



Submission to the Ministry for the Environment on the ETS Review

Contact information

Name	Harvey BELL
Organisation (if applicable)	Federation of Māori Authorities
Address	Berl House, 109 The Terrace, WELLINGTON
Telephone	██████████
Email	████████████████████

Submission Form

Discussion Document

Context and drivers for the review

1. Do you agree with the drivers for the review?

Yes

2. What other factors should the Government be considering in this NZ ETS review?

(i) While Agriculture has been omitted from this review, there could be global market consequences if agriculture emissions continue to be ignored on-farm (a warning articulated by Prof David Hughes, International Food Retail consultant from University College, London who has stated several times that without good water and carbon emissions stories, NZ primary products will not be on the top shelf of premium market stores) and advice should be sought as to the risk of NZ primary products being adversely impacted in key premium markets.

(ii) An attempt to devise a regime that has cross party support in order to deliver on future certainty.

Moving to full surrender obligations – submissions on these priority issues closed on 19 February 2016.

Managing the costs of moving to full surrender obligations– submissions on these priority issues closed on 19 February 2016.

Other issues: business responses to the NZ ETS

9. Do you consider the future cost of emissions in your business planning?

Yes

If yes, how do you do this?

No

If no, please explain your answer?

Neutral

In much the same way as oil price hikes in 1974 and subsequent price hikes, there is a perception that “what will be, will be” and the financial consequences will just be dealt with as and when. Because most of our members are involved in land-based activities, price volatility is a fact of life so the emissions cost associated with energy as per current settings is just accepted albeit with some

moans and groans along the way. This has probably been helped by the very low carbon prices so the financial impact has been less than predicted.

Having said that, arguing a case to farmers for agriculture to be taking at least some responsibility for its emissions is not going to be easy but in our belief it's a discussion that needs to be started.

10. What would improve your ability to take into account the future cost of emissions in your business planning?

Carbon price and ETS regime stability and certainty.

Other issues: protecting competitiveness through free allocation

11. Under what conditions should free allocation rates start to be reduced after 2020?

If the Paris agreement is working, all countries should be impacted equally so free allocations should only be available where international competitors are also afford free allocations.

However if NZ can devise an emissions mitigation regime using forestry (see Appendix I), offering a predetermined price for a fixed period and subsequently a formula based price for carbon, there could be some competitive advantages for carbon neutral products.

12. What impact would it have on your investment decisions over the next few years if there was a clear pathway or criteria for phasing out of free allocation after 2020?

Without carbon price and regime certainty, any long term investment decisions are highly speculative because there will be no credible understanding as to how other countries are going to act out the commitments they have signed up to in Paris. This is further complicated by the fact that there are still many unresolved issues, particularly around forestry thereby doing little to temper uncertainty.

This coupled with the perverse behaviour of our currency makes long term investment decision extremely challenging.

Other issues: managing unit supply - forestry

13. How does the carbon price impact your forestry investment decision-making?

In your answer, we are interested in the:

- a) extent to which the NZU price impacts decisions, compared to other factors
- b) impacts of the current price, and of your expectations for future prices.

It has been said that a price of \$15 for an NZU is sufficient to encourage investment in forestry. Having said that, a big concern for the future (and therefore the commercial viability of forestry investment) has to be China given it accounts for around 49% of our log exports. By 2022 China will have planted 25 million hectares of exotic forest and anecdotally is currently investing heavily in planting in Siberia. The fact that Chinese investors have no significant forestry involvement in NZ suggests that they believe they are heading for log self-sufficiency in 20 to 30 years.

The issue with having a forest in the ETS without a harvesting plan is that eventually the revenue runs out thereby eliminating that land from any contribution to the economy. Depending on the regime design for forestry related NZUs, making any meaningful prediction of future (say 25 to 30 years) carbon prices is an exercise in futility if NZ is exposed to the global market prices for carbon.

In 2008/9 it was claimed that to force behaviour change in the emissions space carbon prices need to be at least \$US50 per tonne. Anything close to that price would severely impact on the NZ economy with any perceived subsidy for agriculture becoming politically untenable.

A consequence of carbon prices getting to this level would be as follows: If prices hovered around \$NZ15 to \$NZ20 for the next 5 to 6 years (when planting decisions need to be made , a \$US50/tonne price for de-forestry 28 to 30 years from planting would be financially crippling with the Crown being left to remedy the situation. [On the global stage, Governments are the contracted party and any liability not met by those having incurred it has to be picked up by those parties' governments.]

