



Cabinet

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Report of the Cabinet Environment, Energy and Climate Committee: Period Ended 21 October 2022

On 25 October 2022, Cabinet made the following decisions on the work of the Cabinet Environment, Energy and Climate Committee for the period ended 21 October 2022:

ENV-22-MIN-0043 **Approach to COP27 Negotiations**
Portfolio: Climate Change

CONFIRMED

Rachel Hayward
Acting Secretary of the Cabinet



Cabinet Environment, Energy and Climate Committee

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Approach to COP27 Negotiations

Portfolio **Climate Change**

On 20 October 2022, the Cabinet Environment, Energy and Climate Committee:

- 1 **noted** that the existing climate change negotiations mandate, approved by Cabinet in 2019, will continue to serve as the basis on which New Zealand will engage at the upcoming international climate change negotiations [CAB-19-MIN-0430];
- 2 **noted** that if specific agenda items move faster than anticipated, then relevant portfolio Ministers may be requested to give guidance during COP27 in accordance with paragraphs 43-46 of the 2019 Cabinet mandate [CAB-19-MIN-0430];
- 3 **noted** the intention to conduct a substantial review of the mandate in early 2023 to ensure it is accurately reflecting New Zealand's negotiating positions following COP27;
- 4 **noted** that an update to the negotiations mandate in 2023 will include public consultation, and that the Minister of Climate Change will return to Cabinet to seek approval for this.

Rebecca Davies
Committee Secretary

Present:

Hon Grant Robertson
Hon Kelvin Davis (Chair)
Hon Damien O'Connor
Hon Stuart Nash
Hon Phil Twyford
Hon James Shaw
Rino Tirikatene, MP

Officials present from:

Office of the Prime Minister
Officials Committee for ENV

Office of the Minister of Climate Change

Chair Environment, Energy and Climate Committee (ENV)

Informing Cabinet of the Approach to COP27 Negotiations

Proposal

- 1 This paper informs Cabinet of the approach to negotiations at the upcoming 27th Conference of the Parties (COP27) to the United Nations Framework Convention on Climate Change (UNFCCC) in Sharm El-Sheikh, Egypt (6 November – 19 November). It also signals the intention to carry out a review and update of the international climate change negotiations mandate in early 2023 following COP27.

Relation to government priorities

- 2 Aotearoa New Zealand and our Pacific neighbours rely on an effective global response to climate change. Our ability to influence the global response, limit the temperature increase to 1.5 degrees above pre-industrial levels and reduce the worst impacts of climate change, is based upon a strong rules-based multilateral system and all countries taking ambitious action. In negotiations at COP27 we will seek to influence both these objectives, as outlined in the 2022/23 International Climate Change Engagement Plan.

Executive Summary

- 3 New Zealand's participation in the inter-governmental negotiations that underpin the global response to climate change is guided by a negotiations mandate agreed to by Cabinet in August 2019. This mandate was re-endorsed by Cabinet in 2021, and is an integral component of the 2022/23 International Climate Change Engagement Plan.
- 4 I now seek to inform Cabinet of the approach New Zealand will take at the COP27 climate negotiations guided by the existing mandate, which will sufficiently cover our interests at COP27. I also signal my intent to carry out a review and update of the negotiations mandate, including public consultation, in early 2023.

Background

- 5 The UNFCCC, Kyoto Protocol, and Paris Agreement shape the multilateral response to climate change. The governing bodies of these treaties can take decisions which impact both New Zealand, and the global response to climate change.
- 6 As a Party to the UNFCCC, the Kyoto Protocol, and the Paris Agreement, New Zealand has a voice and responsibility in decision making and ongoing negotiations on a range of issues regarding the global response to climate change.
- 7 The climate change negotiations mandate sets out guidance for New Zealand's participation in this process. It determines what New Zealand will advocate for, or resist, on specific issues; and/or the acceptable ranges for negotiators to work within. The existing negotiations mandate was approved by Cabinet in August 2019 [CAB-19-MIN-0430 refers] and endorsed in October 2021 [CAB-21-MIN-0453 refers].

