

10 September 2012

Committee Secretariat  
Finance and Expenditure Select Committee  
Parliament Buildings  
WELLINGTON 6011



Dear Sir/Madam,

**SUMISSION ON THE CLIMATE CHANGE RESPONSE (EMISSIONS TRADING AND OTHER MATTERS)  
AMENDMENT BILL**

1. Please find **attached** a submission from the Environmental Defence Society on the Climate Change Response (Emissions Trading and Other Matters) Amendment Bill 2012.
2. EDS wishes to be heard in relation to this submission.

Yours sincerely

A handwritten signature in blue ink that reads 'Nicola de Wit'. The signature is written in a cursive, flowing style.

**Nicola de Wit**  
**Legal Advisor**  
**Environmental Defence Society**

## ENVIRONMENTAL DEFENCE SOCIETY INCORPORATED

### SUMMISSION ON THE CLIMATE CHANGE RESPONSE (EMISSIONS TRADING AND OTHER MATTERS) AMENDMENT BILL

#### INTRODUCTION

1. The Environmental Defence Society (“EDS”) is a public interest environmental law group, formed in 1971. It has a membership that consists largely of resource management professionals. The focus of EDS’s work is on achieving good environmental outcomes through improving the quality of New Zealand’s legal and policy frameworks and statutory decision-making process.
2. We welcome the opportunity to comment on the Climate Change Response (Emissions Trading and Other Matters) Amendment Bill 2012 (“the Bill”).
3. While we support some aspects of this Bill we have considerable concerns with a number of the proposed amendments, as they do not have environmental integrity and will allow New Zealand’s greenhouse gas (“GHG”) emissions to continue to grow.
4. The Bill states that its primary objective is to “ensure that the emissions trading scheme more effectively supports the Government’s economic growth priorities”. It focuses on reducing the *short-term* costs of the emissions trading scheme (“ETS”). The Bill does not give a long-term signal to businesses about their emissions reduction obligations and thus would create considerable uncertainty.
5. In March 2011 the Government committed to a 50 percent reduction in net GHG emissions from 1990 levels, by 2050.<sup>1</sup> This was intended to give taxpayers, business, industries and farmers clear, long-term certainty about where domestic climate change policy is headed so that they can plan and invest accordingly. The main tool for reducing emissions is the ETS. However, these proposed amendments give no certainty as to the pathway for achieving this target. We question therefore whether the Government remains committed to the ‘50 by 2050’ target.
6. A number of the proposed amendments will simply transfer costs from the emitter to the general taxpayers. They will also result in higher costs in the long term, as a failure to reduce emissions now will mean we will need to reduce emissions at a faster rate in the future, at a greater cost.
7. A number of the proposed amendments are also inconsistent with comments made by the Minister for Climate Change. Hon Tim Groser has stated that the period 2013-2020 is not in a vacuum and that the way we shape our actions, report them, and are held accountable for them will be critical to whether we can succeed in building a new global climate change

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<sup>1</sup> The Climate Change Response (2050 Emissions Target) Notice 2011

agreement.<sup>2</sup> The Government is working actively to secure an effective global agreement to limit GHG emissions. However, New Zealand's international influence risks being lessened if we do not have a credible set of domestic climate change policies. Already, we are the only Annex I Party to the United Nations Framework Convention on Climate Change without an unconditional emissions reduction target for 2020.

8. As a result of subsidies, and the low price of carbon currently, businesses are tending to purchase units, instead of investing in low carbon technologies and solutions which would actually reduce New Zealand's GHG emissions. If New Zealand is to meet the '-50 by 2050' target the ETS must encourage New Zealand businesses to engage in the global transition to low carbon growth.
9. We believe that many of the recommendations made by the ETS 2011 Review Panel ("the Panel") represent a common-sense middle-ground between reducing our GHG emissions and smoothing the transition to a low-carbon future.
10. We support the following proposed amendments contained in the Bill:
  - a. Aligning the ETS with international greenhouse gas accounting standards;
  - b. Introducing pre-1990 forestry offsetting;
  - c. Clarifying a straight-line phase out of allocation at 1.3%.
11. We have concerns with the following proposed amendments contained in the Bill:
  - a. Retaining the one-for-two subsidy and \$25 price cap;
  - b. Deferring the entry of biological emissions from agriculture;
  - c. No cap on the number of NZUs that may be allocated;
  - d. Removing the requirement to back NZUs with international units;
  - e. No change to eligible units;
  - f. Introducing a power to auction NZUs.

#### **GLOBAL WARMING POTENTIALS**

12. We support aligning the ETS with international greenhouse gas accounting standards by adopting the latest internationally accepted global warming potentials. This will ensure the integrity of the ETS is maintained and assist with meeting our international obligations.

#### **PRE-1990 FORESTRY OFFSETTING**

13. We support the introduction of offsetting within the ETS as an option for pre-1990 forest landowners. This will ensure flexibility for landowners in how they meet the requirements of the ETS. For offsetting to have integrity it must require carbon equivalence, as in the Bill as drafted.

