



1 May 2020

➤ Minister for Trade and Export Growth For action by 7 May 2020

Agreement on Climate Change, Trade and Sustainability: Initial negotiating mandate

BRIEFING Cabinet Paper Covering

PURPOSE That Cabinet approve a negotiating mandate for the Agreement on Climate Change, Trade and Sustainability ("ACCTS").

Recommended referrals

Minister of Foreign Affairs	For information by	12 May 2020
Minister of Finance	For information by	12 May 2020
Minister of Energy and Resources	For information by	12 May 2020
Associate Minister of State for Trade and Export Growth	For information by	12 May 2020
Minister of State for Trade and Export Growth	For information by	12 May 2020
Minister for Climate Change	For information by	7 May 2020

Timing requirements

Complete consultation	By 10 am on 19 May 2020
In Cabinet Office	By 10 am on 21 May 2020
For Cabinet Economic Development Committee (DEV) meeting	on 27 May 2020
For Cabinet meeting	on 2 June 2020

Contact details

NAME	ROLE	DIVISION	MOBILE PHONE
Sara Meymand	Chief Negotiator	Trade Negotiations Division	s9(2)(a)
Catherine Rissel	Senior Policy Officer	Trade Negotiations Division	

Key points

- In September 2019, New Zealand announced the launch of the 'Agreement on Climate Change, Trade and Sustainability' ("ACCTS"). The ACCTS initiative brings together a number of trade policy actions that will support and advance climate and sustainable development objectives.
- In the intervening period, the COVID-19 pandemic has dramatically shifted the global context. New Zealand's trade and climate interests will be impacted as Governments and businesses around the world take actions, with potentially wide-reaching trade and climate implications, in response to the crisis. Against this backdrop, the ACCTS initiative takes on added significance.
- At a critical point of inflection, New Zealand will be amongst a small group of countries demonstrating leadership in increasing the alignment of trade and climate policy development. ACCTS will also help protect and progress New Zealand's enduring interests in effective rules-based markets and high global ambition on climate and environmental goals.
- New Zealand will be joined in the ACCTS negotiations by an initial cohort of Norway, Iceland, Costa Rica, Fiji and Switzerland.
- The proposed mandate covers the following key areas:
 - a) the removal of tariffs on environmental goods;
 - b) the establishment of new and binding commitments for environmental services;
 - c) the establishment of disciplines to eliminate harmful fossil fuel subsidies; and
 - d) guidelines to inform the development and implementation of voluntary eco-labelling programmes and mechanisms.
- Once initial negotiations conclude, the objective is for ACCTS to evolve into an 'open plurilateral', available for other WTO members to join if they are able to meet the obligations. It is envisaged that by beginning with this small, ambitious group of likeminded countries and then progressively expanding membership, the ACCTS will act as a pathfinder towards meaningful multilateral outcomes.

- Discussions are currently under way with the other ACCTS participants in relation to scheduling the first round of negotiations (likely to be via videoconference). COVID-19 will have a bearing on all participants' ability to engage in negotiations. Officials will continue to evaluate the situation and adapt responses according to developments and Government priorities.

Signed by

Vangelis Vitalis
for Secretary of Foreign Affairs and Trade

Recommendations

It is recommended that you:

- 1 **Note** that the enclosed Cabinet paper seeks approval for a negotiating mandate for New Zealand to participate in the plurilateral negotiations towards an Agreement on Climate Change, Trade and Sustainability. **Yes / No**
- 2 **Complete** the necessary consultation with Cabinet colleagues and sign the attached Cabinet paper. **Yes / No**
- 3 **Submit** the Cabinet paper to the Cabinet Office. **Yes / No**

Hon David Parker
Minister for Trade and Export Growth

Office of the Minister for Trade and Export Growth

Chair,
Cabinet Economic Development Committee (DEV)

Agreement on Climate Change, Trade and Sustainability: Initial negotiating mandate

Proposal

1. That Cabinet approve a negotiating mandate for the Agreement on Climate Change, Trade and Sustainability ("ACCTS").

Relation to Government Priorities

2. The ACCTS initiative forms a part of the early trade policy response to COVID-19 in supporting economic reintegration and reinvigorating and refocusing New Zealand's trade relationships.
3. The initiative contributes to a number of the Government's strategic priorities, including the 'Coalition Government's Long Term Plan', in particular "an economy that is growing and working for all of us", and in the context of the Government's planning for a low emissions future.
4. In proceeding with the ACCTS initiative, close consideration and reference will be given to Treaty of Waitangi principles, the Trade for All agenda and associated principles, and the Government's wider COVID-19 economic recovery work.