The situation becomes even more complicated if the scheme involves Māori land that can't be sold.

It is therefore critical, in our submission, that there are risk free options in the ETS design for the future with price certainty built in for both the buyer and sellers of NZUs.

14. Are there opportunities for the NZ ETS to increase incentives for forestry investments, outside of NZU price?

Yes

The obvious question here is “what NZU price?” Contrary to all the implied assurances given during the consultation process in 2008/9, the NZU price collapsed because of a political decision to allow emitters to purchase and surrender highly dubious Eastern European/Russian carbon credits. [Around that time Deloitte's Forensic claimed in a report that over 80% of carbon credit transactions in Europe had an element of fraud!]

Given that Māori forest owners were significant recipients of the (token) NZUs “compensation” for the imposition of pre-1990 forested land status, this price collapse hit hard and is still hurting. Therefore the concept of “let the market prevail” or “trust us, we know where we are going” will not wash with informed Māori land-owners in the future.

An additional issue for post-1989 ETS participation on Māori freehold land is that unless there is a credible way (ie a means by which it can be guaranteed that deforestation credits can be purchased and surrendered) to allow future generations to use their land for higher value use, participation itself is effectively alienation and any lawful decision to enter the ETS needs to go through the requisite decision making processes. [This is little understood and it is likely that MFL with post-1989 forests into the ETS has not gone through such processes.]

No

Unsure

15. What are your reasons for the above answer? If you answered yes, we would be interested in comments on:

- a) any barriers to participating in the NZ ETS that could be reduced
- b) other factors.

[Explained above](#)

Other issues: managing unit supply – international units

16. If international units are eligible for NZ ETS compliance in the 2020s, should any of the following restrictions be placed on their use?

- a) restrictions on where units can be sourced from (location of and/or types of projects)

The quality of any overseas units allowed to be purchased should be equal quality to NZU's, ie the great majority backed by physical carbon sequestration such as forestry.

b) restrictions on how many units can be surrendered

There should be a restriction on quantity of overseas units placed on emitters and we believe that an appropriate figures would be 20%.

c) others

Please explain your answer.

[See above](#)

Other issues: managing unit supply – auctioning

17. Should auctioning be introduced in the NZ ETS?

Yes

While we are advocating for a mix of contracted and on-market availability of NZUs, an auction process along the lines of the Global Dairy Trade would seem to be a sensible means of establishing a (domestic) market price.

This could be enhanced, adding certainty for both sides of the equation, if the auctions had forward supply contract components, out perhaps two or three years. The big question then is, who determines availability and how is that managed?

Timing:

2018 would seem to be an appropriate date in which to start the trading and any other new initiatives so by the beginning of 2021 any problems have been ironed out for an orderly market through to 2030.

18. What should be the role or purpose of an auctioning function in the NZ ETS, if one were introduced?

a) to align supply in the NZ ETS more closely with our international target

Given that NZ's only means of achieving any overall reduction in carbon emissions is mitigation (ie with forestry) the supply and demand equilibrium will be best established via a transparent auction process but in addition to an ability to sign up to a contracted regime.

b) to more actively manage NZU prices

If the overseas purchase of CC's is limited (and sales overseas also limited) NZ should be able to have a reasonably self-contained market and manage price volatility.

c) other

Please explain your answer.

[NOTE: Because of the risk associated with post-1989 entry into the ETS when NZU prices are determined by the global market (ie the ability to afford the deforestation liability) Māori freehold land should not be made available for forestry in the case of total market exposure to carbon prices.]

19. How should auctioned NZUs relate to other sources of unit supply in the NZ ETS, especially NZUs generated through forestry removals and/or international units?

In much the same way that the GDT price for dairy products is a guide to the world market price, there is no doubt many sales are undertaken at other prices. Our suggestion is the NZ Inc's interests will be best served by (say) 80% of the sale and purchase of NZUs are from carbon sequestered in NZ for NZ occurring emissions. The percentage limitations would be measured for individual participants and rights not transferrable.

Other issues: managing price stability

20. What impact has carbon price volatility in the NZ ETS had on your business?

a) minor

b) moderate

c) significant.

Please explain your answer.

If NZU's had traded in the \$20 to \$25 range (as predicted) over the last number of years, the impact on many business would have been quite profound. That did not happen so the NZ economy has not yet been exposed to a moderately high carbon price. We believe that the measures we are suggesting will help to give certainty with a mix of contracted and open-market options with only limited exposure to global market conditions. This will make investment decisions easier to make because of greater price certainty.

