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4. 26 May 2009: Letter from Hon Nick Smith to Charles Chauvel in response to letter from Charles Chauvel of 30 March 2009;
5. 27 July 2009: Letter from Charles Chauvel to Hon Nick Smith with draft MOU attached;
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9. 3 September 2009: Letter from Hon Nick Smith to Hon Phil Goff in response to letter from Hon Phil Goff of 14 August 2009;
10. 9 September 2009 (9 September version): Response to MOU from Hon Nick Smith;
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9 February 2007

Hon Dr Nick Smith  
National Party Spokesperson for Climate Change  
Parliament Buildings  
WELLINGTON

Dear Hon Dr Smith

You may be aware that in December I wrote to Gerry Brownlee as Energy Spokesperson, enclosing copies of *Powering Our Future – the Draft New Zealand Energy Strategy* for your information and feedback. Later in December we released a number of other climate change related discussion documents. For your ease of reference I now enclose copies of:

- Powering Our Future – the Draft New Zealand Energy Strategy to 2050
- Draft New Zealand Energy Efficiency and Conservation Strategy
- Sustainable Land Management and Climate Change
- Discussion paper on measures to Reduce Greenhouse Gas Emissions in New Zealand post 2012
- Transitional Measures – Options to move towards low emissions electricity and stationary energy supply and to facilitate a transition to greenhouse gas pricing in the future

It is obviously desirable that policies developed in this area are durable. I would like to extend an invitation to meet with you to discuss these documents.

I look forward to meeting with you. I am available at 7.30pm – 8.00pm Wednesday 14 February 2007 but can arrange some alternative time and date if this does not suit you.

David Parker  
Minister of Energy  
Minister Responsible for Climate Change Issues  
Minister for Land Information



**HON DR NICK SMITH**  
Member of Parliament for Nelson

RECEIVED  
14 FEB 2007  
MINISTER'S OFFICE

Hon David Parker  
Minister Responsible for Climate Change Issues  
Room 7.06  
Bowen House

14 February 2008

Dear Minister

Climate change is a huge issue and National, as indicated to you in my letter of December 2005, is keen to have a dialogue on developing a long term durable policy. For this reason, I welcomed your letter of 9 February 2007 inviting me to meet with you.

My senior National colleagues and I were quite disturbed at the events that occurred yesterday in Parliament that compromises the prospect of such talks. A meeting was held last year between Dr Cullen, Mr English and Mr Key on Chatham House rules over monetary policy, but Dr Cullen chose to unilaterally break the understandings by publicly releasing his notes of that meeting. What is even more disturbing is that Dr Cullen chose to interpret silence as somehow being supportive of the mortgage levy proposal.

The problem Dr Cullen's action poses for National is that it indicates the Government will use any cross-party meetings for its own political purposes. It is not a basis on which trust can be built to develop long term policy on an issue as important as climate change.

National remains open to the prospect of talks with Labour on climate change. However, in the wake of Dr Cullen's actions yesterday over a similar monetary policy meeting, we need stronger assurances from you before we proceed with meeting. I await your response.

Yours sincerely,

  
Nick Smith  
MP Nelson

Parliament Buildings direct dial +64 4 471 9291  
Wellington facsimile +64 4 472 4169  
New Zealand website [www.national.org.nz](http://www.national.org.nz)  
email [nick.smith@parliament.govt.nz](mailto:nick.smith@parliament.govt.nz)



544 Walmea Rd direct dial +64 3 547 2314  
Annesbrook facsimile +64 3 547 2315  
Nelson website [www.nick4nelson.co.nz](http://www.nick4nelson.co.nz)  
email [nick@nick4nelson.co.nz](mailto:nick@nick4nelson.co.nz)



3.  
COPY

30 March 2009

Hon Nick Smith  
Minister for Climate Change Issues  
Executive Wing  
Parliament Buildings  
Wellington

Dear Minister,

Further to my address to the Conferenz Climate Change forum last week, at which I understand at least one of your officials was present, and to dialogue that I understand you have had with my colleague the Hon David Parker MP, I wish to confirm my Party's position on cooperation relating to climate change policy in general, and the ETS in particular.

Labour is concerned to see the continuation of a New Zealand ETS, as part of a suite of measures designed to deal with the increasingly urgent global problems presented by climate change. We note that National campaigned on retaining an ETS, albeit with amendments, and undertook to have amending legislation in force by 1 January 2010.

Only some 76 sitting days remain to allow that promise to be put into effect. Meanwhile, the existing ETS remains in force, binding on the forestry sector, and considerable work will shortly have to be done in the stationary energy sector to prepare for its inclusion on 1 January next year.

Because of the importance of the issue, we are willing to attempt to assist the Government to achieve certainty as to the retention of a New Zealand ETS, and the terms on which that is to occur.

This is a sincere offer and I invite you to consider it and meet with me to discuss the basis on which it might be effected.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Charles Chauvel'.

**Charles Chauvel**  
**Spokesperson for Climate Change Issues**



# Office of Hon Dr Nick Smith

MP for Nelson  
Minister for the Environment  
Minister for Climate Change Issues  
Minister for ACC

Charles Chauvel  
Spokesperson for Climate Change Issues  
Parliament House  
Parliament Buildings

26 MAY 2009

Dear Charles,

Thank you for your letter of 30 March 2009 noting the importance of the global problem of climate change and noting the common ground with National in respect of an ETS. I note that your letter is not dissimilar in tone to the offer I made from opposition in December 2005.

