

New Zealand

A Submission to the Ad-Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol (AWG-KP)

Land Use, Land Use Change and Forestry (LULUCF)

24 April 2009

Introduction

1. At its seventh session the AWG-KP requested its Chair to prepare a text on other issues¹ for consideration at its eighth session in June 2009, as part of its work on agreeing further commitments for Annex I Parties under the Kyoto Protocol.
2. The AWG-KP also requested that the elements in the Chair's text relating to the definitions, modalities, rules and guidelines for the treatment of LULUCF be based on the annex of the conclusions of the seventh session as contained in document FCCC/KP/AWG/2009/L.3.
3. The AWG-KP concluded that progress on LULUCF made at its seventh session (as reflected in the annex identified above) could facilitate its deliberations at its eighth session in June 2009.
4. The AWG-KP invited Parties to submit to the secretariat, by 24 April 2009, views on the annex for compilation into a miscellaneous document for consideration at its eighth session.
5. The AWG-KP also invited Parties to submit to the secretariat views on possible improvements to emissions trading and the project-based mechanisms, as detailed in FCCC/KP/AWG/2009/L.2. These include possible changes to the treatment of LULUCF activities under the clean development mechanism (CDM).
6. This submission responds to those invitations issued above. In preparing this submission, we have taken into account information and ideas contained in Annex IV to the report of the AWG-KP at its resumed fifth session, Annex III to the report of the AWG-KP at its sixth session, the Annex to the conclusions of AWG-KP at its seventh session, and Parties' previous submissions.

Context

7. The rules for LULUCF under Articles 3 and 12 as agreed in the Annex to Decision 16/CMP.1 and in the Annex to Decision 5/CMP.1 are for the first commitment period only. As such, there are no rules for LULUCF post-2012. This means that a new decision on rules for LULUCF post-2012 will have to be taken by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (COP/CMP). This is an opportunity to remedy the widely recognised inadequacies in the current rules, in order to improve their environmental effectiveness.

¹ As outlined in the report on its resumed sixth session in FCCC/KP/AWG/2008/8, paragraph 49

8. New Zealand has a particular interest in LULUCF rules because this sector has a disproportionate weight in New Zealand's emissions profile compared to other Annex I Parties. Relatively minor rule changes can have a large impact on the cost of our commitments under the Protocol. Therefore, certainty over the rules that will apply in the second commitment period is important for New Zealand, before finalising our further commitments.
9. We do not consider that amendments are required to the Kyoto Protocol in order to develop and apply rules for LULUCF post-2012.
10. While acknowledging that there may be a number of ways that improvements can be made to the rules under different formulations, our detailed proposals for land-use flexibility for planted production forests, the Afforestation/Reforestation (A/R) Debit Credit rule, and harvesting emissions (Emissions to Atmosphere) as presented in previous New Zealand submissions still stand. We refer readers to our submission contained in (FCCC/KP/AWG/2009/MISC.5).
11. We request that the legal text on flexibility for planted production forests as presented in the Annex to the conclusions of AWG-KP at its seventh session be updated to reflect the text from our submission of 15 February 2009 (FCCC/KP/AWG/2009/MISC.5 - legal text box on page 52).
12. In this submission, we identify areas where we feel there is convergence between options, suggest areas where we would like to focus attention, and suggest areas that we consider do not merit further attention.
13. Specific issues discussed in this submission include:
 - Natural disturbances
 - The "Bar" approach
 - Emissions from harvesting (Harvested Wood Products)
 - Option 2 – land based accounting
 - Article 12 – LULUCF in CDM

Natural Disturbances

14. New Zealand has previously stated that we are open to considering all approaches to factor out natural disturbances, including methodological approaches and/or policy approaches. This position still stands.
15. New Zealand considers that the factoring out of natural disturbances for Article 3.4 forests is fundamentally different than it is for Article 3.3 Afforestation / Reforestation forests. The key difference between these two types of forests lies in a Party's ability to manage compliance risk: whereas Article 3.3 Afforestation / Reforestation forests receive credits for the bulk² of the carbon sequestered, in many cases Article 3.4 forests do not as a significant carbon stock was already present in 1990.
16. This difference needs to be taken into account in the future rules. New Zealand does not believe it is necessary to apply 'time outs' or other policies for natural disturbances to Article 3.3 A/R forests, provided that the A/R Debit Credit rule

² Except for the carbon stored between 1990-2008

is updated to include our proposed amendment as outlined in our 15 February submission (FCCC/KP/AWG/2009/MISC.5).

