International Legal and Regulatory Developments and Carbon Accounting

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IEA GHG R&D Programme

IEAGHG CCS Summer School, Champaign, USA, July 2011
• Why developments started happening
• IPCC GHG Inventory Guidelines
• Marine Conventions
• EU Regulation and ETS
• UNFCCC
• Others
• Regulatory principles and learning

• Future work and opportunities......
Why developments started happening

Role of CCS in climate change mitigation?

- G8 2005 recognised CCS at highest level, 5 initiatives
- IEA Technology Perspectives (2006) – CCS 20-28% of mitigation to 2050. Second only to energy efficiency.
- Stern Report (2006) – CCS ~10% mitigation by 2025, ~20% by 2050. Marginal mitigation costs without CCS increase by ~60%.
- 2004/5 Ocean acidification realisation
IPCC Special Report on CCS (2005)

- “Observations from engineered and natural analogues as well as models suggest that the fraction retained in **appropriately selected and managed** geological reservoirs is very likely to exceed 99% over 100 years and is likely to exceed 99% over 1,000 years. “

- “**For well-selected, designed and managed sites**, the vast majority of the CO2 will gradually be immobilized by various trapping mechanisms and, in that case, could be retained for up to millions of years. Storage could become more secure over longer timescales. “
IPCC Guidelines for GHG Inventories

- Apr 2006
- Vol 2 Energy, Chp 5 - CO2 Transport, Injection and Geological Storage
- Each site will have different characteristics
- **Methodology**

  - Site characterisation – inc leakage pathways
  - Assessment of risk of leakage – *simulation / modelling*
  - Monitoring – monitoring plan
  - Reporting – inc CO2 inj and emissions from storage site

- For appropriately selected and managed sites, supports zero leakage assumption unless monitoring indicates otherwise
Monitoring Plan

- Measurement of background fluxes of CO2
- Continuous measurement of CO2 injected
- Monitoring of injection emissions
- Periodic monitoring of CO2 distribution
- Monitoring of CO2 fluxes to surface

- Post-injection monitoring – as above, linked to modelling, may be reduced or discontinued once CO2 stabilises at its predicted long-term distribution
- Incorporate improvements in technologies and techniques over time

Monitoring technologies – Annex 1

- Deep subsurface technologies
- Shallow subsurface technologies
- Surface / water technologies
London Convention and Protocol

- Marine Treaty - Global agreement regulating disposal of wastes and other matter at sea
- Convention 1972 (86 countries)
- Protocol 1996 – ratified March 2006 (39 countries as of Jan 2010)
- Prohibited some CCS project configurations

- CO2 Geological Storage Assessed by LC Scientific Group 2005/6
- 2006 - Risk Assessment Framework for CO2

- To allow prohibited CCS configurations – **Protocol amendment adopted at 28th Consultative Meeting (LP1), 2 Nov 2006** - came into force 10 Feb 2007 to allow disposal in geological formations

- CO2 Specific Guidelines
## Simulated and observed marine pH ranges till 2100

<table>
<thead>
<tr>
<th>pH range</th>
<th>190 ppm</th>
<th>280 ppm</th>
<th>370 ppm</th>
<th>500 ppm</th>
<th>700 ppm</th>
<th>1000 ppm</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>Glacial</td>
<td>Pre-ind</td>
<td>Now</td>
<td>2050</td>
<td>2100</td>
<td>2100 worst case</td>
</tr>
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- pH range for the last 20 million years: 8.2 - 8.4
Allowed to dispose of “CO2 streams from CO2 capture processes for sequestration”

“Carbon dioxide streams may only be considered for dumping, if:

1. disposal is into a sub-seabed geological formation; and
2. they consist overwhelmingly of carbon dioxide. They may contain incidental associated substances derived from the source material and the capture and sequestration processes used; and
3. no wastes or other matter are added for the purpose of disposing of those wastes or other matter.”

London Protocol – CO₂
Specific Guidelines

"the CO₂ stream, consisting of:

1. CO₂;

2. incidental associated substances derived from the source material and the capture and sequestration processes used:
   .1 source- and process-derived substances; and
   .2 added substances (i.e. substances added to the CO₂ stream to enable or improve the capture and sequestration processes);

Acceptable concentrations of incidental associated substances should be related to their potential impacts on the integrity of the storage sites and relevant transport infrastructure and the risk they may pose to human health and the marine environment.