- 8 Cabinet taking note ahead of COP27 of the positions and approach New Zealand will take at the meeting is important because:
- 8.1 decisions taken will affect New Zealand's national interests, including climate change action, and may have impacts across a number of sectors;
 - 8.2 some topics are of particular importance to segments of the New Zealand public;
 - 8.3 New Zealand's conduct will be subject to stakeholder and media scrutiny; and
 - 8.4 s6(a)
- 9 Māori were consulted in the development of the 2019 mandate. This consultation considered how the rights and significant interests of Māori as indigenous people would be impacted by climate change and the proposed positions. Officials will continue to strive to ensure our engagement process has integrity and value for Māori and is regular, consistent and deliberate, including during the 2023 mandate review process.

Analysis

COP27 negotiations are likely to be within the bounds of the existing mandate

- 10 COP27 negotiations are likely to fall within the bounds of the existing mandate. The existing mandate is structured into general principles, covering the breadth of items under negotiation; and more granular instructions relating to specific areas.
- 11 There are, however, some contextual differences since the mandate was last endorsed by Cabinet. These include increasingly strong calls from developing countries for a financing facility for loss and damage, and the completion of the 'Paris Rulebook' at COP26, including rules on international carbon markets. These specific areas are discussed below (paras 13-18, 19-21 respectively).

General principles of the negotiations mandate

- 12 The overarching principles provide general guidance on New Zealand's approach to these negotiations (as well as the climate-related negotiations in the International Maritime Organization (IMO) and International Civil Aviation Organization (ICAO)). These principles are fit-for-purpose and continue to reflect New Zealand's priorities at international climate change negotiations. These principles are:
- 12.1 New Zealand will advocate for Parties to the Paris Agreement and other entities to align their climate action with the objective of limiting temperature increase to 1.5 degrees Celsius above pre-industrial levels;
 - 12.2 New Zealand will participate actively and constructively in the negotiations to support the credibility and robustness of the Paris Agreement and its implementation;

- 12.3 New Zealand will resist any effort in the implementation of the Paris Agreement that undermines either the Agreement's applicability to all countries, or its principles of environmental integrity, progressive ambition, and continuous improvement in transparency;
- 12.4 New Zealand will advocate for outcomes that support the interests of Pacific Island countries, in ways consistent with New Zealand values and interests;
- 12.5 New Zealand will seek effective and efficient outcomes, including avoiding duplication of existing multilateral processes;
- 12.6 New Zealand will seek outcomes that are consistent with the letter and spirit of the Paris Agreement and associated decisions by Parties to the Agreement.

Loss and damage

- 13 'Loss and damage' is an umbrella term including the irremediable impacts of extreme weather events and slow onset events, and can be economic or non-economic – for example loss of cultural or heritage sites. The Paris Agreement acknowledged loss and damage, but Parties specifically rejected accepting this as the basis for any liability or compensation.
- 14 Developing countries, including in the Pacific, have argued an urgent need to address inadequate funding for loss and damage. Loss and damage was a critical issue at COP26, and the COP27 host Egypt has identified it as a high priority for COP27. The G77 and China, and the Alliance of Small Island States (AOSIS) (including Pacific Island Countries), are pushing for a dedicated global financing facility for loss and damage.
- 15 There is an opportunity for New Zealand to support Pacific delegations to find a sustainable solution to what has become a key concern for the region. Within the boundaries of the existing mandate, we should play a constructive role in finding practical funding arrangements that will enable effective action to avert, minimise and address loss and damage. Our position at COP27 will affirm the need for scaled-up support (both financial and through other means) for addressing loss and damage for developing countries.
- 16 We will also be clear that, at the same time as progressing funding arrangements, we need to address challenges of eligibility, access, predictability and timeliness that the Pacific face. Our response to specific proposals including any finance facility or new component to the Paris Agreement's financial mechanism will be informed by our general principle of seeking effective and efficient outcomes and avoiding duplication.

17 s9(2)(j)

18 s9(2)(j)

our response may need to be determined quickly. In matters concerning climate-related financial support the negotiation

mandate delegates collective decision-making power to the Prime Minister, Minister of Foreign Affairs, Minister of Finance and myself.