Executive summary

5. In September 2019, New Zealand announced the launch of the 'Agreement on Climate Change, Trade and Sustainability' (ACCTS). The ACCTS initiative brings together a number of trade policy actions that will support and advance climate and sustainable development objectives. The initiative is designed to generate momentum towards eventual multilateral outcomes.
6. In the intervening period, the COVID-19 pandemic has dramatically shifted the global context. New Zealand's trade and climate interests will be impacted as Governments and businesses around the world take actions, with potentially wide-reaching trade and climate implications, in response to the crisis. Against this backdrop, the ACCTS initiative takes on added significance. At a critical point of inflection, New Zealand will be amongst a small group of countries demonstrating leadership in increasing the alignment of trade and climate policy development. ACCTS will also help protect and progress New Zealand's enduring interests in effective rules-based markets and high global ambition on climate and environmental goals.
7. New Zealand will be joined in the ACCTS negotiations by an initial cohort of Norway, Iceland, Costa Rica, Fiji and Switzerland. Once initial negotiations conclude, the objective is for the ACCTS agreement to then evolve into an 'open

- plurilateral' process, available for other members of the World Trade Organisation (WTO) to join if they are able to meet the obligations.
8. This paper proposes a mandate for New Zealand to pursue a high quality and expeditious 'Agreement on Climate Change, Trade and Sustainability' with Norway, Iceland, Costa Rica, Fiji and Switzerland.
 9. The following four key areas will be covered by ACCTS:
 - i. the removal of tariffs on environmental goods;
 - ii. the establishment of new and binding commitments for environmental services;
 - iii. the establishment of disciplines to eliminate harmful fossil fuel subsidies; and
 - iv. guidelines to inform the development and implementation of voluntary eco-labelling programmes and mechanisms.
 10. The COVID-19 pandemic, including strict travel restrictions and the emergency response, will have a bearing on all participants' ability to engage in the negotiations. Timeframes for the negotiations and associated work programmes will be impacted. Officials will continue to evaluate the situation and adapt responses according to developments and Government priorities.

Background

11. The ACCTS initiative was launched in the margins of UNGA Leaders' Week 2019 by Prime Minister Ardern, alongside Norway, Iceland, Costa Rica and Fiji. Switzerland subsequently confirmed its participation in January 2020. Joint Statements of support were also issued by ACCTS Climate and Trade Ministers. Since the launch announcement, a formal public submissions process was undertaken. A summary of the public submissions process is included on page 4 and a summary list of submitters is attached to this paper as Annex Two.
12. This paper seeks a mandate for the negotiations through to substantial conclusion. Following that, ACCTS is intended to be a "living agreement" – an architecture allowing for periodic reviews, a future negotiating agenda and the accession of new members.
13. Since the initiative was launched, the COVID-19 pandemic has dramatically shifted the global context, including with respect to trade and climate. The WTO has forecast a 13 – 32% drop in world goods trade in 2020; most services sectors will be hit even harder. Fundamental trade norms, already frayed after several years of attrition, are vulnerable and in need of reinforcement. Governments around the world have implemented trade restrictions and are rolling out economic recovery plans and extensive support measures with potentially wide-ranging and long lasting implications for world trade.
14. On climate, it is forecast that COVID-19 will push global CO₂ emissions down this year — but this is likely to be a temporary phenomenon. The longer-term impact of the crisis on climate and emissions rests, to a significant degree, on how

policymakers respond to the economic dimension. We know from the 2008 financial crisis that economic recovery can be emissions-intensive. There are early indications that new support measures to the fossil fuel industry are being contemplated by some governments.