London Protocol Article 6

“EXPORT OF WASTES OR OTHER MATTER

Contracting Parties shall not allow the export of wastes or other matter to other countries for dumping or incineration at sea.”

- Prohibits transboundary transport of CO2 for geological storage

- LP4 30 Oct 2009 - Amendment was adopted by vote. 15-for, 1-no, 6-abst. Needed 2/3 majority voting (22 present). 2 against.
- Article 6, new para 2. ‘Export of CO2 for disposal in accordance with Annex 1 may occur, provided an agreement or arrangement has been entered into by countries concerned’
- Agreement shall include: permitting responsibilities; for export to non-LP Parties provisions equivalent to LP’s for issuing permits.

- To come into force needs ratification by two thirds all Parties (26)
OSPAR

- Marine Convention for NE Atlantic, 1992
- 15 nations and EC
- Prohibited some CCS configurations
- Considered CCS and CO2 impacts on seas
- To allow prohibited CCS configurations:
  - Amendments (to Annexes II and III) for CO2 storage adopted June 2007
  - **Needs ratification by 7 Parties**
  - **6 ratified** (as of March 2011)

- OSPAR Decision – requirement to use Guidelines when permitting, including risk assessment and management process
- OSPAR Guidelines for Risk Assessment and Management of Storage of CO2 in Geological Formations – includes the Framework for Risk Assessment and Management (FRAM)
London and OSPAR Guidelines for Risk Assessment and Management

- **Scope** – scenarios, boundaries
- **Site selection and characterisation** – physical, geological, chemical, biological
- **Exposure assessment** – characterisation CO2 stream, leakage pathways
- **Effects assessment** – sensitivity of species, communities, habitats, other users
- **Risk characterisation** – integrates exposure and effects - environmental impact, likelihood
- **Risk management** – incl. monitoring, mitigation
EU Developments

EC Communication on Sustainable Power Generation from Fossil Fuels (Jan 2007)


- Stimulate up to 12 CCS demonstrations by 2015
- Strengthen R&D and develop technical, economic and regulatory framework to bring environmentally-safe CCS to deployment by 2020
EU CCS Directive and ETS Directive

Drafts launched 23 Jan 2008

Agreed 12 Dec EU Council and 16 Dec EP!

Adopted 6 April 2009, published 5 June 2009
EU CCS Directive (1)

‘Directive on the Geological Storage of Carbon Dioxide’
2009/31/EC

Enabling regulatory framework to ensure environmentally sound CCS

- Follows IPCC GHG Guidelines and OSPAR
- Objective is permanent storage
- Ocean storage prohibited
- Permits will be required for CCS – exploration and storage
- Storage permit only if “no significant risk of leakage”
- Emphasis on site selection, characterisation, risk assessment, monitoring plan
- Corrective measures plan, and provisional post-closure plan
EU CCS Directive (2)

- Permits - EC has right to review permit decisions – non-binding opinion
- Permits – review by authority after 5 years and then every 10 years
- CO$_2$ stream acceptance criteria - “overwhelmingly CO$_2$” – may contain impurities, levels based on risk assessment of integrity – no wastes to be added
- Monitoring plans to include ETS monitoring. Update every 5yrs. Leakage triggers ETS monitoring.
- Reporting and inspections at least once a year
EU CCS Directive (3)

- Financial security required from operator
- After closure, liability transfer to competent authority “when evidence indicates completely and permanently contained”. >20 yrs. EC will review. Monitoring will continue but reduced to detect irregularities.
- Financial security – from outset, to cover liabilities including closure, up to transfer of liability. Financial contribution to Competent Authority to cover long-term monitoring for 30 years
- Access to transport networks and storage, unless technical issue or lack capacity
- Removes barriers in other Directives – IPPC, Waste, Water, EIA, ELD, LCPD - Capture-ready
EU CCS Directive (4)

- Capture-ready in LCPD
- Definition was based on IEA GHG report (TR2007/04) for IEA – G8

