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Office of the Minister for Climate Change Issues

Chair,
Cabinet Business Committee

CLIMATE CHANGE: INTERNATIONAL NEGOTIATIONS – UPDATED NEW ZEALAND POSITION PRE-DOHA

Proposal

This paper updates New Zealand's existing international climate change negotiating mandate ahead of the United Nations Doha climate change conference (26 November – 7 December). It proposes that New Zealand take its post-2012 climate change commitment under the "Convention track" and not under the Kyoto Protocol's second commitment period and that New Zealand should announce this decision. This paper also proposes a report-back to Cabinet for consideration of New Zealand's target level and the rules framework to be applied to it.

Comment [JT1]: 6(b)(i)
Comment [JT2]: 9(2)(f)(iv)

Executive Summary

2 The United Nations Doha climate change conference (26 November – 7 December) is expected to mark a milestone in climate change negotiations: the end of the Kyoto Protocol's first commitment period and the beginning of the second; the end of negotiations that have brought more countries, including major emitters such as the US and China, into a framework for mitigation action by establishing international pledges and review; and the beginning of negotiations for a new global agreement applicable to all countries, to take effect from 2020.

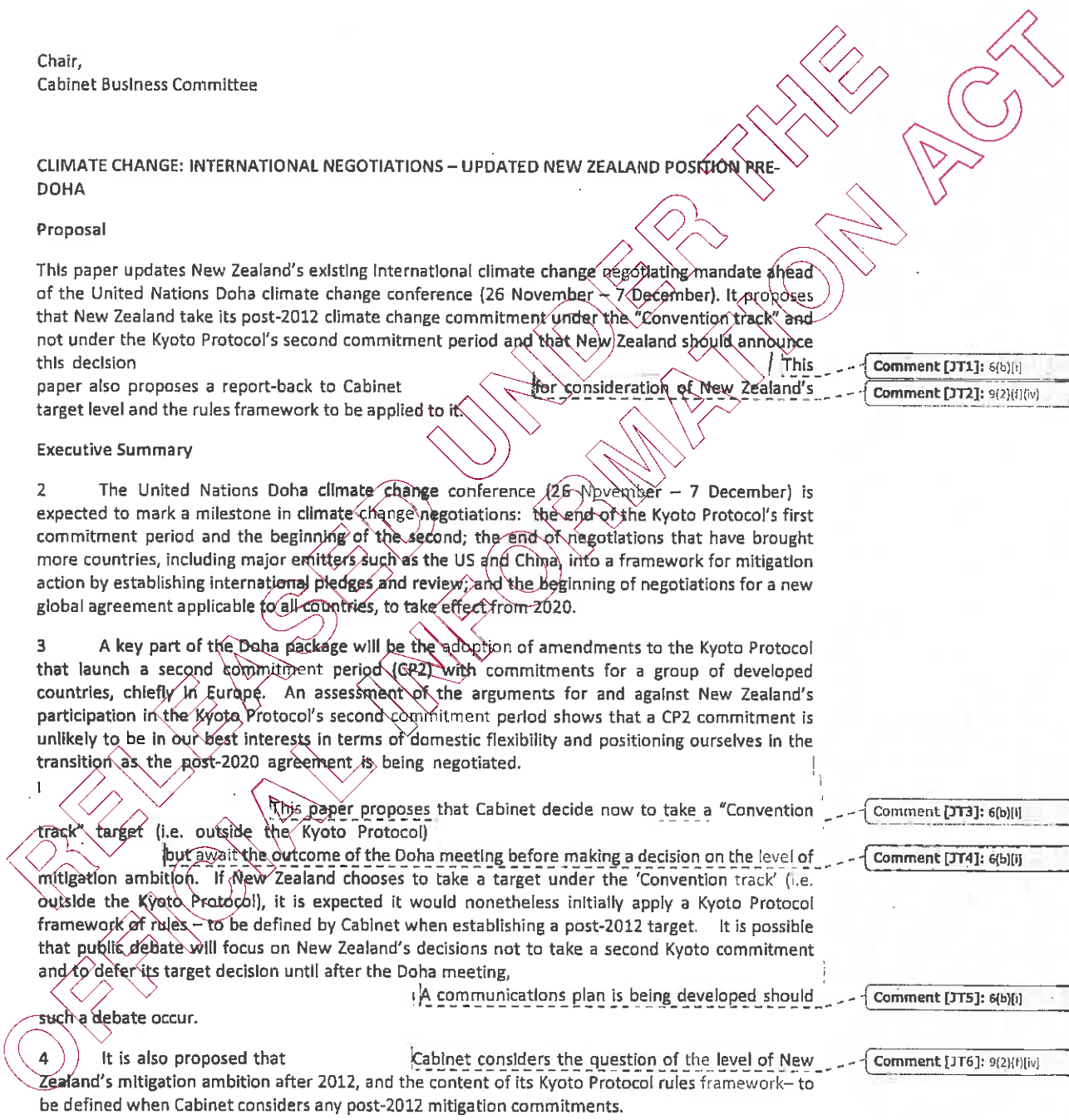
3 A key part of the Doha package will be the adoption of amendments to the Kyoto Protocol that launch a second commitment period (CP2) with commitments for a group of developed countries, chiefly in Europe. An assessment of the arguments for and against New Zealand's participation in the Kyoto Protocol's second commitment period shows that a CP2 commitment is unlikely to be in our best interests in terms of domestic flexibility and positioning ourselves in the transition as the post-2020 agreement is being negotiated.