I appreciated the opportunity to discuss with yourself and Moana Mackey MP the potential for our respective parties to work together on this challenge and note that I found the meeting constructive. I took from that meeting a genuine desire to work to advance solutions to this very challenging global issue.

I have discussed your letter and our initial dialogue with the Prime Minister and other senior Ministers, and they see merit in further exploring areas of common ground. I suggest we advance this important matter by a more detailed discussion and have asked Lucy Paul in my office to coordinate a convenient time.

Yours sincerely,

Hon Dr Nick Smith  
**Minister for Climate Change Issues**



Hon Nick Smith  
Minister for Climate Change Issues  
Parliament Buildings  
WELLINGTON

Monday 27 July 2009

Dear Nick

I refer to our recent discussions, attempting to reach an agreed approach to Emissions Trading Policy. I regret that I was unable to meet with you last week; I look forward to meeting with you again tomorrow and on any further subsequent Tuesdays.

This letter encloses a draft memorandum of understanding for you to discuss with your colleagues. When we last met on 2 July, you suggested that we might hold off on trying to conclude such an MOU, instead waiting for the select committee to seek to reach high-level agreement (probably by majority) on issues of principle and then allowing for consultation with my Party's leadership on any cabinet paper leading to drafting instructions for amending legislation.

Having consulted with colleagues, and also having chaired the select committee on 23 July, I am not attracted to these propositions. Instead, I think we should seek to agree the MOU without delay, and then have the select committee (with amended terms of reference from the House, if necessary) produce a report that includes proposals for amending legislation. The reasons for having come to this view are largely twofold:

- Practicalities around timing. The Committee made good progress on Thursday, for the first time setting clear agendas for subsequent meetings. However, while it will meet again next week, because of the RMA amendments being considered on 6 August by another committee which requires the attendance of many of the ETS Committee's members, it is not scheduled to meet again thereafter until 20 August. Also, it was very clear on

Thursday that Government members were not in a position to express a concluded position on key matters for the Committee's report. Allocation and transition were two such key issues. If New Zealand is to go to Copenhagen on 7 December having amended its domestic legislation on the basis of a cross-party consensus (as we have agreed is desirable), I do not see that this will be likely to be achieved without at least the Labour and National members of the Committee being very clear in principle as to what our report should say on key matters. That clarity will only come if we supply it through prior agreement, and should by preference result in a report that includes the necessary amending legislation so that it can be considered by Parliament without undue hurry;

- The need for a free and frank exchange of views now between National and Labour around the key outstanding issues. In all honesty, we need you to express some clear views around allocation and transitional measures, including transitional assistance, so that my team and I know whether there is any prospect of us being able to vote for any amending legislation that may be proposed. Given New Zealand's emissions profile, we need a commitment to a robust regime that embraces primary production from 1 January 2013. In order to get that commitment, as we have said throughout our discussions, we are willing to show flexibility over allocation to other emitting sectors (and the phasing out of that allocation), and on the transitional mechanisms required to achieve the full binding of all sectors and all gasses. But we cannot express that flexibility without knowing your position the substantive issues I have mentioned.

On 2 July, we also discussed whether we had already entered the paradigm set out over international trade policy. We wish to hear from you tomorrow if that is the Government's view, as well as on the other matters dealt with in this letter.

Yours sincerely



Charles Chauvel

Spokesperson on Climate Change Issues

New Zealand Labour Party

**Christopher Tran**

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**From:** Christopher Tran  
**Sent:** Tuesday, 4 August 2009 1:21 p.m.  
**To:** Lucy Paul  
**Subject:** MoU

**Attachments:** National\_Labour\_MoU\_REVISED\_FINAL19\_June\_09[1].doc

Hi Lucy,

I've managed to track it down.



National\_Labour\_M  
oU\_REVISED\_FI...

Please find attached. Thanks, Amy

Regards,

**Christopher Tran** | Executive Assistant | Office of Charles Chauvel | Labour Member of Parliament  
T : [04] 817 6771 | F : [04] 817 6489 | christopher.tran@parliament.govt.nz | [www.parliament.nz](http://www.parliament.nz)

**Parliamentary Service** | Parliament Buildings, Wellington 6011, New Zealand  
Te Ratonga Whare Pāremata | Whare Pāremata , Te Whanganui-a-Tara 6011, Aotearoa



**Memorandum of Understanding Between  
The New Zealand National Party and the New Zealand Labour Party  
on  
Climate Change Policy and the Emissions Trading Scheme**

**Purpose**

The purpose of this memorandum is to record an agreement which the National Party and the Labour Party have reached regarding climate change policy and the emissions trading scheme.

**Principles underlying the agreement**

The National Party and the Labour Party have agreed a set of principles that should underlie policy development in the area of climate change.