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<sup>2</sup> Hon Tim Groser 'Speech to the International Dialogue on the Future Climate Change Agreement' 23 August 2012 <http://www.national.org.nz/Article.aspx?ArticleID=39237>

## **STRAIGHT LINE PHASE OUT OF ALLOCATION**

14. We support the clarification that the phase out of allocation will proceed on a straight line, rather than asymptotic, basis. It is essential that allocation will eventually reach zero and that the phase out occurs at a steady rate.

## **RETAINING THE ONE-FOR-TWO SUBSIDY AND THE \$25 PRICE CAP**

15. The Panel recommended that the one-for-two subsidy be progressively phased out over three years from 2012. The Bill would retain the one-for-two subsidy with no end date specified in legislation.
16. The Panel recommended that the \$25 price cap should increase by \$5 per annum from 2013. The Bill would retain the price cap with no end date specified in legislation.
17. Retaining the one-for-two subsidy and the \$25 price cap will not assist long-term emissions reductions as it artificially reduces the price of carbon and minimises incentives to change behaviour to reduce emissions. Retaining the transitional measures will undermine New Zealand's ability to meet longer-term emissions reduction goals and obligations. It is also likely to cause significant delay in the development and adoption of emissions reduction technologies because it will create a perception that the Government is willing to artificially keep the price of carbon low over the long term.
18. The cost of retaining these transitional measures will fall to taxpayers. This is inconsistent with the Government's intention of minimising costs for households, as they are the taxpayers. At a carbon price of \$20 per unit the cost to taxpayers of retaining these transitional measures for the liquid fossil fuels, stationary energy and industrial processes sectors is estimated to be about \$280 million per annum from 2013. The taxpayer will face these costs but receive no corresponding benefit in terms of reduced emissions. If the transitional measures were phased out businesses and households would face costs, however there would be a corresponding benefit for this cost.
19. Retaining the transitional measures will reduce choices for businesses and households. If the ETS is implemented as enacted businesses and households can choose whether to pay increased costs or change their behaviour to reduce emissions. While the transitional measures continue all taxpayers are subject to the cost of these subsidies and they have no choices available to reduce those costs. Low-emissions alternatives will not be able to compete, because their competitors will continue to be subsidised for their emissions.
20. Extending the transitional measures to an uncertain future date also creates uncertainties for businesses and means they have less information on which to plan a move towards lower emissions and on which to base investments in low carbon technologies.
21. The Panel's recommendations provide certainty for all parties and are simple to administer. The recommendations would also mitigate the risk of a sudden unexpected spike in the

carbon price. Furthermore, because the price of carbon is currently low the impacts of undertaking this transition now are lower than they may be in the future.

22. The transitional measures were introduced to smooth the *transition* into the ETS. We believe that the Panel's recommendation represents a common sense middle line approach and will continue, rather than stall, the progress of the ETS.
23. We request that the Bill is amended to provide for the phase out of the one-for-two subsidy and the \$25 price cap.
24. The Government expresses an intention to review the one-for-two subsidy and \$25 price cap in 2015 but the Bill will not require this. At the *very least*, we consider that a review in 2015 should be required by the legislation to ensure these transitional measures do not continue *ad infinitum*.

#### **DEFERRING THE ENTRY OF BIOLOGICAL EMISSIONS FROM AGRICULTURE**

25. The Panel recommended that biological emissions from agriculture should remain within the ETS on the timetable that is currently legislated, with surrender obligations beginning in 2015. The Bill would defer the entry of biological emissions from agriculture indefinitely.
26. With carbon prices currently extremely low and projected to remain low for much of the period to 2020, introduction of biological emissions from agriculture would be low risk, and this period provides a good opportunity to test this policy. There would also be benefits in thereby exposing the whole economy to some degree of carbon pricing. This would lessen the perception of other sectors of the economy that agriculture is being given special treatment.
27. Taking into account the 90% free allocation of NZUs and the one-for-two subsidy agriculture would only be liable for 5% of its biological emissions upon entry into the ETS. These measures are sufficient to address the competitiveness of the agricultural sector in the international market and ensure that the entry of agriculture will be a smooth process.
28. It is incorrect to state that there are not enough options and technologies available to reduce agricultural emissions, and use this to argue that agriculture should not enter the ETS at all. Emissions may be reduced through, *inter alia*, efficiency gains, improved farm management practices, animal and pasture genetics, nitrification inhibitors, forestry activities, and indigenous vegetation planting. Over the last 20 years reductions over around 1.3% per annum in emissions per unit of product in NZ agricultural sector have been achieved, suggesting that the sector would not struggle to meet its obligations under the ETS.
29. There is significant research being undertaken into further technologies, therefore as the allocation and subsidy are phased out we can expect new technologies to become available.

Agriculture entering the ETS would also provide further stimulus to ensure these technologies are developed, and most importantly adopted.