> 300 MW, from date of CCS Directive:
  - Assessed availability of suitable storage sites
  - Assessed transport is technically and economically feasible
  - Assessed technical feasibility of retrofitting capture equipment
- If so, then leave space for capture equipment
EU CCS Directive (5)

- Annex 1 - Site characterisation
  - Data collection
  - Static Simulation
  - Dynamic simulation - security characterisation (ie performance assessment)
  - Risk assessment

- Annex 2 – Monitoring plan criteria
  - Criteria, coverage, updating (non prescriptive on techniques or timescales)

- MS bring into force in 2yrs
- Review Directive in 2015 – include mandatory Emissions Performance Standards?
EP proposed amendments to CCS Directive

Included:

- CO2 stream >95% CO₂, with no H₂S or SO₂
- Responsibility for storage sites post-closure to remain with operator for at least 50 years,
- Storage operators to pay into a fund to cover authorities’ responsibilities after transfer, for all CO₂ stored ie an additional charge on CCS, level not indicated.
- EPS – 500 g kWh
- Exclude EOR

These were not adopted
EC Guidance Documents

Drafts issued June 2010, Final March 2011

- GD1 Storage Risk Assessment
- GD2 Storage site characterisation, CO2 stream composition, Monitoring, Corrective Measures
- GD3 Criteria for Transfer of Responsibility
- GD4 Financial Security (liabilities)
EU Emissions Trading Scheme

  
  Phase II - CCS via Article 24 ‘Opt-in’

- **New ETS Directive June 2009 - to strengthen, expand and improve the ETS from 2013.**

- CCS fully included from 2013
  
  - Site and operation will need to comply with CCS Directive
  - Needs monitoring and reporting guidelines - underway

- No free allocation to CCS (same as electricity)

- Separate permitting of capture, transport and storage

- If any leakage – surrendering of allowances

- If leakage from storage suspected from monitoring under CCS Directive, then trigger ETS monitoring to quantify

- Biomass and CCS?
EU ETS Revised Monitoring and Reporting Guidelines (MRG) for Phase II


MRG for Capture
• Measure CO2 transferred to transport, subtract from installation’s calculated emissions

MRG for Transport
• Measure CO2 in and out (mass balance) – difference is leakage emission
• Or, emission factors for each component

MRG for Injection and Storage
• Injection - Measure CO2 received and injected to storage (mass balance) – difference is leakage emission
• Storage – monitor to detect leakage. Leakage emissions to be measured. Measure flux and calculate amount backdated to a reference point
UNFCCC and CCS

Four negotiating bodies relevant to CCS:

**UNFCCC:**
- [COP – Conference of the Parties to the UNFCCC]
- AWG-LCA – Ad Hoc Working Group on Long-term Cooperative Action

**Kyoto Protocol:**
- CMP – Conference of the Parties serving as a Meeting of the Parties to the Kyoto Protocol
- AWG-KP – Ad Hoc Working group on Further Commitments for Annex I Parties under the Kyoto Protocol (Post 2012)
- SBSTA – Subsidiary Body for Scientific and Technological Advice
Kyoto Protocol and CCS

- 2008 - 2012 (Kyoto 1\textsuperscript{st} Period)
  - Developed country emission commitments
    - CCS included in KP Art 2.1
    - IPCC GHG Guidelines 2006 allows CCS to be reported
  - CDM – Policy mechanism for rewarding CO2 reduction in developing countries. Project-based carbon credits.
- Post 2012 – CDM?
Kyoto Protocol and CCS

Considering CCS in CDM since CMP1 Montreal (2005)

- CDM Executive Board to consider new methodologies
- Under SBSTA:-
  - Technical workshops (2006)
  - Consideration of technical and policy Issues
  - Submissions from Parties and NGOs – two synthesis reports (2007 and 2008)
  - On agenda of every SBSTA meeting
- Decision due at CMP4 Poznan (Dec 08) – failed
- CMP request EB to look at implications
- **EB commission ‘Experts Report’**
  - Decision due at CMP5 Copenhagen (Dec 09) – failed
- CMP6 Cancun .............