Those principles are:

- climate change is a major issue that New Zealand needs to address at a global, regional and national level.
- while New Zealand recognises that on its own it can not affect the pace and nature of climate change – we are too small – we must be part of concerted international action within the United Nations Framework Convention on Climate Change that sees the world moving to stabilise concentrations of greenhouse gases at prudent levels;
- national actions need to be a combination of both reactive policy, such as implementing New Zealand's global obligations **and** proactive policy, such as demonstrating that New Zealand is prepared, with other like-minded and countries in similar circumstances, to show leadership by taking on obligations in advance of a global agreement covering developing countries;
- too much debate in New Zealand to date has taken place in terms of absolutes: whether climate change is real or not; whether we should lead the world or wait a long time for others to act; whether certain individual initiatives have high cost, as some claim, or great cost, as others allege. Debate needs to become more measured, with greater discussion around risks and uncertainties and how to deal with them, rather than being a quest for compelling evidence of a conclusive position;
- policy development and implementation is an ongoing process. New Zealand does not have to address all issues all at once, with sweeping

gestures. While some are impatient for action, taking a building-blocks approach is often the prudent response to uncertainty. It allows "learning-by-doing";

- policies have to be effective to be credible. New Zealand emissions of greenhouse gases are high on a per capita basis, and growing. Any policies have to be of sufficient influence to turn this trend around, sooner rather than later;
- policies have to address the specifics of New Zealand circumstances. New Zealand's largest and fastest growing sources of emissions are agriculture, transport and forestry through deforestation;
- policies have to be enduring to be effective. If behaviour of both households and business is to change, both groups have to be convinced that policies are here to stay. Business needs to invest in long-life assets that may lose considerable value if climate change policy is unstable. Policies that are seen as likely to be reversed at each change of government will not be either credible or effective;
- policies also have to be fair, as between consumers and producers and as between different sectors;
- addressing climate change will have costs as well as benefits. But New Zealand should be looking to take effective action at least cost, not at any cost;
- market-based mechanisms are preferred, as they allow individual consumers and producers to discover the least-cost ways of achieving any given environmental outcome; and
- climate change policy should be developed in a transparent, consultative manner, with an independent assessment of the costs and benefits of proposals.

### **The Emissions Trading Scheme**

The National Party and the Labour Party have agreed that an emissions trading scheme will be a principal policy instrument implementing climate change policy.

The National Party and the Labour Party have therefore agreed that the Government will introduce a Bill to amend the Climate Change Response Act which:

- sets national medium-term (to 2020) and long term (to 2050) targets for greenhouse gas emissions, which will be consistent with stabilising global concentrations of greenhouse gases at no more than 450 ppm
- specifies that New Zealand's emissions reduction target shall be no less than 50% below 1990 levels by 2050

- reflects agreement that there shall be a unilateral target of no less than 20% below 1990 levels by 2020. If there is a comprehensive agreement resulting directly or indirectly from the Copenhagen talks in December 2009, which exposes the competitors of our competitiveness-at-risk industries to a price on carbon – and includes changes to rules on forestry and soil carbon which recognise the anomalies that currently exist - the target shall be no less than 30% by 2020. These targets will provide New Zealand with an improved position at the Copenhagen negotiations
- confirms an "all gases, all sectors" approach to the emissions trading scheme (i.e. agriculture and forestry will be included in the scheme);
- alters the dates on which various sectors enter the scheme as follows:
  - the stationary energy and industrial processes sectors will enter the scheme on 1 July 2010;
  - transport will enter on 1 July 2010;
  - synthetic fertilisers containing nitrogen at the import and manufacture level will enter the scheme from 1 July 2011;
  - all other sectors will enter from 1 January 2013 (no change);
- contains a suite of transitional measures that includes:
  - Option A**
    - includes a fixed price of emissions units for the first year for each sector as it enters the scheme and a rising cap for the following four years for each sector from its time of entry; and
    - provides free allocation to individual firms in trade-exposed sectors based on those firm's actual emissions (an intensity-basis), within a fixed pool of units (based on historical sector emission levels); or
  - Option B**
    - focuses on compensation for loss of asset values, rather than on-going assistance for heavy emitters; or
  - Option C**
    - an agreed combination of the two approaches outlined above
- provides for a change in the rules on forestry to allow for like-for-like transfers of forestry from one area to another. This will allow use of marginal lands for carbon sink forests, while freeing up other land for higher value use;

- meet iwi concerns about inheriting assets with constrained use and value;
- brings much of the detail about work required to implement allocation plans into the Act rather than being left to regulation; and
- strengthens statutory consultation procedures, including the establishment of a standing advisory committee on climate change, as to the membership of which, the Minister shall consult the Labour Party.

The Labour Party has agreed to support the passage of this legislation through all Parliamentary stages. This includes procedural support as appropriate. The aim is to have this legislation passed before the end of this calendar year, following referral to a select committee.

The National Party and the Labour Party have also agreed that given these proposed changes, no other fiscal instruments (e.g. a "low level carbon tax" or an energy tax) will be put in place as transitional measures.

### **Working arrangements**

As a result of this agreement, climate change policy in New Zealand will proceed on a bipartisan basis. It is therefore appropriate that the working relationship between the National Party and the Labour Party reflect this.

The National Party agrees:

- to provide the Labour Party access to Ministers and appropriate departmental officials for briefings and advice in relation to climate change policy; and
- that the Labour Party will have input into the Ministerial decision-making process, including the formulation of Cabinet papers relevant to climate change policy.

Both Parties agree to keep the details of discussions confidential until they are concluded or until they agree that such detail may be released.

The Labour Party spokesperson on climate change issues will be a member of any official New Zealand delegation to climate change negotiations to which Ministers are invited or which they decide to attend.

### **Duration**

Given the long term nature of climate change and the need to provide policy certainty, the National Party and the Labour Party intend this agreement to be ongoing, and it shall be changed, replaced or rescinded only with the prior agreement of both Parties.