17. Australia's proposal, in its November 2008 submission, to allow Parties to symmetrically include or exclude non-anthropogenic emissions and subsequent removals from extraordinary natural disturbances from their mitigation commitments has many merits and we consider that it warrants serious consideration.
18. We also consider that the concept of *Force Majeure*, as suggested by Tuvalu, is a useful concept to explore further. This could include a codified objective definition or test of what 'extraordinary' means in practice.
19. In this respect, New Zealand considers that the concept of *Force Majeure* under the Kyoto Protocol should relate to extraordinary natural disturbances where an extraordinary event or circumstance that is beyond the control of Parties (e.g., wildfire, severe pest outbreak, flooding, landslide, volcano, earthquake, or severe wind storm) results in a compliance risk.
20. Assuming that the principal concern is addressing extraordinary natural disturbances that result in a compliance risk, we believe that this should be ascertained in an objective manner. Parties with significant concerns of extraordinary natural disturbances should already have a good idea of the scale of the event that would likely present a compliance risk to them. Examples from Parties will be helpful in defining the appropriate standard to apply.
21. It could possibly be done by comparing the scale of the event as a percentage of AAUs, as a percentage of total emissions, relative to Convention reporting, or some other factor. Such an approach could be predetermined and would provide certainty and transparency.
22. New Zealand considers that the following elements should be considered as part of any approach to symmetrically include or exclude non-anthropogenic emissions and subsequent removals from extraordinary natural disturbances:
 - a. Provision should only apply to Article 3.4 forests [forest lands] – as we expect that the A/R Debit Credit sub-rule will be continued post-2012 (in line with New Zealand's proposal).
 - b. The standard for a qualifying extraordinary natural disturbance should be defined in the CMP decision.
 - c. The quantum of carbon stock lost due to an extraordinary natural disturbance should be the sum of all carbon pools for that unit of land (including that retained in the harvested wood products pool). Therefore, carbon moved from the living biomass pool to the deadwood pool or the harvested wood products pool should only be taken into account when emitted (assuming the Emissions to Atmosphere approach as put forward in New Zealand's submission of 15 February 2009).
 - d. Carbon stock changes on the unit of land that is excluded should continue to be reported to enable transparent monitoring.

- e. Provision should only apply to units of land that do not undergo a subsequent land-use change.
 - f. The unit of land should only re-enter a Party's national accounts once the carbon dioxide removals equalled the carbon stock losses from the extraordinary natural disturbance.
 - g. A Party should take reasonable steps to ensure that the carbon stocks are recovered.
 - h. The Party should provide verifiable geo-spatially referenced information on the land subject to the extraordinary natural disturbance.
 - i. Once land has been timed out it shall continue to be reported during and beyond the second commitment period until such time as the land has recovered the carbon stocks to the state prior to the extraordinary natural disturbance.
23. The provision could continue across commitment periods. Parties would need to agree on a year of disturbance before which these provisions would not apply, so that they do not receive an imbalanced benefit from the re-growth of carbon stocks up to and during the second commitment period, yet faced major emissions since 1990³.

Approval process

24. A Party included in Annex I which has suffered an extraordinary natural disturbance during the second commitment period or subsequent commitment periods (where electing 3.4 Forest Management), may seek approval from the appropriate body⁴ to seek a time out and hence eliminate such land from the accounting system for a period of time until the carbon stocks on the land are returned to the state prior to the extraordinary natural disturbance.

