

Emissions Trading Scheme alive and kicking weakly

Stuart Orme

The ETS is alive and kicking, sort of. The latest advice from the government is that the ETS is here to stay. The guide price suggested for New Zealand Units in the future is up to \$165 a unit. The following extract from interest.co.nz in December 2014 is worth a read.

‘It is the third period from 2021 to 2030 that is the critical one. This is the period world leaders are focusing on for global climate action to make a genuine showing, and commitments for it are to be set next year. It is also the decade during which the trees New Zealand relied on to claim forestry credits are scheduled to be cut down.

Including payback for forest credits, New Zealand’s emissions for the third period are officially projected to be 55 per cent above even the current target level – an overshoot of 350 million tonnes of carbon dioxide equivalent.

The Treasury warns that carbon prices will be considerably higher during this period, and expects them to be between \$10 and \$165 a tonne. At the mid-point of that range, even a 350 million tonne excess would represent a \$30 billion cost if settled with carbon credits. Result – Visa card payment comes due with major penalty interest and underlying emissions growth on top of it. But that’s just the picture if New Zealand continues to do nothing locally.’

In practical terms, many owners of smaller forests took the opportunity to leave the ETS before the arbitrage loophole was closed without warning in May last year. More of how this loophole became a snare is outlined later in the article.

Good positions

Those who left the ETS successfully are, at best, sitting pretty with a stockpile of NZUs in their account which can be cashed in at any time without obligation. At worst, owners who left the ETS should now be in a position of having zero liabilities.

Those who have chosen to stay in the ETS, which includes owners of many larger forest blocks, are accumulating NZUs annually, as has happened throughout the life of the scheme. At harvest, a large proportion of these units will have to be paid back to cover deforestation liabilities. In the meantime forest owners have options, so should a need for cash or a chance to take advantage of carbon market conditions arise, they will be in a good position.

Forest owners who have stayed in the ETS are still bound by the scheme’s rules and regulations. One area occupying a considerable amount of time at Woodnet is with helping clients involved in land transfer. Anyone either buying or selling land with an ETS designation needs to be aware that liabilities go with the trees.

Not surprisingly, there are few new entrants into the ETS these days. The scheme’s reputation is badly damaged, the price of carbon is currently too low, at around six dollars a unit, to make joining the scheme attractive, and the forestry industry as a whole has lost confidence in the government’s ability to keep its word. The long-running saga related to last year’s unprecedented retrospective law change continues. This law change is anything but distant memory for those in the forestry industry who continue to push the government for a fair go.

The catalyst

On budget night 2014, the government passed the Climate Change Response (Unit Restriction) Amendment Act, which prevented the surrender of Kyoto units by ETS participants when de-registering their forest, from midnight on 15 May. There was no public consultation or prior announcement of this

amendment. The unintended consequence of this law change meant that many ETS participants already in the process of de-registering their forest were financially disadvantaged. They had already incurred de-registration costs and purchased the required Kyoto units in advance to meet their impending surrender obligations, which after the law change are were longer eligible.

In essence the Act has unintentionally imposed a significant financial penalty on numerous forest owners who were in the process of removing their forest from the ETS. The penalty was due to a matter of timing. These forest owners had completed many of the necessary steps to de-register, but not the final step of lodging the de-registration notice with the Ministry for Primary Industries, and so were caught holding Kyoto units which became worthless as a result of the law change.

The reason the units were bought before lodging the de-registration application is that once a de-registration application has been approved, the Crown issues a surrender notice. The surrender notice gives the participant 20 days to complete the surrender of units. The alternative is that the participant is entitled to meet the surrender liability by paying \$25 a unit. If neither units nor payment are received by the due date then an excess emissions penalty will be charged of \$30 for each unit not surrendered by the due date. Before the budget there were large price fluctuations and it was difficult to buy them at short notice, so it made sense to obtain them in advance of de-regulation.

Unfair change

We have written before on the unfairness of the law change. Since it was made, members of the forestry industry, including the NZFFA, the Forest Owners' Association and Woodnet have been lobbying hard. A group did eventually meet Ministers, but copies of advice from officials were not provided until after the meeting, not the best way to ensure open and honest

discussions, but at least it was a start. Ministers have been repeatedly asked how they could justify the change and the following reply came from Minister Tim Groser –

‘In making this decision, it was necessary to balance the impacts on some smaller forestry participants against the wider costs of ongoing re-registration arbitrage. This amendment brings the forestry sector broadly in line with other sectors that are allocated NZUs, such as industrial emitters.’

Since then retrospective advice from officials seems to suggest that many people are affected. Therefore the Crown cannot afford to change its position to alleviate the exposure and inconvenience to those who were working with official advice and requirements.

The forestry industry

The forestry industry is still looking for a fair resolution to this debacle. It continues the push to allow the participants who had purchased Kyoto units and held them under contract or in their account on 15 May 2014 for the purpose of de-registration, to be allowed to complete their de-registration transaction.

Although New Zealand's emission levels are well above the 1990 baseline we are in carbon surplus mainly due to the contribution made by forestry. Therefore the government accounts are currently holding a large number of surplus Assignable Amount Units provided to them by the UN for the purposes of eventual surrender in 2015. We believe a simple solution to mitigate the affected forest owners' positions is simply for the government to exchange some of these surplus Assignable Amount Units for their now defunct Kyoto units.

Stuart Orme of Woodnet is a Registered Forestry Consultant based in Masterton. 🌲