### **Invitation to other parties**

The National Party and the Labour Party will invite other political parties represented in Parliament to join this agreement.

John Key  
Leader

Phil Goff  
Leader

14 August 2009

Hon John Key  
Prime Minister  
Parliament Buildings  
**WELLINGTON**

**ETS NEGOTIATIONS**

Dear John

For some months, National and Labour have been discussing the possibility of an agreed policy on the emissions trading scheme.

I support exploring the possibility of such an agreement because it provides a more certain investment climate for business and a better outcome for our trade and tourism prospects and the environment. I would prefer a policy which endured several Parliaments, not just the one.

Developments in these discussions in the last week concern me. The proposals now being put forward by National have very significant fiscal and environmental implications, stretching many years into the future.

As we all know, climate change is a most difficult policy issue, requiring hard trade-offs in the face of often emotional claims about the cataclysmic consequences of action, or inaction, depending on which stakeholders you listen to.

A joint National-Labour position will send a clear message to those on the fringes of the debate that their efforts have come to nought. An agreement that demonstrates that each party has been prepared to come together on the matters that we hold in common, while accommodating some views that we might not have arrived at alone, will only strengthen the signal that an agreement will send.

In an effort to make progress, I am writing to propose that we, as leaders, meet as soon as possible to agree on a broad set policy principles to guide our spokesmen and their staffs as they flesh-out the details of an agreement. Before outlining the principles that I propose we discuss, I would first like to set the scene by outlining the latest developments in the discussions and Labour's views on the current proposals.

## **Situation**

The Minister of Climate Change Issues, Hon Nick Smith, last week advised our climate issues spokesperson, Charles Chauvel, that he is unlikely to win support for the proposals our two parties discussed the previous week regarding the treatment of agriculture in the ETS.

In further discussions, Dr Smith's staff told Hon David Parker that National now seeks:

- The delay, to a date unspecified, of the entry of agriculture into the ETS; and
- A \$NZ25 per tonne price cap on emissions units for three years applied to all sectors, with a ban on the international trade in emissions units. While this proposal would cap the costs to emitters, it would also cap the returns to those removing greenhouse gases from the atmosphere, namely the forestry sector.

Part of the rationale for these proposals was stated to be National's desire to harmonise with the Australian scheme as much as possible. While we can see the benefits in harmonisation of the administrative details of our two schemes, we are concerned at extending this to include the coverage of sectors, given the very different emissions profiles of our two countries.

We are also concerned about the severe fiscal implications (discussed below).

We also note that Australia is not proposing a cap of \$NZ25: their proposal is a fixed price of units of \$A10 for one year, and then a cap starting at \$A40 and increasing at 5% real each year for three years.

The Australian proposal to cap prices after the initial year is to cushion emitters from the effects of price spikes, rather than to provide an ongoing source of subsidy. The National proposal goes well beyond what is reasonable for price-spike protection.

The forestry industry has met Mr Riddell, Hon David Carter and others in the past week, arguing strongly against a price cap. Advice I have received is that a cap with an international trading ban is likely to halve the returns to foresters. It is clear that businesses outside the heavy emitter group would strongly welcome a multi-party agreement on the ETS.

## **Implications of National's proposals**

The current world price for carbon is NZ\$28. The price is expected to rise to about NZ\$50 per tonne if there is a successful Copenhagen deal, with some

speculation that this could go as high as \$100 if there is an agreement to significantly reduce world emissions up to 2020. The more ambitious the cap, the higher the likely price.

My advice is that:

- **A \$25 price cap will blunt the incentive to forestry to invest.** Forestry provides the biggest and lowest cost early opportunity to reduce New Zealand net emissions. The cap will be costly for forestry and plantings will not go ahead, at least for another three years. Some forestry interests say they will hold these credits until the price cap comes off and they can get a better price. Already this season 8 million seedlings are about to be dumped due to uncertainty over the ETS policy and the price signal it will deliver
- **The \$25 cap will shift a huge cost onto taxpayers.** The higher the world price goes, the greater the subsidy for heavy emitters and agriculture.
- A \$25 cap in a market with a carbon price of \$50 means emitters **retain the 90% free credits** for emissions above 2005 levels (the level of assistance that they would receive under the scheme we put in place), **plus a 50% discount** on a \$50 carbon price on any additional emission rights they need to purchase.
- **The \$25 cap is the equivalent of going to a better than a 95% subsidy level** in an industry without any output growth.
- **Agriculture could effectively pay nothing for the next 10 years.** Meantime, nitrogen inhibitors and other practices to reduce emissions will be rolled out, providing windfall gains.
- At present, the 90% subsidies to emitters in the current legislation are reduced by 8% in a straight line beginning four years after a sector enters the scheme. **If National harmonises to a reduction rate of 3.6% provided for in the Australian scheme, the cost is about another \$1 billion a year – but this doubles if prices are capped at \$25 and the world price goes to \$50.**
- **If the carbon price rises to \$50, the cost to Government could rise to \$2 billion (the equivalent of two rounds of tax cuts or \$20 per household per week).**

The proposed blunting of forestry's property rights and incentive to plant and reduce emissions during the next three years, and blunting of agriculture's



incentive to avoid a price on carbon at the margin, and start reducing emissions mean:

- New Zealand will continue to subsidise carbon polluters to carry on with business as usual , while
- Removing the incentive from the one sector which has the biggest early and lowest-cost opportunity to help the country meet its reduction commitments
- Keeping the ETS and climate change issue in place for the next two elections, because we could not campaign in good faith to retain this sort of scheme given the cost to the taxpayer.