“The Bar” approach

25. For New Zealand a pre-condition of the Bar approach is that post-1989 A/R forests continue to be fully credited for carbon stock change.
26. New Zealand considers that the Bar approach should be considered as an accounting method for post-2012. We consider it could be used for the accounting of ‘forest management’ only, or possibly for all forests, thereby removing the distinction between 3.3 and 3.4 forests in the rules⁵ (i.e. via a CMP decision).
27. New Zealand considers that the Bar is the best estimate of carbon stock change (net emissions and removals) in the pre-1990 forest still in existence at 31 December 2012⁶ that can be expected to occur over the next (and possibly subsequent) commitment period(s) under business as usual management. At

³ If the Bar proposal was to proceed, re-growth could be incorporated into the reference level.

⁴ Appropriate body could be the compliance committee or other independent reviewer. We do not believe that COP is the appropriate body for this task.

⁵ While maintaining Article 3.3 and 3.4 in the Kyoto Protocol without amendment.

⁶ The end of the first commitment period, with reductions in area already been accounted for.

the end of the period, carbon stocks above the agreed level would be credited and carbon stocks below would be debited. The Bar would be adjusted for national circumstances and in order to reflect a degree of continuity with previous accounting approaches.

28. Therefore the bar could be set as an emission for some periods. This would reflect the harvesting of these forests as business as usual management. The carbon stock would be restored in subsequent periods as sequestration occurs in newly planted trees, meaning that in future periods the bar could be a sequestration. In the case of New Zealand the net result of crediting and debiting would be close to zero across multiple periods, unless there was some significant management change.
29. In this approach the following information would be required:
 - a. Pre-1990 forest as at 31 December 2012;
 - b. The carbon content of pre-1990 forest as at 31 December 2012;
 - c. The business as usual harvesting and growth of these pre-1990 forests given the management regime they are under as at 31 December 2012.
30. The effect of CO₂ fertilisation and nitrogen deposition can be addressed (at least in part) by the Bar if projections (reference levels) are based on recent models. Similarly, background natural disturbances can also be factored in to the Bar reference level, and only exceptional events (e.g. extraordinary natural disturbance) would need to be addressed through some other mechanism, e.g. time-out.
31. Further considerations for the Bar:
 - a. The bar should be negotiated and agreed before commitments are made. This will require the establishment of criteria.
 - b. Agreed reference levels for each Party could be included as Annex to a CMP decision.
 - c. Considerations will need to be given as to how the bar would be set for future commitment periods.

Emissions from Harvesting (Harvested Wood Products)

32. New Zealand has proposed that emissions from harvesting activities, post-2012, should be accounted for, in the producing country, on the basis of *when* they occur. This is called the "Emissions to Atmosphere" (ETA) approach.
33. We have previously submitted proposed legal text for our ETA approach.
34. In our proposed ETA, accounting for emissions using this approach would be voluntary. This decision to use the ETA approach would be based on a number of factors, including data availability and cost-effectiveness. Where a Party may have limited data or the cost of obtaining the data did not make sense (e.g. for some short-lived products, or small volumes of particular products)

they might choose to use the default instant oxidation assumption. It is New Zealand's view that cost-effectiveness should be a consideration of the Party wishing to account for emissions, rather than a decision made on the Party's behalf by arbitrarily limiting the application of the approach.

35. It is New Zealand's view that imported harvested wood products from another country should not enter the accounting system. Accounting for wood products should be the responsibility of the producing country.
36. All pools should be considered when calculating emissions from harvesting.
37. We note that in the Annex to the conclusions of AWG-KP at its seventh session, there is an alternative approach suggested to address emissions from harvesting/harvested wood products⁷. We consider that while the approach is broadly consistent with New Zealand's suggested ETA approach, there are several differences that deserve further comment, specifically:
 - a. instant oxidation of exports
 - b. instant oxidation for short-lived products
 - c. instant oxidation from deforestation
38. ***Instant oxidation of exports*** - New Zealand does not consider it appropriate to assume instant oxidation of exported timber. This is for the following reasons:
 - a. The wood is not oxidised instantly.
 - b. All lifetimes developed and used in the accounting of emissions from harvested timber will be subject to review. The agreement should not pre-suppose the ability to collect data on this. This is particularly true when the scientific body charged with developing methodologies, the IPCC, included default values for timber lifetimes in their Good Practice Guidance for LULUCF.
 - c. It would remove some of the incentive to work with developing countries to provide traceability of timber supplies and products and improve the lifetimes of these products.
 - d. It would be inconsistent with Article 2.3 of the Kyoto Protocol, by creating adverse effects in the trade of timber sourced from within the Kyoto Protocol regime compared to other sources, incentivising the trade in timber sourced from outside the Kyoto accounting regime. This could exacerbate illegal logging and deforestation issues that may exist already, hence the proposed accounting for imported timber from non-Annex I to Annex I. We do not consider that this is necessary if we do not limit the approach to domestically produced and retained wood products.
39. ***Instant oxidation for short-lived products*** - New Zealand believes short-lived products should be included in accounting as many options exist to extend their lifetimes. Exclusions based on product categories (e.g. paper,