This paper proposes that Cabinet decide now to take a "Convention track" target (i.e. outside the Kyoto Protocol) but await the outcome of the Doha meeting before making a decision on the level of mitigation ambition. If New Zealand chooses to take a target under the 'Convention track' (i.e. outside the Kyoto Protocol), it is expected it would nonetheless initially apply a Kyoto Protocol framework of rules – to be defined by Cabinet when establishing a post-2012 target. It is possible that public debate will focus on New Zealand's decisions not to take a second Kyoto commitment and to defer its target decision until after the Doha meeting, A communications plan is being developed should such a debate occur.

Comment [JT3]: 6(b)(i)
Comment [JT4]: 6(b)(i)
Comment [JT5]: 6(b)(i)

4 It is also proposed that Cabinet considers the question of the level of New Zealand's mitigation ambition after 2012, and the content of its Kyoto Protocol rules framework – to be defined when Cabinet considers any post-2012 mitigation commitments.

Comment [JT6]: 9(2)(f)(iv)



5 Clarified mandates are sought on several Kyoto Protocol issues including the Issue of access to Kyoto Protocol flexibility mechanisms for Parties outside CP2.

6 Agreement is sought to New Zealand's general approach to the negotiations for new global climate change agreement and Cabinet is updated on New Zealand priorities including a framework for carbon markets and approaches to the land-based sectors.

Background

7 It is proposed that New Zealand's existing mandate for international climate change negotiations – as detailed in EGI (11) 21/3, CAB Min (10) 43/5B, and CAB Min 42/16 – remains valid and should guide New Zealand's general approach at the United Nations Framework Convention on Climate Change (UNFCCC) conference in Doha in November/December 2012, except where modified through this paper.

8 The UNFCCC climate change conference in Durban November 2011 agreed to negotiate (under the Durban Platform) a post-2020 agreement applicable to all. At the same time it also agreed to conclude the current negotiations and shift to an implementation phase. New Zealand's overarching negotiating objective for the Doha meeting will be to deliver on the agreement made last year in Durban, to shift the focus away from the Kyoto Protocol's second commitment period and the 2007 Bali Action Plan and towards the negotiation of the post-2020 legal agreement. We will be looking to secure optimal outcomes for the 2013-2020 transition, especially on implementing already agreed institutions and processes, carbon markets and agriculture, and ensuring that the mitigation targets under either track are delivered, through processes of reporting and review.

9 In the five years since the establishment of the Bali mandate, the climate change negotiations have taken two tracks: the Kyoto Protocol, where developed countries (referred to as "Annex I") were expected to take a new set of legally binding emissions reduction commitments following the end of the first commitment period in December this year; and the "Convention Track" in which the US was expected to take commitments and developing countries were to make some kind of mitigation action. Under this track, developed countries were also expected to provide finance for mitigation, adaptation, capacity-building and technology transfer in developing countries.