These policy implications are acceptable neither to me nor my party. If you decide to proceed with them we will regrettably withdraw from the ETS negotiations.

### **Proposed Labour Principles**

New Zealanders want the two major parties to come to a national-welfare-enhancing agreement on climate change.

To be enduring, any such agreement has to address New Zealand's unique situation, in a way that credibly enhances our reputation as a country that takes the environment seriously. Credibility also means affordable and avoiding clearly unsustainable transfers to individual sectors of society.

I therefore propose that we meet as leaders to agree a set of over-arching principles that can guide our teams as they developed the details of a joint position.

In a spirit of openness, I would suggest that we start by discussing the following responses to your latest proposals:

- Agriculture enters the ETS as planned from 1 January 2013.
- From 1 January 2010, New Zealand introduce into the ETS an agricultural emissions offset scheme, modelled on the current Waxman Markey Bill proposals in the United States, where incentives are offered to emitters who reduce emissions. These offset units would come out of the capped pool for transitional assistance. These units would also be fully convertible into international units from the outset.
- Any price caps should be directed at reducing the impact of unexpected price spikes, and should thus start well above current prices, and

- Caps should only apply to emissions, not removals. This could be achieved by following the Australian proposal of issuing different types of units with different vintages and conversion rights attached.

Without prejudice, we are also prepared to discuss adopting the Australian proposal of a one year fixed-price for emission (but not removal) units. We propose that pre-2013 emission reduction units provided to agriculture should be tradable internationally at the potentially higher international market price.

These policies will have the effect of

- Immediately rewarding farmers who engage in lower-emissions practices, providing credits for sale at international prices, providing additional income in economically difficult times. This will also make a decision to remain with the 1 January, 2013, entry date for agricultural greenhouse gases more acceptable to your internal and external constituencies
- Spurring early emission reductions in agriculture and tree planting which will reduce our net emissions from three to five years out, lowering the long term cost of adjustment.

An agreement between us on commonsense, fair and more fiscally-prudent policies will:

- Encourage early action to reduce emissions
- Prevent windfall profits for generators and unnecessarily higher costs for business and households
- Keep incentives in place to plant trees and help the more than 30,000 investors in this sector
- Achieve additional incentives for farmers to profit from reducing emissions by acting early
- Help save money needed for transitional assistance for businesses and households
- Help preserve our trade and tourism opportunities
- Stop investment blight by removing ETS policy uncertainty, and
- Ensure long-term policy stability by the early passage of ETS amending legislation by at least 100 votes to 20.

National's current proposals blunt both investment and reduction incentives, while costing taxpayers billions – for no climate, trade or quality of life benefits – while potentially postponing billions in tax cuts or other economic policy options to achieve both economic growth and a more competitive, cleaner, economy.

The current proposals mean we will have to consider withdrawing from the negotiations.

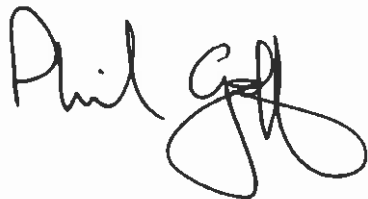
This is not my preference. I trust it is not yours.

A suitable accommodation can be reached for the benefit of the country.

I will call you to discuss our proposals.

Kind regards

Yours sincerely

A handwritten signature in black ink that reads "Phil Goff". The signature is written in a cursive style with a large, looping flourish at the end.

**Hon Phil Goff**  
Leader of the Opposition

## Christopher Tran

---

**From:** Christopher Tran  
**Sent:** Tuesday, 18 August 2009 8:32 a.m.  
**To:** Lucy Paul  
**Subject:** RE: Meeting tomorrow - 5pm.

Good morning Lucy

Thank you for your email. I have cancelled this meeting out of Charles' diary and will wait to hear from you as to a suitable time to reschedule.

Thanks.

Julie-Mary

For Chris Tran

---

**From:** Lucy Paul (MIN) [mailto:Lucy.Paul@parliament.govt.nz]  
**Sent:** Tuesday, 18 August 2009 8:17 a.m.  
**To:** Christopher Tran  
**Subject:** FW: Meeting tomorrow - 5pm.

Could you please confirm receipt of the email below?

Thanks,

Lucy

**From:** Lucy Paul (MIN)  
**Sent:** Monday, 17 August 2009 3:03 pm  
**To:** 'Christopher Tran'  
**Subject:** Meeting tomorrow - 5pm.  
**Importance:** High

Hi Chris,

Minister Smith wishes to postpone the meeting between himself and Charles tomorrow (Tuesday) at 5pm.

Please let Charles know that the letter from Phil Goff to the Prime Minister is being considered and Minister Smith would prefer to postpone tomorrow's meeting until a response is drafted.

Many thanks,

Lucy

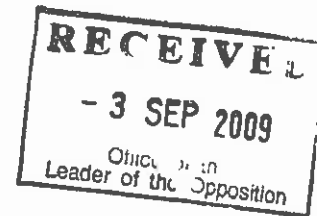
Lucy Paul | Senior Private Secretary  
Office of Hon Dr Nick Smith  
Minister for the Environment, Minister for Climate Change Issues and Minister for ACC  
Parliament Buildings, PO Box 18041, Wellington 6160, New Zealand  
T: 04 817 9291  
F: 04 817 6505  
E: lucy.paul@parliament.govt.nz

15/09/2009



## Office of Hon Dr Nick Smith

MP for Nelson  
Minister for the Environment  
Minister for Climate Change Issues  
Minister for ACC



- 3 SEP 2009

Hon Phil Goff  
Leader of the Opposition  
Parliament House

Dear Phil

The Prime Minister has asked that I respond to your letter of 14 August regarding the ongoing discussions between National and Labour over climate change policy and the emissions trading scheme.