21. Do you think measures should be in place to manage price stability?

Yes

No

Unsure

Please explain your answer

Yes, that is what we are suggesting.

22. What do you consider are important factors for managing price stability?

a) upper price limits (eg, fixed price option, or a price ceiling implemented through an auctioning mechanism)

b) lower price limits (eg, price floor)

c) other

Please explain your answer

If the Crown facilitated a major afforestation project and itself contracted to purchase at least a proportion of the resulting NZU's the resulting "crown entity" could be used to deliver on a minimum price (of say \$15, perhaps with increases tied to the lesser of the inflation rate or the OCR) and an upper price. The latter would be achieved by available units being sold at (say) \$25 if there is a limit on the supply of on-market NZU's (as per the status quo albeit without the two for one). This entity could also lease out some of it's NZU's to cover short term deficits brought about by adverse event deforestation or any other event where a surrender is required.

23. What should the Government consider when managing price stability?

There needs to be a balance (i) to encourage forestry and (ii) to give certainty to emitters without crippling their businesses in the short term.

Other issues: operational and technical matters

24. Are you aware of ways the administrative efficiency of the NZ ETS could be improved?

Unsure

25. Can you provide further information to support your answer?

We would be interested in comments on:

- a) complexities involved in NZ ETS participation
- b) penalties for breaching NZ ETS obligations
- c) any technical or operational changes that could be made to the NZ ETS to improve efficiency.

No direct experience.

Other issues: addressing barriers to the uptake of low emissions technologies

26. Are there any barriers or market failures that will prevent the efficient uptake of opportunities and technologies for reducing emissions?

The key here is to design a scheme that it going to impose greater costs on emitters over time. That is the only way investment in emission reduction technologies is going to an assured. And this (gradual price increase) will only be assured by having a largely domestic ETS regime.

27. If so, is there a role for the Government in addressing these barriers or market failures and how should it do this?

Yes, the design of the ETS for the future.

Any other comments related to issues set out in the discussion document

28. Please comment here

Please refer to appendix.

[NB: Separate consultation form]

NZ ETS review: Forestry technical note

The following questions relate to information presented in the Forestry technical note.

Existing structural design settings

F1. What do you consider are the strengths and weaknesses of the NZ ETS forestry settings?

The major weakness is price uncertainty. This has adversely impacted on forestry investment decisions over the last eight years or so and will continue to if there is no fundamental change.

While some might see the unlimited sale of forestry related carbon credits overseas, this would be detrimental to NZ's interests because others would be benefiting from our sequestered carbon which NZ would have to continue to manage in perpetuity.

In addition any price uncertainty means the possibility of very high prices at harvest time which makes entering the ETS (ie post-1989) is a high risk business decision. Because of this risk, no Māori freehold land should be involved because it would be exposed to potential alienation.

F2. Do the NZ ETS forestry settings discourage deforestation? If not, what settings do you think would?

Yes

No

Unsure

Please explain your answer

As stated above, the current risk of losing land in the case of not being able to meet the deforestation liability (under current accounting rules) at harvest is high. The other issue is that regardless of any contract between the landowner and forester, non-payment of deforestation liability exposes the landowner to that liability which could potentially result in the land being forfeited. If there are no assets to cover such a liability, the ends up as a liability to the Crown.

F3. Do the NZ ETS settings incentivise afforestation and replanting? If not what settings do you think would?

Yes

No

Unsure

Please explain your answer

In the absence of price certainty and a minimum price of (say) \$15, it is unlikely significant plantings will be undertaken. Current replanting will largely relate to pre-1990 forested land so that is mandatory but there is no incentive for commercial interests to JV with the landowner when compared with potential post-1989 land. This has resulted in some deforested pre-1990 Māori land lying fallow! Under the current rules, such land that can't demonstrate it has growth three years out from harvest that has the potential to meet the definition of a Kyoto forest, the liability may still be incurred.

F4. Does the NZ ETS provide effective incentives for smaller foresters to participate in the scheme? If not, what settings do you think would?

Yes

No

Unsure

Please explain your answer

Probably not because of the aforementioned issues but also the fixed costs associated with such a project.

F5. Does the NZ ETS work well alongside other forestry programmes? If not, how do you think these programmes could be better aligned?

Yes

No

Unsure

Please explain your answer

Not really, because of the issues given above.