15. Against this backdrop, the ACCTS initiative takes on added significance. At a critical point of inflection, New Zealand will be amongst a small group of countries championing the alignment of trade and climate policy and leading the direction of that policy development. The impetus to get these global policy settings right is heightened post-COVID-19. ACCTS will help protect and progress New Zealand's enduring interests in effective rules-based markets and high global ambition on trade and climate goals.
16. The ACCTS initiative will form a part of New Zealand's recalibration of trade policy in response to COVID-19. Alongside other 'concerted open plurilateral agreements' such as the 'Digital Economy Partnership Agreement' (DEPA), ACCTS will operate as one of the building blocks to reinforce, support and reinvigorate the international trade architecture.
17. New Zealand's overarching objectives for the agreement therefore are to:
 - create a template agreement that can act as a pathfinder for others, raising ambition in other contexts and forums, and that can be integrated into and support processes in the WTO, OECD, APEC and elsewhere;
 - build confidence in 'new economy' issues to advance and reinforce a vulnerable multilateral rules-based trading system; and
 - shape the direction of global policymaking on the contribution of trade policy to climate, environmental and sustainable development objectives at a point where there's significant risk of backtrack on this agenda.
18. As the proposed agreement will need to be compatible with WTO rules, ^{s9(2)(j)}

Elimination of tariffs on

environmental goods would mean the products will become cheaper and more accessible in New Zealand. At the same time, tariff elimination on these products would ^{s9(2)(j)}

Comment

Approach to mandate recommendations

19. This paper provides background on the four main areas for negotiation and seeks approval of a mandate for New Zealand negotiators. Annex One contains proposed negotiating mandate recommendations, and outlines a general New Zealand approach. The recommendations are based on:

- I. preliminary engagement with interested domestic stakeholders and consultation with relevant agencies;
 - II. New Zealand's long-standing positions in other forums, such as APEC, the WTO, the OECD, the UNFCCC and the Paris Agreement; and
 - III. the highest level of ambition viewed as possible within New Zealand's policy settings, and that reflect political messaging for the ACCTS initiative from all participants.
20. I propose that any issues arising that are not explicitly addressed in the attached Annex One be dealt with in accordance with New Zealand's existing policy settings and in consultation with relevant agencies and Ministers where necessary. Additions or amendments to ACCTS following the conclusion of the initial agreement will be subject to Cabinet consideration at the relevant time.

Consultation with New Zealanders

21. Through the Trade for All consultations, we know that New Zealanders want trade agreements that substantively address sustainable development, environmental and climate change objectives. Additionally, a targeted call for public submissions on the proposed ACCTS initiative ran over 26 September – 6 November 2019.¹ A targeted panui updating Māori stakeholders and seeking their views on the proposed ACCTS initiative was also issued on 26 September 2019.
22. A total of 31 submissions were received over 26 September – 6 November 2019. During the public submission processes, strong support for ACCTS was expressed. Several submitters expressed interest in seeing ACCTS cover a broader set of issues. The future agenda and "living agreement" nature of ACCTS lends itself well to picking up issues at a later date.
23. We also note that there will be general public interest in engagement and transparency throughout the ACCTS process. Officials intend to post regular updates on progress in the negotiations on the MFAT webpage and seek the views of stakeholders throughout the process.

Analysis – Four key areas for negotiation

Environmental Goods

24. In 2014, New Zealand, along with a number of WTO members, began pursuing an Environmental Goods Agreement (EGA)². Examples of environmental goods identified include solar panels, wind turbine components and products used for wastewater management. After eighteen rounds, negotiations failed to conclude at the Ministerial Meeting in 2016 and remain stalled. The failure to conclude was a consequence of s6(a), s9(2)(g)(i)

Nevertheless, the EGA process generated a draft list of environmental goods.

¹ The call for submissions was promoted through the following media channels: MFAT's website and the *Have Your Say* website; Facebook; Twitter; Neighbourly; LinkedIn; and email outreach to identified stakeholders.

² This followed earlier unsuccessful attempts during 2001–2008 under the Doha negotiations.

25. s9(2)(j) I recommend that New Zealand propose an ambitious, comprehensive and high quality Environmental Goods Schedule s9(2)(j)

s9(2)(j)

s9(2)(g)(i), s9(2)(j)

Environmental Services

29. I propose that New Zealand seek ambitious, comprehensive and high quality environmental services commitments s9(2)(j) on services where there is potential for environmental benefit or improvement. Environmental services include sewage services, refuse disposal services and nature and landscape protection services. Services sectors under consideration are s9(2)(j)

30. The intention is to maintain reservations or limitations s9(2)(j) in order to ensure regulatory policy space is maintained.