The Government does believe there are real benefits for New Zealand in a settled policy around an emissions trading scheme. That is why I wrote in December 2005 to your Government suggesting a bipartisan approach and why we welcomed Charles Chauvel's letter on behalf of Labour earlier in the year opening the door for discussions.

It is significant that there are many issues on which National and Labour agree – the science and environmental risks of climate change, the importance of getting a domestic price signal on carbon pollution, an ETS being the most appropriate tool, an ETS that covers all sectors and all gases and the importance of price signals to the forest sector.

The concern in your letter about proposals from a member of my staff are not correct. In consultation with my Cabinet colleagues and officials, we are developing specific policy options in response to the Select Committee's report, bearing in mind my discussions with Charles Chauvel and David Parker, your letter and Labour's minority report.

These are difficult and complex issues that have major implications for the environment, New Zealand's reputation, employment and costs for consumers and businesses. I look forward to meeting with Charles Chauvel and any other members of your team at our regular meeting time of 5:00pm next Tuesday to try and make further progress.

Yours sincerely

Hon Dr Nick Smith  
**Minister for Climate Change Issues**

**Memorandum of Understanding Between  
The New Zealand National Party and the New Zealand Labour Party  
on  
Climate Change Policy and the Emissions Trading Scheme**

**Purpose**

The purpose of this memorandum is to record an agreement which the National Party and the Labour Party have reached regarding climate change policy and the emissions trading scheme.

**Principles Underlying the Agreement**

The National Party and the Labour Party have agreed a set of principles that should underlie policy development in the area of climate change.

Those principles are:

- climate change is a major issue that New Zealand needs to address at a global, regional and national level.
- while New Zealand recognises that on its own it cannot affect the pace and nature of climate change we must be part of concerted international action within the United Nations Framework Convention on Climate Change (UNFCCC) that sees the world moving to stabilise concentrations of greenhouse gases at prudent levels;
- policies have to be effective to be credible. New Zealand emissions of greenhouse gases are high on a per capita basis, and growing. Any policies have to be of sufficient influence to turn this trend around, sooner rather than later;
- policies have to address the specifics of New Zealand circumstances. New Zealand's largest emissions are from agriculture and the fastest growing sources of emissions are from electricity and transport. Forestry is also very significant with large potential emissions from deforestation but also offering large opportunities for carbon capture;
- policies have to be enduring to be effective. If behaviour of both households and business is to change, both groups have to be convinced that policies are here to stay. Business needs to invest in long-life assets that may lose considerable value if climate change policy is unstable. Policies that are seen as likely to be reversed at each change of government will not be either credible or effective;
- policies also have to be fair, as between consumers and producers and as between different sectors;
- addressing climate change will have costs as well as benefits. But New Zealand should be looking to take effective action at least cost, not at any cost;

- market-based mechanisms are preferred, as they allow individual consumers and producers to discover the least-cost ways of achieving any given environmental outcome; and
- climate change policy should be developed in a transparent, consultative manner, with an independent assessment of the costs and benefits of proposals.
- where possible, and recognising natural differences, New Zealand should endeavour to work closely with Australia on climate change and, noting the close economic relationship, align and link our emission trading schemes where possible

### **The Emissions Trading Scheme**

Based on the work to date of the Emissions Trading Scheme Review Committee the National and the Labour Party have agreed that an emissions trading scheme should be the principal policy instrument to constrain and reduce greenhouse gas emissions; and to negotiate in good faith in an attempt to reach agreement on the following issues;

The National Party and the Labour Party have further agreed that taking account the deliberations of the Emissions Trading Scheme Review Committee to date over the submissions received and the evidence given, the Government will introduce a Bill to amend the Climate Change Response Act which:

- confirms an "all gases, all sectors" approach to the emissions trading scheme (i.e. agriculture and forestry will be included in the scheme);
- the dates on which the stationary energy, transport, industrial processes and agricultural sectors will enter the scheme;
- the transitional measures and in particular the method of allocation for trade exposed firms;
  - a transitional phase from 1<sup>st</sup> July 2010 to 1<sup>st</sup> January 2013 for stationary energy, industrial processes and transport;
  - a fixed price option from 1<sup>st</sup> July 2010 to 1<sup>st</sup> January 2013;
  - a limitation on banking and export of units until 1<sup>st</sup> January 2013 except for the forestry sector;
  - a realignment of transitional allocations for trade exposed firms with the Australian CPRS, with an intensity based industry average and phase out programme subject to an overall cap;
  - an allocation of 90% of emissions from fuel used by fishing vessels for the period 1<sup>st</sup> July 2010 to 1<sup>st</sup> January 2013;
  - a review of the scheme parameters and phase out in 2012 and thereafter five yearly with five years notice of any change to the parameters
  - as much of the detail required to implement allocation plans into the Act as possible rather than being left to regulation to enable implementation by 1<sup>st</sup> July 2010

National agrees to consult with Labour on the detail of the amendment Bill and to provide access to official to deliver on these changes.