F6. What changes could be made to NZ ETS forestry sector provisions to improve the scheme?

The introduction of an afforestation scheme with a significant part of the sequestered carbon contracted a Crown entity. [Initial contract would be through to 2030 but with rights of renewal.]

A potential issue in the future (25+ years) is that revised environmental standards may prevent certain trees being harvested. For any regime to work, there must be certainty that the business

plan of a forester must not be impeded by subsequent rule changes. An ideal situation would be pre-approval with long term consents being part of entry into the post-1989 ETS.

Future forestry accounting in the NZ ETS

F7. What are important factors when considering changes to forestry accounting settings in the NZ ETS?

The big unknown is the deforestation risk associated with the then price of NZU's. There are three regimes being mentioned and each has its positive and negatives and will differ depending on individual circumstances.

As previously mentioned, Māori freehold land must go for a low risk options to ensure it can't be alienated.

We see no reason why the three options can't operate together, with owners electing which regime they wish to participate in or what proportion of their plantings they want in each regime (on a straight proportion bases per site, not individual prescribed areas).

Another aspect of the scheme that was glossed over in the early stages was the taxation treatment of NZU sales. This has huge implications on the financial viability of participation in the ETS. In a status quo regime, much of the NZU proceeds are in fact an "advance" because at harvest it needs to be repaid (albeit probably at a much higher rate without regime change). There is an argument that only the theoretical net benefit should be taxed and that would vary under the regimes up for consideration.

F8. Do you think a different forestry accounting approach in the NZ ETS would change the scheme's incentives for afforestation?

Yes

No

Unsure

Please explain your answer

Yes, the greater the ability to minimise risk coupled with our suggested contracted afforestation the more land that will become available for forestry.

Averaging

F9. Do you think averaging should be introduced for post-1989 forests? If so, why?

Yes

No

Unsure

Please explain your answer

It should be one of the options because it can give greater certainty albeit after one rotation there will be no revenue potential from those trees but there will be on-going costs.

Do you think it should it be optional or mandatory?

Optional but part of a mix available to ETS participants.

F10. Should there be limits on the types of forests that can use an averaging accounting method? For example, new forests only or forests under a size threshold.

No

Please explain your answer

Why would the forest size matter? The bottom line is NZ needs new tree plantings and any regime that encourages that should be part of the regime mix.

F11. How might averaging impact on your business decisions?

We believe that it would encourage forestry onto Māori freehold land with JV partners without the risks associated with the status quo.

Harvested Wood Products

F12. Do you think deferred liability for emissions from Harvested Wood Products (HWPs) should be recognised domestically? If so, how?

Yes

Please explain your answer

Yes, there is a small percentage of wood that goes into products that offer permanent sequestration and such recognition will help make the regime more financially viable. Having said that, I think people will be surprised at how small this number is in relation to the total volume of sequestered carbon in a tree, both above and below ground

F13. How might the options for deferred liability for emissions from HWPs impact on your business decisions?

Any regime that reduces the deforestation liability is going to encourage tree planting.

Other

F14. Do you have any other comments or things you think are important?

The regime package needs to be designed to ensure that the emissions undertakings in Paris are met at the least cost to NZ businesses (and the NZ Government) while encouraging the planting of forests. Trees are the only mass mitigation tool in NZ's emissions reduction arsenal!

We have calculated that of the 235 m tonnes of abatement required of NZ by 2030, the proportion relating to Agriculture would be around 115 m tonnes. A \$35 international carbon price in 2030 could potentially cost the Government over \$4 billion to cover Agriculture alone.

This could all be covered if exotic tree planting at 58k ha per year (690k ha in total - an area that just happens to nearly equal the claimed area of under-utilised and under-performing Māori freehold land) starting in 2018. [See more details in Appendix.]

[NB: Separate consultation form]

NZ ETS review: Operational matters technical note

The following questions relate to information presented in the Operational Matters Technical Note, which can be found here.

Encouraging compliance with NZ ETS requirements

OM1. Do you encounter challenges when completing New Zealand Emissions Trading Scheme (NZ ETS) requirements, such as meeting your emissions reporting or surrender requirements?

Yes

No

Unsure

What are these?

No direct experience

What would overcome these challenges?

No direct experience

OM2. What is your opinion of the tools available to regulators to correct errors and address non-compliance?

No direct experience

What would help improve these tools?

No direct experience

OM3. Are there options, not already included here, for improving compliance with emissions reporting and surrenders?

Yes

No

Unsure

What are they?