10 These parallel negotiations did not conclude as expected in Copenhagen in 2009, but the outcome of that meeting included a list of mitigation actions to 2020 pledged by 90 countries representing over 80 per cent of global greenhouse gas emissions. Since 2009, agreement has also been reached on improved reporting and transparency provisions, including for developing countries, and on a range of support measures including the establishment of the Green Climate Fund and a commitment by developed countries to mobilise up to \$US 100bn/year in private and public climate funding by 2020, in the context of meaningful mitigation and transparency by developing countries.

11 A key outcome of the Ministerial climate change talks in Durban last year was a mandate to negotiate "a protocol, another legal instrument or an agreed outcome with legal force" by 2015 – to come into force and be implemented from 2020, and to be applicable to all Parties. This will supersede the Kyoto Protocol and the transitional arrangements under the Convention track. Negotiations on the future climate change agreement in the Ad-hoc Working Group on the Durban Platform (ADP) are in their infancy and are off to a slow start, but it is crucial that they shift to the design of a durable, future-focused long-term agreement. While the new climate regime must be ambitious and rules-based, it must also have the ability to evolve as circumstances change over time, and be flexible enough to get all countries to sign on. In particular, it cannot replicate the current

Kyoto Protocol 'firewall' which allows self-selected developing countries to avoid either taking binding mitigation action or contributing finance to support low income developing countries' responses to climate change.

12 In 2009 New Zealand tabled a target pledge of between 10 percent and 20 per cent below 1990 levels by 2020, subject to the following minimum conditions being met:

- A global agreement that sets the world on a pathway to limit global temperature rise of not more than 2°C;
- Comparable efforts by developed countries;
- Actions by advanced and major emitting developing countries fully commensurate with their respective capabilities;
- Effective rules governing land use, land use change and forestry (LULUCF);
- Full recourse to a broad and efficient International carbon market.

13 These conditions have not yet been fully met. Forestry rules under the second commitment period of the Kyoto Protocol have now been agreed,

A global agreement is several years off, and while it is clear that many major developing countries are taking action on climate change, the reporting and review processes are yet to be fully implemented, meaning that there is a lack of clarity about the impacts of actions on global emissions. In light of international developments so far, New Zealand has reserved its position on taking its next commitment under the Kyoto Protocol (as opposed to the Convention Track). With the first commitment period about to end, our intentions regarding the second are attracting political pressure out of scale with our 0.2 percent contribution to global emissions.

Comment [JT7]: 9(2)(f)(iv)

14 The Doha climate change conference – known also as COP18/CMP8 – is where both the Kyoto Protocol and Convention tracks are due to terminate, the former with the establishment of the second commitment period and the latter to move into an implementation phase. It will also be the first opportunity for high-level engagement on the Durban Platform negotiations, to develop a new global agreement to come into effect after 2020.

Kyoto Protocol Negotiations

15 Following agreement at Durban last year to the establishment of a second commitment period (CP2) under the Kyoto Protocol, amendments to launch it are likely to be adopted in Doha. The Protocol is designed for developed countries to take economy-wide legally binding mitigation commitments. To date, the European Union, Norway, Switzerland, Iceland, Ukraine, Belarus and Kazakhstan have all expressed their intention to take CP2 commitments. Australia, like New Zealand, has so far reserved its position on joining a CP2, while Japan and Russia will be taking targets under the Convention track only. Canada will do likewise, but has gone a step further by formally withdrawing from the Kyoto Protocol, effective December this year.

Second Commitment Period Decision

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There will undoubtedly be continuation of the pressure on New Zealand to confirm whether it will join the second commitment period to the Kyoto

Comment [JT8]: 9(2)(j)

Protocol (alongside Parties whose combined emissions account for less than 15 per cent of global emissions), or instead take a post-2012 international mitigation target via transitional arrangements under the Convention (with the United States, Japan, Canada and Russia, and many developing countries, together accounting for over 70 per cent of global emissions).