If agreement can be finalised the Labour Party will agree to support the passage of this legislation through all Parliamentary stages. This includes procedural support as appropriate. The aim is to have this legislation passed prior to the UNFCCC conference in Copenhagen in December of this year, following referral to a select committee.

The National Party and the Labour Party have also agreed that given these proposed changes, no other fiscal instruments (e.g. a "low level carbon tax" or an energy tax) will be put in place as transitional measures.

### **Specific Exclusions**

The parties agree that the setting of targets and the development of complementary policy measures are to be excluded from this agreement.

### **International Negotiations**

National agrees that the opposition spokesperson on climate changes issues will be a member of any official New Zealand delegation to UNFCC climate change negotiations to which Ministers attend, subject to the normal conventions over participation.

National agrees to keep Labour briefed on international climate change policy developments and to consult on New Zealand's negotiating position recognising that, like trade, there are advantages for New Zealand in a bipartisan position.

### **Invitation to Other Parties**

The National Party and the Labour Party will invite other political parties represented in parliament to support the Bill to amend the Climate Change Response Act.

John Key  
Leader

Phil Goff  
Leader



**From:** Charles Chauvel  
**Sent:** Monday, 14 September 2009 10:33 a.m.  
**To:** Lucy Paul; Lucy Paul  
**Cc:** Moana Mackey; David Parker; Paul Grant  
**Subject:** MOU for tomorrow evening

**Attachments:** MOU 15.9.rtf



MOU 15.9.rtf (57 KB)

Hi Lucy

Could you please pass the attached MOU to Nick and George in advance of our meeting tomorrow evening, along with the comments below, thanks. I am out of the office today so am sending all this via gmail.

In response to last week's meeting, we have made some specific proposals for the quantum of free allocation for agriculture and for industry. Obviously we need to test these numbers with officials so we are not putting them up as fixed in stone, but rather as a basis for testing what is proposed. For example, the allocation for agriculture in 2013-2017 is 165 million tonnes (five times 90% of 2005 sector emissions), which at \$25 per tonne is worth a cool \$4.125 billion, which is a serious amount of money.

We have restructured the memo, putting more of the details of what has been agreed into an annex - hopefully this means that from now on we can keep the body of the memorandum more or less as is, and concentrate on amending the annex as we need to.

To re-iterate what we said last week, Labour is really only interested in negotiating any legislative changes via the MOU route - we would be unlikely to support amendments that are not the fruit of this process. To negotiate a robust MOU, we need all our meetings from now on to occur on the basis of firm agendas agreed in advance, supported by analysis from officials, and with access by us to those officials to test and discuss assumptions. We are prepared to sign appropriate agreements relating to confidentiality in respect of those papers and advice.

In respect of what we think is needed by way of further information based on last week's discussions, our initial view is that we need to see work on the following:

1. The fiscal cost of the proposals over the first 12 years and a comparison with the cost of the current legislated proposals.
2. The split of the cost of emissions for the Competitiveness-At-Risk (CAR) sectors between what will be paid for by the taxpayers and what will be paid for by the sector (for example, cement, steel, aluminium and dairy) under National's proposals compared with the current legislation.
3. The net revenue from the ETS that would be available over the 12 years to fund complementary measures or tax cuts under National's proposals, compared with the current legislation.

We suggest that the terms of the annex form the basis of the agenda for tomorrow evening, and that it be submitted to officials for their reaction, to be tabled and discussed at the meeting.

Regards  
Charles Chauvel

## **Memorandum of Understanding**

Between

The New Zealand National Party and the New Zealand Labour Party

on

### **Climate Change Policy and the Emissions Trading Scheme**

**(version tendered by Labour on 14.9.09 for 15.9.09 meeting)**

#### **Purpose**

The purpose of this memorandum is to record an agreement which the National Party and the Labour Party have reached regarding climate change policy and the emissions trading scheme.

#### **Principles Underlying the Agreement**

The National Party and the Labour Party have agreed a set of principles that should underlie policy development in the area of climate change.

Those principles are:

1. climate change is a major issue that New Zealand needs to address at a global, regional and national level.
2. while New Zealand recognises that on its own it cannot affect the pace and nature of climate change we must be part of concerted international action within the United Nations Framework Convention on Climate Change (UNFCCC) that sees the world moving to stabilise concentrations of greenhouse gases at prudent levels;
3. policies have to be effective to be credible. New Zealand emissions of greenhouse gases are high on a per capita basis, and growing. Any policies have to be of sufficient influence to turn this trend around, sooner rather than later;
4. policies have to address the specifics of New Zealand circumstances. New Zealand's largest emissions are from agriculture and the fastest

growing sources of emissions are from electricity and transport. Forestry is also very significant with large potential emissions from deforestation but also offering large opportunities for carbon capture;

5. policies have to be enduring to be effective. If behaviour of both households and business is to change, both groups have to be convinced that policies are here to stay. Business needs to invest in long-life assets that may lose considerable value if climate change policy is unstable. Policies that are seen as likely to be reversed at each change of government will not be either credible or effective;
6. policies also have to be fair, as between consumers and producers and as between different sectors;
7. addressing climate change will have costs as well as benefits. But New Zealand should be looking to take effective action at least cost, not at any cost;
8. market-based mechanisms are preferred, as they allow individual consumers and producers to discover the least-cost ways of achieving any given environmental outcome;
9. climate change policy should be developed in a transparent, consultative manner, with an independent assessment of the costs and benefits of proposals; and
10. where possible, and recognising differences in industrial structure, New Zealand should endeavour to work closely with Australia on climate change and, noting the close economic relationship, align and link our emission trading schemes where it is in our mutual interests to do so.