No direct experience

Disclosure of NZ ETS information

OM4. Does the current level of information available allow you to make informed decisions about your participation in the NZ ETS?

Yes

No

Unsure

If not, please give examples of information you think would be useful, and how it would help you.

No direct experience

OM5. Are there any additional forms of information that would assist with your understanding of, or participation in, the market?

The Crown entity suggested in our submission could have a pro-active role in encouraging participation and this could be useful in getting greater understanding. Up until this point buying a Lotto ticket has had more appeal. The proposed new Māori land law may also help in the process because decision making for owners will be easier. The proposed Māori land services needs to have forestry capability to encourage forestry to be considered for land with few if any other options.

Transfer of participation for post-1989 forestry

OM6. Have you undertaken, or expect to undertake in the future, an NZ ETS transfer process?

Yes

No

Unsure

If so, how well do you understand the transfer provisions?

No sure about this question.

OM7. Have you encountered issues with NZ ETS land transfer requirements?

Yes

No

Unsure

If so, what issues did you have?

No sure about this question.

OM8. Do you think the NZ ETS transfer requirements should be changed or simplified?

Yes

No

Unsure

If so, how?

No sure about this question.

Tree weed exemption provisions under the Climate Change Response Act 2002

OM9. Have you encountered any problems with the tree weed exemption process?

Yes

No

Unsure

Please explain your answer?

No sure about this question. However it is essential people with weed trees are no penalised for eradicating them. Given that there is not likely to be huge areas, there should be financial assistance to re-plant with exotics and allow land owners to participate in the post-1989 ETS.

OM 10. Have you encountered issues in complying with the conditions of a tree weed exemption?

Yes

No

Unsure

Please explain your answer?

No experience.

OM 11. Do you think the tree weed exemption provisions could be improved?

Yes

No

Unsure

If so, how?

No experience.

The public's limited access to information about the NZ ETS status of land

OM12. What information on land status under the NZ ETS would be useful for your decision making?

Participation in the ETS should be noted on the titles of such land because of the impact of the land's value.

OM13. Have you faced any problems in classifying forest land under the NZ ETS or in accessing information on forest land's NZ ETS status?

Yes

No

Unsure

Please explain your answer?

[No experience.](#)

OM 14. Do you think the Government should provide information on the NZ ETS status of land that is not already subject to the NZ ETS?

No

[For what purpose?](#)

If so, how would this help you?

When your submission is complete

Email your completed submission to nzetsreview@mfe.govt.nz or post to NZ ETS Review Consultation, Ministry for the Environment, PO Box 10362, Wellington 6143.

Submissions on priority issues closed at 5pm on 19 February 2016

Submissions on other review matters close at 5pm on 30 April 2016.

Appendix

We would like the following issues noted:

- The sequestration potential of other biomass and whether there is a case for expanding entry into the ETS for such crops;
- Looking at the rules around the 5m height potential for qualifying forests when (apparently) in Australia, for example, the rule is 4m.
- The gross inequity to Māori because of their ownership of a disproportionately large percentage of pre-1990 forested land (720k ha versus 1.25m ha in total). [Because settlement land and land set aside for settlement is being returned under General title, the area of pre-1990 forested land does not come up in any published statistics.

A case for a Crown sponsored afforestation entity

It is acknowledged that the only domestic means of delivering on carbon emissions reduction undertakings is to mitigate with new forest planting. Recent history of the “carbon market” means confidence in it is virtually non-existent therefore leaving the market alone to encourage large scale tree planting is very unlikely to work.

Our submission has highlighted the need for both certainty and price stability in the carbon market. We believe that these can only be achieved by designing a (near) totally domestic solution in the interests of emitters, foresters and also the Crown (as the party with the residual 100 million plus tonne deficit it will need to cover in 2030 either in cash or the surrender of credits it owns).

For this reason we are advocating for *a Crown sponsored afforestation entity* as a means of helping to “manage” NZU prices thereby giving the Crown (and others) price certainty up to 2030 at the very least.

In support of this proposal we have developed an analysis App where multiple calculations can be undertaken looking at scenarios relating to both costs and the various areas needing to be planted to deliver user-defined outcomes. The App (which will work on any device with a browser, including a mobile phone) can be accessed at www.agriapps.net/ets.

Conclusion

The FoMA ETS technical team thanks the Ministry for the opportunity to present this submission and would welcome the opportunity to discuss or further expand on issues raised and ideas put forward in it.