All CCS CDM reports and background [http://cdm.unfccc.int/about/ccs/index.html](http://cdm.unfccc.int/about/ccs/index.html)
Key issues of concern

Included

• Timescales of benefits vs liability
• Impact on CDM market
• Scale and impacts of leakage
• Furthering use of fossil fuels – sustainable development
• Role of CCS in climate change mitigation

Since CMP 5

• Non-permanence
• MRV
• Environmental impacts
• Project boundaries
• Liability
• Perverse outcomes
• Safety
• Insurance and compensation for leakage

Negotiations characterised by a few countries having strong views against CCS – but need unanimous agreement to progress
‘Experts Report’ to EB50 on Implications of CCS in CDM

Reviewed all previous work, and latest regulatory developments

Conclusions:
• CCS compatible with current Modalites and Procedures

• Treat as stable long-term emission reductions - with appropriate site selection, risk management, liability, boundaries, monitoring.

• Treat CCS projects the same as other CDM project activities, and deliver fungible permanent CERs
CCS in Cancun

Decision CMP.16

- CCS is eligible provided that certain issues are addressed
- Issues include site selection, modelling, monitoring, risk assessment, liabilities (short and long-term)
- SBSTA to “elaborate” new “Modalities and Procedures” which address the issues

Work programme for 2011:

- Submissions (by 21 Feb) and ‘Synthesis report’
- Technical workshop (technical and legal expertise)
- UNFCCC to draft Modalities and Procedures for SBSTA 35 (Durban Dec 2011)
Extension to the Kyoto Protocol (AWG-KP) (L.15/AWG-KP10)

- Should CCS be included in the CDM in the second commitment period of the Kyoto Protocol (2013 – c.2020)?

Currently two options:
1. CCS shall not be eligible under CDM due to unresolved concerns
2. CCS shall be eligible under CDM in 2nd and subsequent periods
   - SBSTA to develop procedures to address outstanding issues
   - These to be adopted in Dec. 2010 or Dec. 2011

Cancun outcome: Agreement to achieve replacement agreement before KP ends.
Continuation of mechanisms - CDM
UNFCCC and CCS: AWG LCA

- Nationally Appropriate Mitigation Actions (NAMAs)
- Technology Mechanism
  - Climate Technology Centre and Network
- Green Climate Fund
- All to be designed and operationalised
Future Work

Work continues in all these areas at

- SBSTA 35, COP-17, CMP-7, Durban, December

- CCS CDM issues have wider effect on all mechanisms for CCS
- **General low level of understanding of CCS, hence concerns**
- General view - technical arguments can be addressed, a few countries block for other reasons, so needs decisions at Ministerial level
Regulatory developments in other regions

**Australia**
- Onshore in Victoria, Queensland, WA

**USA**
- EPA Federal level rule for CO2 storage (UIC Class VI well, Dec 2010) and rule for Reporting of Emissions from Capture and Storage (Dec 2010)
- Interstate Oil and Gas Compact Commission recommendations for regulations for CO2 storage at a State Level
- Individual state regulation (KS, LA, TX, WY, ND, MT, etc)

**Canada**
- Canada – acid gas injection and CO2-EOR already permitted in states like Alberta
- Alberta CCS Amendments Act 2010

**Japan**
- Adapted marine laws
Regulatory lessons learnt

Regulatory principles for CCS to ensure environmental integrity:
- Site-by-site assessment
- Risk assessment
- Site characterisation and simulation, supported by monitoring
- CO$_2$ stream impurities determined by impacts on integrity

Development of regulation:
- Use the technical and scientific evidence base
- Learn from existing regulatory developments
- Benefit of having real projects to drive and test regulations
Future work...

- National legislation and regulation for CCS
- Implementation and permitting
- Long term liability – treatment, criteria, scope, definitions etc
- Transboundary issues
- Monitoring performance – eg quantification of potential leakage, verification of stored CO$_2$
- CO$_2$ purity standards across transmission networks
- And lots more
Useful information sources

- (Model Regulatory Framework, Legal Review, Webinars)
- UCL Carbon Capture Legal Programme  [http://www.ucl.ac.uk/cclp/](http://www.ucl.ac.uk/cclp/)