30. It is unfair and inequitable for other sectors to be facing the costs of the ETS whereas agriculture is given special treatment and additional subsidies. We are seeing a large number of dairy conversions occurring as new irrigation comes available. It does not make sense that those new conversions do not face a price on carbon.
31. We support the Panel's recommendations and request that the Bill is amended to ensure biological emissions from the agriculture sector enter the ETS by 2015.

#### **NO CAP ON THE NUMBER OF NZUS THAT MAY BE ALLOCATED**

32. The Panel recommended the Government considers a cap on free NZU allocations or exclude new activities from eligibility. The Bill does not appear to adopt this recommendation.
33. There is currently no cap on the number of free NZUs which may be allocated. As a result, new eligible emissions-intensive activities could significantly expand the volume of allocation and increase NZ's emissions. One such example is the production of lignite for domestic use. The lack of a cap weakens incentives for emissions reductions, reduces the likelihood of New Zealand meeting its emissions reduction targets, and creates risks for New Zealand in terms of our international obligations.
34. We support introducing a cap on free NZU allocations, or at the *very least* excluding new activities from eligibility.

#### **REMOVING THE REQUIREMENT TO BACK NZUS WITH INTERNATIONAL UNITS**

35. The Bill would remove the requirement to 'back' all NZUs issued with a Kyoto unit. This policy ensured New Zealand could meet its Kyoto obligations and safeguarded the environmental integrity of the ETS by constraining the Crown from issuing an unlimited amount of NZUs.
36. The Regulatory Impact Statement suggests this policy is unnecessary because New Zealand is expected to meet its Kyoto obligations. However, this is only because of the carbon sequestered by our forestry sector, and this statistic will no longer be so positive when many forests are harvested around 2020. Our gross GHG emissions continue to increase.
37. The continued environmental integrity of the scheme requires a constraint of the number of NZUs that are issued. We support achieving this through the introduction of a cap, rather than retaining the requirement to 'back' NZUs.

#### **NO CHANGE TO ELIGIBLE UNITS**

38. The EU has decided to exclude certain types of units from its scheme and the UN is currently considering the status of these units. There is a risk that if these units remain eligible under the ETS they could flood the New Zealand market, driving down the cost of carbon, and minimising incentives to reduce emissions and affecting the integrity of the ETS.
39. The Act already allows the Minister to specify which emission units are eligible under the ETS by regulation. To ensure the integrity of the scheme this Bill should be accompanied by amendments to regulations excluding certain units from the ETS.
40. The Act does not currently restrict the import of overseas units and we could theoretically buy our way out of any obligations to reduce GHG emissions. The ETS is New Zealand's primary climate change response tool. To be seen to be internationally credible we must use this tool to transition to a lower emissions domestic economy, not to simply rely on imported credits to offset our emissions. In Australia up to 50% of compliance units may be met with imported units: half Kyoto units and half European Union Allowances and other eligible international units.
41. We request that the Bill be amended to restrict the import of overseas units to 50% of the required units.

#### **AUCTIONING NZUs**

42. The Bill introduces a regulation-making power to allow the New Zealand Government to auction NZUs within an overall limit. The intention behind this amendment is reduce the overseas cash flow and loss of domestic wealth.
43. We do not support this policy at present as we do not have in place a cap-and-trade system. Auctioning could be a useful mechanism but only once an adequate carbon market is operating.
44. An alternative to reduce overseas cash flow is to introduce a requirement for at least 50% of units to be purchased domestically, as discussed above.
45. We request that this regulation-making power be removed from the Bill.

#### **CONCLUSION**

46. We support the following proposed amendments contained in the Bill:
  - a. Aligning the ETS with international greenhouse gas accounting standards;
  - b. Introducing pre-1990 forestry offsetting;
  - c. Clarifying a straight-line phase out of allocation at 1.3%.
47. We have concerns with the following proposed amendments contained in the Bill:
  - a. Retaining the one-for-two subsidy and \$25 price cap;
  - b. Deferring the entry of biological emissions from agriculture;

- c. No cap on the number of NZUs that may be allocated;
- d. Removing the requirement to back NZUs with international units;
- e. No change to eligible units;
- f. Introducing a power to auction NZUs.

48. We request the following amendments to the Bill:

- a. Provide for the phase out of the one-for-two subsidy and the \$25 price cap;
- b. Or at the *very least*, provide for a 2015 review of the transitional measures in the legislation;
- c. Ensure biological emissions from the agriculture sector enter the ETS by 2015;
- d. Introduce a cap on free NZU allocations;
- e. Or at the *very least*, exclude new activities from eligibility for free NZU allocations;
- f. Amend the regulations to exclude certain units from the ETS;
- g. Restrict the import of overseas units to 50% of the required units;
- h. Remove the regulation-making power to allow the Government to auction NZUs.

#### **REQUEST TO BE HEARD**

49. EDS wishes to be heard in relation to this submission.