### **The Emissions Trading Scheme**

Based on the work of the Emissions Trading Scheme Review Committee and on their direct discussions, the National and Labour Parties have agreed that an emissions trading scheme should be the principal policy instrument to constrain and reduce greenhouse gas emissions.

The Parties have further agreed that, taking account of the recommendations of the Committee and their own direct discussions, the Government will introduce a Bill to amend the Climate Change Response Act which:

- confirms an "all gases, all sectors" approach to the emissions trading scheme (i.e. agriculture and forestry will be included in the scheme);
- sets dates on which sectors will enter the scheme;

- provides transitional measures, in particular the method of allocation for trade exposed firms; and
- establishes a transparent policy development process.

Details of the proposed amendments are set out in the annex to this document.

The Bill will also include amendments identified by officials as being required for the next phase of the Scheme to come into effect. National agrees to consult with Labour on all the details of the amendment Bill and to provide access to officials to assist Labour in its consideration of those details. The Labour Party is committed to considering the entire Bill in good faith, based on the principles outlined above.

If agreement on a Bill can be reached, the Labour Party will support the passage of this legislation through all Parliamentary stages. This includes procedural support as appropriate. The aim is to have this legislation passed prior to the UNFCCC conference in Copenhagen in December of this year, following referral to a select committee.

The National Party and the Labour Party have also agreed that given these proposed changes, no other fiscal instruments (e.g. a "low level carbon tax" or an energy tax) will be put in place as transitional measures.

### **Specific Exclusions**

The Parties agree that the setting of targets and the development of complementary policy measures are excluded from this agreement.

### **International Negotiations**

The Government agrees to fund the attendance of the opposition spokesperson on climate changes issues as a member of any official New Zealand delegation to UNFCCC climate change negotiations which Ministers attend, subject to the normal conventions over participation.

National agrees to keep Labour briefed on international climate change policy developments and to consult on New Zealand's negotiating position recognising that, like trade, there are advantages for New Zealand in a bipartisan position.

### **Invitation to Other Parties**

The National Party and the Labour Party will invite other political parties represented in Parliament to adopt the principles outlined above and to support the proposed Bill to amend the Climate Change Response Act.

John Key  
Leader

Phil Goff  
Leader

## **Proposed amendments to the Climate Change Response Act**

The proposed amendments are:

- stationary energy, industrial processes and transport will enter the scheme on 1<sup>st</sup> July 2010;
- agriculture will enter the scheme on 1<sup>st</sup> January 2013 (with voluntary reporting of emissions from 1<sup>st</sup> January 2011 and mandatory reporting from 1<sup>st</sup> January 2012);
- the waste sector will enter the scheme on 1<sup>st</sup> January 2013 (with voluntary reporting of emissions from 1<sup>st</sup> January 2011 and mandatory reporting from 1<sup>st</sup> January 2012);
- from 1<sup>st</sup> January 2011, on a voluntary basis, agricultural offsets will earn emissions units, which can be freely traded in the international market. The basis for earning units will be the difference between actual reported emissions and the averages used to calculate New Zealand's UNFCCC inventory;
- the price of units to be surrendered for compliance will be fixed at \$15 from 1<sup>st</sup> July 2010 to 31<sup>st</sup> December 2011 and capped at \$45 from 1<sup>st</sup> January 2012 to 31<sup>st</sup> December 2012;
- fixed-price units will only be able to be surrendered for compliance with obligations incurred before 1<sup>st</sup> January 2012. All units not surrendered will be cancelled (i.e. cannot be banked).
- capped-price units will only be able to be surrendered for compliance with obligations incurred in 2012. All units not surrendered will be cancelled (i.e. cannot be banked).
- Transitional assistance for agriculture will be provided to compensate farmers for loss of value. For the period 2013 to 2017, 165 million NZUs (approximately five times 90% of 2005 agricultural sector emissions) will be allocated to the sector, with the allocation per farm to be based on land area, location and type of farming. For 2018 to 2022, the allocation will be based on the final level of New Zealand's target determined after Copenhagen. For example, if the target is 90% of 1990 levels, the allocation will be 146 million units. A target of 80% yields an allocation of 130 million units.
- Transitional assistance for the industrial processes sector will be based on industry average intensity, within a fixed cap based on New Zealand's national emissions target. For the period the 2010 to 2017, the cap will be 90% of 2005 emissions (plus an allowance for

emissions from electricity). For the period 2018 to 2022, the precise cap will depend on the national target agreed at Copenhagen, which is expected to be between 90% and 80% of 1990 emissions;

- an allocation of 90% of 2005 emissions levels from fuel used by fishing vessels will be provided for the period 1<sup>st</sup> July 2010 to 1<sup>st</sup> January 2013;
- detail provisions regarding allocation plans will be contained in primary legislation, not regulations;
- a climate change committee will be established as an independent Crown Entity. The role of the Committee will be to provide independent advice to Ministers and to promote informed public debate on the public policy response to climate change;
- for all sectors, the Committee will undertake regular reviews to determine whether transitional assistance is still required, based on the spread of effective carbon pricing policies through the world.