Fossil Fuel Subsidies

31. New Zealand is a leading advocate of fossil fuel subsidy reform s6(a) These distortive and regressive subsidies, worth over \$500 billion a year, contribute to global greenhouse gas emissions and work against international efforts to limit climate change. In recent years, New Zealand's focus has been on encouraging the use of trade rules to address these subsidies.

s9(2)(j)

32. This will be the most challenging issue in the negotiation. Reform is inherently difficult and sensitive, with potential short-term adverse impacts from the removal of social safety nets or increased energy prices if reform is not undertaken effectively or transition is not managed appropriately. s9(2)(j)

33. s9(2)(j)

However, there is no precedent in New Zealand's current trade agreements or any trade agreements globally for the inclusion of firm obligations to address fossil fuel subsidies. This will be world-leading and standard-setting.

34. s9(2)(g)(i), s9(2)(j)

However, any outcome that includes binding obligations on fossil fuel subsidies, as well as the establishment of architecture for disciplining fossil fuel subsidies, will be a significant contribution to our longer-term objective of achieving broader, and eventually multilateral, support for such disciplines – something with the potential to be very impactful.

Guidelines to inform the development and implementation of voluntary eco-labelling programmes and mechanisms

35. Voluntary eco-labelling schemes aim to inform consumers about the environmental credentials of products or services. In recent years there has been a proliferation of voluntary eco-labelling schemes. To some extent, this has been a positive development responding to increased consumer demand for information on the environmental credentials of products. However, there is also potential for such schemes to be used in a protectionist manner to discriminate on the basis of arbitrary or unfair criteria.
36. I propose that New Zealand seek provisions that establish a set of voluntary guidelines for eco-labelling programmes developed by private actors. The guidelines will be principles-based and s9(2)(j)

Impact Analysis

Financial Implications

37. The costs of the ACCTS negotiations will be met within MFAT's baseline funding. Any cooperation or development initiatives will be funded from baseline or subject

s9(2)(j)

to budget processes. The ACCTS negotiating process will be kept as resource-efficient as possible, using existing structures and remote (virtual) engagement wherever practical and appropriate.

38. s9(2)(j)

Legislative Implications

39. There are no legislative implications directly resulting from this paper, however the conclusion of an agreement may require legislative changes. Ministers will be updated as these become apparent.

Regulatory Impact Statement

40. Not required at this stage. An extended National Interest Analysis (incorporating a Regulatory Impact Analysis) will be presented to Cabinet when negotiations have concluded and the final agreed text of ACCTS is submitted for approval for signature.

Climate Implications of Policy Assessment (CIPA)

41. The Ministry for Environment has been consulted and confirm that CIPA requirements do not apply as the threshold for significance at this stage is not met.

Population Implications

Human Rights

42. There are no inconsistencies with the Human Rights Act 1993 and New Zealand Bill of Rights Act 1990.

Gender implications

43. No gender implications statement is required.

Disability perspective

44. No disability perspective statement is required.

Consultation

45. The following departments have been consulted in the preparation of this paper and concur with its recommendations: Department of the Prime Minister and Cabinet, Treasury, Ministry of Business, Innovation and Employment, Ministry for Primary Industries, Department of Conservation, New Zealand Customs Service, Ministry of Transport, Te Puni Kōkiri, Ministry for Culture and Heritage, Inland Revenue Department and Ministry for the Environment.

Communications

46. In addition to the public submission processes, the ACCTS has been promoted on social media platforms following the initial Leaders' launch of the initiative, and the releases of the ACCTS countries' Trade and Climate Change Ministers' statements.

Proactive Release

47. It is intended to delay the proactive release of this paper. s9(2)(g)(i)

Recommendations

48. The Minister for Trade and Export Growth recommends that the Committee:

1. Approve the negotiating mandate outlined in Annex One for the Agreement on Climate Change, Trade and Sustainability that will advance New Zealand's sustainable development and climate change objectives via trade policy mechanisms and enable New Zealand officials to agree to outcomes that are consistent with key Government priorities;
2. Note that the initiative supports New Zealand's early trade policy response to COVID-19;
3. Note that any issues not addressed in Annex One will be dealt with in accordance with New Zealand's existing policy settings, in consultation with relevant agencies and Ministers;
4. Agree that the Prime Minister, Deputy Prime Minister, Ministers for/of Trade and Export Growth, Finance, Economic Development, Commerce and Consumer Affairs, Customs, Agriculture and Climate Change (or a group of these Ministers depending on the specific issue) have delegated authority to approve other proposals that do not depart significantly from the parameters outlined in Annex One;
5. Note that the costs of negotiations will be met from departmental baselines and that Ministers will have the opportunity to consider at a later date any costs that may arise from the content of any outcomes;
6. Note that before New Zealand confirms its intention to be bound by the outcome of negotiations, final agreed texts and accompanying National Interest Analyses will be submitted to Cabinet for approval; and
7. Note that Cabinet approval will be sought for New Zealand to sign and ratify outcomes of the negotiations.