⁷ See Annex to FCCC/KP/AWG/2009/L.3, Section E, paragraph 21 ter, Option 2.

cardboard) will remove an incentive to do this. Conversely defining a 'short-lived' product based on a time horizon would create an exaggerated reward for lengthening the lifetime by a small amount. In reality, as most of the short-lived materials would oxidise during the commitment period in question, there would be no material change to the RMUs at the end of the period.

40. ***Instant oxidation from deforested land*** – we do not consider this is practical or necessary.

Option 2 – Land-based Accounting

41. New Zealand does not support land-based accounting in CP2 for a number of reasons, including:
- a. It would arbitrarily penalise Parties that were sequestering carbon in 1990/baseyear.
 - b. The information requirements are large, and often unobtainable.
42. This does not mean we should not at some stage be investigating this for future periods. However, we believe that there is broad consensus that land-based accounting is not possible for CP2. Further consideration of this option now will therefore be an unnecessary distraction for the task at hand, which must be to establish rules for LULUCF that will apply in CP2 in a timely manner to allow Annex I Parties to set commitments for CP2.

Article 12: Emissions to Atmosphere approach for Afforestation and Reforestation (A/R) activities in the CDM

43. As we have suggested in the section on Emissions from Harvesting (Harvested Wood Products) in our previous submission of 15 February 2009 (FCCC/KP/AWG/2009/MISC.5), we consider that the Emissions to Atmosphere approach could be applied to A/R activities in the CDM.
44. This should also improve the incentives for the establishment of such projects and sustainable, high value timber production from them.

Proposed legal text

Carbon removed in wood and other biomass from forests accounted for under Article 12 of the Kyoto Protocol shall be accounted for on the basis of default instantaneous oxidation or on the basis of estimates as to when emissions occur provided verifiable data are available. Such carbon, including carbon in exported wood, may be transferred to a harvested wood products pool to be accounted for by the Party producing the wood.

45. Note that the issue of accounting guidelines and good practice for the post-2012 period will need to be addressed as a cross-cutting issue in the final LULUCF decision text, as will provisions for reporting and review.

Non-permanence

46. New Zealand considers that there are a number of ways to address the issue of non-permanence of A/R activities in the CDM.
47. In the first commitment period it was resolved through the issuance of differentiated credits (tCERs and iCERs) for A/R activities in the CDM.
48. Experience so far has shown that this has probably prevented many A/R CDM projects from being established in the first place (although there are many reasons why investors may choose not to invest in forests under the CDM). This is a substandard outcome for those non-Annex I Parties with great potential for afforestation and reforestation activities.
49. New Zealand considers an option to address non-permanence of A/R projects in the CDM would be for non-Annex I Parties to voluntarily take on responsibility for any reversal of carbon stored through an A/R activity. This is how the issue of non-permanence is addressed within Annex I Parties. We consider that non-Annex I Parties could be offered the same opportunity.
50. Non-Annex I Parties would only enter into this sort of arrangement at their own discretion and if they wished increase the viability of their A/R CDM projects. The existing tCER and iCER framework would still be available to non-Annex I Parties that do not want to take on such a responsibility.
51. Non-permanence ceases to be an issue if there is full compensation at the time of reversal of the carbon that was once stored. These long-term obligations could be met by non-Annex I governments (the host Party).
52. New Zealand considers this approach could be applied to other LULUCF activities in the CDM should they become eligible post-2012.
53. This approach would require changes to the Annex to Decision 5/CMP.1, which currently applies for the first commitment period only.

