions, established an emissions ref-
15 erence scenario based on historical data, or other-
16 wise reduced total forest emissions of that foreign
17 country, the Administrator shall cease distributions
18 of offset allowances to international forest carbon
19 activities in that country under this section.

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

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

7 (i) REVIEWS.—Not later than three years after the
8 date of enactment of this Act and every five years there-
9 after, the Administrator, in consultation with the Sec-
10 retary, shall conduct a review of the activities undertaken
11 pursuant to this section, including the effects of the activi-
12 ties on indigenous and forest-dependent peoples residing
13 in affected areas.

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