Hon David Parker
Minister for Trade and Export Growth

Annex One: Mandate recommendations

General

1. Note that for all other issues raised in negotiations that are not covered in this Annex, New Zealand will seek an approach consistent with our existing policy settings and will consult with relevant agencies and Ministers as appropriate;
2. Note that New Zealand will seek outcomes that give effect to the relevant key principles set out in the 2001 Framework for Integrating Environment Standards and Trade Agreements; and
3. s9(2)(j)

Environmental Goods

4. Seek an environmental goods outcome that includes:
 - 4.1 a comprehensive and high quality Environmental Goods Schedule s9(2)(j)
 - 4.2
 - 4.3 an Environmental Goods Schedule that contains goods that have a clear and direct environmental benefit;
s9(2)(j)
5. Explore ways to develop a future review mechanism to ensure that agreed new technologies can benefit from the same treatment extended to other identified environmental goods.

Environmental Services

6. Seek an outcome on environmental services that:
 - 6.1 includes an ambitious, comprehensive and high quality environmental services component s9(2)(j)
 - 6.2 s9(2)(j)
 - 6.3 maintains reservations and limitations s9(2)(j)
; and

- 6.4 establishes a mechanism for future review of environmental services included under this Agreement to allow for new services, and services related to new technologies that benefit or improve the environment to be included.

Fossil Fuel Subsidies

7. Seek an outcome on fossil fuel subsidies that:
 - 7.1 creates binding commitments and disciplines on fossil fuel subsidy spending;
 - 7.2 enhances transparency and cooperation; and
 - 7.3 establishes an architecture enabling a broad membership in the future.

Eco-Labelling Guidelines

- 8 Seek an outcome on eco-labelling that:
 - 8.1 establishes a set of high quality and principles-based guidelines to inform the development and implementation of voluntary eco-labelling programmes and mechanisms;
- s9(2)(j)

Climate Change

- 9 Agree the updated mandate for multilateral climate change negotiations [CAB-19-MIN-0430] will form a guide for these negotiations, as relevant; and
- 10 Seek cooperative provisions that support climate action and allow for the possibility to negotiate new provisions in the future as part of the 'Living Agreement' concept.

Cooperation

- 11 Agree to outcomes that recognise the benefit of future cooperation on trade, climate change, environment and sustainable development-related issues, while avoiding creating onerous resourcing burdens to service this cooperation.

Treaty of Waitangi

- 12 Secure a Treaty of Waitangi exception consistent with that in all New Zealand's FTAs since 2001, s9(2)(j)
- 13 The Crown will be cognisant of Treaty of Waitangi principles and Māori interests in the negotiations.

Legal and institutional issues

14 s9(2)(j)

- 15 Seek the inclusion of appropriate general provisions, institutional provisions, review mechanisms, and s9(2)(j) exceptions; and
- 16 Seek the inclusion of accession and review provisions, consistent with the intention that ACCTS be a living agreement open to new membership.

⁷ ACCTS will not include any Investor-State Dispute Settlement (ISDS) or ISDS-style provisions; companies or individuals will not be able to claim against the New Zealand Government in relation to ACCTS commitments.

Annex Two: Summary list of submitters

	Number of submitters
Total	31
General Public	17
Industry	14

Date Received	Organisation
26/9/19	Able Tech
26/9/19	NZIBF
6/11/19	Motu
23/10/19	Prospect Consulting Ltd
16/10/19	Wood Processors and Manufacturers Association of New Zealand (WPMA)
21/10/19	Zero Waste Granny website
21/10/19	Sales Analyst-ANZ
29/10/19	Arcreate
5/11/19	The New Zealand Ecolabelling Trust
5/11/19	Fonterra
6/11/19	NZIF
6/11/19	DCANZ
6/11/19	Beef + Lamb New Zealand Ltd & MIA
6/11/19	New Zealand Council of Trade Unions Te Kauae Kaimahi