17 The arguments for and against joining a CP2 are as follows:

For	Against
Taking a CP2 commitment would reflect well on New Zealand internationally,	Leaving aside the ambiguous situation of Australia, all of NZ's major trading partners and competitors, except the EU, are taking mitigation targets or actions under the Convention rather than the Kyoto Protocol.
Supports the NZ ETS by providing a supply of assigned amount units (AAUs) to New Zealand government, increasing certainty and easing access to units for export. Should ensure access to the Kyoto Protocol flexibility mechanisms beyond 2015. The NZ ETS is able to function without these, however, and this eventuality has been provided for in the current revisions. ¹	We would have the flexibility to use a Kyoto Protocol framework of rules in the transition period. As it becomes clearer what our trading partners and competitors are doing and to better align our approach once the shape of the 2020 climate agreement is clearer.
	Sends a strong signal that climate change commitments in "two tracks" are unsustainable, with consequent focus on negotiating a single legal agreement to be applicable to all from 2020.
	Demonstrates that a framework of international rules (important to back up domestic policy) can be used without having to sign up to a CP2, and could thus influence the post-2020 agreement – helping to assist with the transition to a global agreement.

18 On the basis of the above, it is clear that valid arguments exist on both sides of the equation. New Zealand's decision must therefore reflect the strategic considerations of national interest and what approach will best ensure an effective, fair and broad-based agreement in the transition and after 2020. The balance of argument at this stage suggests that, domestically, New Zealand would be better served by a Convention track target. Internationally, abstaining from CP2 will most strongly position New Zealand to negotiate for a new global agreement applicable to all to Parties, by moving early to discontinue the developed-developing country firewall and shift the focus instead to a more durable, inclusive and flexible agreement that will maximise effective participation.

Australia's Position

19 New Zealand and Australian Ministers agreed in Durban to coordinate closely their decisions on CP2 commitments.

¹ See paragraphs 29-34 below for discussion on how access to Kyoto markets might be achieved if New Zealand does not take a CP2 commitment.

Comment [JT12]: 6(a)(i)

20 In late August Australia and the European Union announced they had agreed to link their respective trading schemes. From 1 July 2015 Australian ETS participants will be able to purchase EU ETS credits, with two-way linking to occur no later than July 2018. While this does not explicitly require Australia to take a CP2 commitment, it may factor into their decision on where to take their commitment. Current NZ ETS settings would not enable New Zealand to link with either the EU or Australia, although linking would be potentially possible if the settings were changed in the 2015 ETS Review.

21 It is widely expected internationally that New Zealand will follow whatever decision Australia takes. My view, however, is Australia's decision does not preclude New Zealand from reaching a different decision if it better serves our national interests.

New Zealand's Decisions in 2012 and 2013

22 On the basis of the considerations in paragraphs 17 and 18, it is proposed that Cabinet agree at this stage that New Zealand should take a post-2012 mitigation target under the Convention track.

23 It is further proposed that the decision on the level of New Zealand's post-2012 target be put to Cabinet after the Doha meeting, so that it can be taken in light of an assessment of the meeting's outcomes, including on access to carbon markets and carry-over of surplus AUs. Because the period to which the target applies will have begun, a decision is needed at that time to keep in step with other developed countries (and many developing countries). The decision would also consider progress against our conditional 2020 target pledge minimum conditions – as discussed below.

Comment [JT13]: 9(2)(f)(w)

24 The experience of other Parties moving to the Convention track shows that a decision not to join the CP2 will inevitably attract significant international criticism. This will require careful management.

A communications plan is under preparation to explain the context and rationale for the decision.

Comment [JT14]: 6(b)(i)

25 Whether or not it takes a CP2 commitment, New Zealand will be expected to join consensus at Doha to adopt the amendments establishing the Kyoto Protocol's second commitment period, with binding mitigation commitments for those who choose to take them. Decisions made under the amendment process will have normative value in the climate change regime, even if they do not directly apply to New Zealand.