International carbon markets (Article 6)

- 19 The negotiations on rules for international carbon markets (i.e. how countries can cooperate to reduce emissions with environmental integrity) came to a conclusion at COP26. The next steps are to move to implementation and operationalisation. Decisions planned to be taken at COP27 will include the infrastructure for international carbon markets, and countries' tracking, accounting and reporting responsibilities.
- 20 I assess that New Zealand can seek effective and efficient outcomes within the bounds of the general principles of the existing mandate, and for this purpose engage constructively in these negotiations.
- 21 Although unlikely, should negotiations make quicker-than-expected progress which requires decisions beyond the bounds of existing Cabinet guidance¹, the negotiation mandate delegates collective decision-making power to the Prime Minister, Minister of Foreign Affairs, Minister of Finance, relevant portfolio Ministers and myself.

Substantive update to the Mandate post COP27

- 22 Following COP27, I intend to carry out a substantial review of the mandate, and to seek Cabinet's approval on updated positions during 2023. This will enable New Zealand to update its mandate to reflect that negotiation of the Paris Agreement and associated rule book has now concluded, and Parties' focus is on implementation matters.
- 23 While the existing mandate will cover our interests at COP27, I have noted that there is room for more nuanced positions, in addition to the required updates on loss and damage and international carbon markets^{s9(2)(f)(iv)}
- 24 To ensure that an in-depth review of the negotiations mandate is informed by the perspectives of iwi/Māori, key stakeholders and the general public, I intend to conduct public consultation on existing policy and policy proposals. I intend to seek Cabinet approval for this consultation in early 2023.

Financial Implications

- 25 Nil.

s9(2)(j)

Legislative Implications

- 26 There are no legislative implications arising from this paper.

Impact Analysis

- 27 A detailed impact analysis will be conducted if any of the outcomes of the international climate change negotiations require legislation.

Treaty of Waitangi obligations

- 28 Māori were consulted and actively considered in the development of the 2019 mandate and in the negotiation of the Paris Agreement itself, plus its implementation guidelines. This enables Māori to practise their roles as Kaitiaki, it emphasises the importance of the natural environment and the resource-based economy to indigenous peoples.
- 29 It also emphasises the important role indigenous peoples and their traditional knowledge play in the response to climate change. Providing an update to the mandate in 2023 would include in-depth consultation with Māori. This would ensure New Zealand's views and positions reflect Māori perspectives on international climate change negotiations.

Human Rights

- 30 The proposals in this paper and the existing mandate are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Consultation

- 31 In drafting this paper the following agencies were consulted: the Ministry for the Environment, the Ministry of Primary Industries, the Ministry of Transport, the Ministry of Business, Innovation and Employment, the Ministry of Defence, Te Puni Kōkiri, the Department of Conservation, New Zealand Trade and Enterprise, and the Treasury. The Department of the Prime Minister and Cabinet was informed.

Communications

- 32 No publicity of this paper is planned.

Proactive Release

- 33 I propose to release this paper and appendices proactively, subject to redactions as appropriate under the Official Information Act 1982, on the website of the Ministry of Foreign Affairs and Trade.

Recommendations

- 1 **Note** that the existing negotiations mandate, approved by Cabinet in 2019 and endorsed by Cabinet in 2021, will continue to serve as the basis on which New Zealand will engage at the upcoming international climate change negotiations;

IN C O N F I D E N C E

- 2 **Note** that, if specific agenda items move faster than anticipated, then relevant portfolio Ministers may be requested to give guidance during COP27 in accordance with paras 43-46 of the 2019 Cabinet mandate;
- 3 **Note** the intention to conduct a substantial review of the mandate in early 2023 to ensure it is accurately reflecting New Zealand's negotiating positions following COP27;
- 4 **Note** that an update to the negotiations mandate in 2023 would include public consultation, and I will return to Cabinet to seek approval to consult;
- 5 **Note** this Cabinet paper and appendices will be proactively released, subject to redactions as appropriate under the Official Information Act 1982, on the website of the Ministry of Foreign Affairs and Trade.

Authorised for lodgement

Hon James Shaw

Minister of Climate Change