Proposal legal text: Modification to the Annex to Decision 5/CMP.1: Addressing non-permanence of afforestation and reforestation project activities under the CDM

In the second and subsequent commitment periods, the project participants shall select one of the following approaches to addressing non-permanence of afforestation or reforestation project activity under the CDM:

- (a) Issuance of tCERs for the net anthropogenic greenhouse gas removals by sinks achieved by the project activity since the project start date in accordance with paragraphs [AA-BB]⁸
- (b) Issuance of iCERs for the net anthropogenic greenhouse gas removals by sinks achieved by the project activity during each verification period in accordance with paragraphs [CC-DD]⁹

⁸ This corresponds to the provisions governing tCERs as provided in paragraphs 41-44 of the Annex to Decision 5/CMP.1.

- (c) Issuance of CERs for the net anthropogenic greenhouse gas removals by sinks achieved by the project activity since the project start date in accordance with paragraphs [*New provisions governing CERs for afforestation and reforestation projects*] (see below)

For Parties electing to apply the approach in sub-paragraph (c), the designated operational entity shall, prior to the submission of the validation report to the Executive Board, have received from the project participants written confirmation by the host Party that the host Party will replace the required number of CERs issued for that project at the time where either:

- (a) The certification report of the DOE indicates a reversal of net anthropogenic greenhouse gas removals by sinks since the previous certification; or
- (b) The certification report of the DOE has not been provided in accordance with paragraph [EE]¹⁰.

The approach chosen to address non-permanence shall remain fixed for the crediting period, including any renewals.

New provisions governing CERs for afforestation and reforestation projects

A Party included in Annex I may use CERs from afforestation and reforestation projects towards meeting its commitment for the commitment period in which they were issued and in subsequent commitment periods. Such CERs may be carried over to a subsequent commitment period.

The CDM registry shall include a CER replacement account for each commitment period for each Party not included in Annex I hosting an afforestation or reforestation CDM project activity and requesting such an account. The purpose of this replacement account shall be for that non-Annex I Party to replace CERs from afforestation and reforestation projects at the time where either:

- (a) The certification report of the DOE indicates a reversal of net anthropogenic greenhouse gas removals by sinks since the previous certification, or
- (b) The certification report of the DOE has not been provided in accordance with paragraph [EE]¹⁰.

Where a non-Annex I Party is required to replace CERs pursuant to either subparagraph (a) or (b) above¹⁰, the Executive Board shall notify the non-Annex I Party hosting the project of the requirement to replace an equivalent number of CERs. Within 30 days of receiving such notification the non-Annex I Party hosting the project shall transfer the required number of CERs to its CER replacement account for the current commitment period.

⁹ This corresponds to the provisions governing ICERs as provided in paragraphs 45-50 of the Annex to Decision 5/CMP.1.

¹⁰ This corresponds to the appropriate paragraph in the section on verification and certification, which is paragraph 33 of the Annex to Decision 5/CMP.1.

Agriculture Soil Carbon in the Clean Development Mechanism

54. New Zealand believes that the inclusion of agriculture soil carbon should be considered as an eligible activity under the CDM post-2012.
55. We recognise that methodologies will need to be developed at the project level to ensure verified removals/emissions of soil carbon (and other agriculture greenhouse gases) below baselines; that additionality will need to be demonstrated; and that as with A/R in the CDM, non-permanence will need to be addressed appropriately.
56. New Zealand considers that the same approach we have suggested to address non-permanence in CDM A/R activities could be applied to CDM soil carbon activities; that is through the issuance of *t*CERs or *r*CERs or by non-Annex I Party voluntarily taking on responsibility for any reversal.

Proposed legal text

Decides that the eligibility of land use, land-use change and forestry project activities under the clean development mechanism for the second and subsequent commitment periods is limited to afforestation, reforestation, cropland management and grazing land management.