Entry into Force

26 There is pressure for the Protocol amendments giving effect to the second commitment period to be provisionally applied, in order to avoid a legal gap before they enter into force. While Cabinet has agreed (EGI Min (11)21/3) that New Zealand not support provisional application of the

amendments, it is possible that a decision providing for some form of provisional application may be adopted in Doha. It is proposed to extend the negotiating mandate to allow for this eventuality, provided that it was optional or enabled countries like New Zealand to opt out of provisionally applying the amendments, on the basis that this would be inconsistent with their domestic treaty-making processes. Further Ministerial guidance would be sought before opting out of any provisional application provision.

Length of second commitment period

27 The current mandate is ambivalent as to whether the second commitment period should last five or eight years. It is now proposed that New Zealand support an eight year period as this aligns best with the expected commencement of the post-2020 agreement and would limit the pressure for a third Kyoto commitment period that would arise if the second were to last five years. All of the Parties contemplating a new Kyoto commitment, and all of the mitigation pledges made by other Parties, use 2020 or eight years as a timeframe.

Carry-over of Surplus AAUs

28 Some countries have proposed to limit the use of surplus Assigned Amount Units carried over from the first commitment period², being concerned about the impact of 'hot air' from former Eastern bloc countries created by their economic collapse after 1990. The proposed limits could potentially render valueless many of the 23.2 million surplus units New Zealand expects to have at the end of the first commitment period. It is proposed that Cabinet confirm that New Zealand's preference is for no limits on Parties' ability to carry over surplus AAUs, but clarify that a restriction could be acceptable, provided it ensured no constraints on New Zealand's ability to bank and use our full surplus against future commitments. There is also a question of how carry-over will work for Parties not taking a CP2 commitment. In line with this mandate, officials will work to ensure that New Zealand could retain its surplus units and their value if taking a target outside CP2.

Access to Kyoto Protocol Flexibility Mechanisms

29 There is uncertainty around access beyond 2012 to Kyoto Protocol market flexibility mechanisms (International Emissions Trading, Joint Implementation (JI) and the Clean Development Mechanism (CDM)). In the short term some access to international markets will continue for NZ ETS participants through to 2015, for the purpose of meeting first commitment period obligations in the "true-up" (the accounting process for the first commitment period). However, the issue of access to CP2 units after 2012 is politicised by some Parties who argue that non-Kyoto Protocol committers should be "punished" by being denied access.

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Comment [JT15]: 9 (2)(e)(i)

Usefully, the eligibility criteria and other technical details need to be updated in any event, in order for the flexibility mechanisms to be operative at all beyond 2012, so there is leverage and opportunity to pursue our objective.

Comment [JT16]: 9(2)(f)(w)

² There are already limits on the numbers of other Kyoto units that can be carried over, and a total restriction on carrying-over Removal Units (RMUs, from forestry).

31 Access to the Kyoto Protocol flexibility mechanisms is valuable for the smooth functioning of the NZ ETS, and it is in New Zealand's interests for this access to continue after the first commitment period. However should New Zealand lose access to these mechanisms, there are existing abilities in legislation to ensure that the NZ ETS would still function efficiently and effectively.

32 New Zealand's strong preference is for access to market mechanisms by all Parties, whether taking commitments under the Kyoto Protocol or not. This is for reasons of principle: e.g. carbon market demand must be maximised and the architecture of the Kyoto Protocol's market mechanisms (such as national registries and the International Transaction Log (ITL)) should be preserved to support effective and credible international carbon trading, both within and outside the UNFCCC. There are also practical and tactical advantages for New Zealand in securing the widest possible access: in addition to assisting the NZ ETS, it would reduce uncertainties about unit supply until alternative sources come on stream.

33 A negotiating response is proposed as follows:

- We will argue as a position of principle for eligibility criteria enabling access to the Kyoto Protocol flexibility mechanisms by all Parties meeting appropriate standards;
- An achievable outcome, due to the technical underpinnings of the Kyoto regime, is to accept access for those joining a CP2, and for Kyoto Protocol Parties taking mitigation action under the Convention and applying a Kyoto Protocol framework of rules (see the proposed approach from paragraph 39 below);
- Should a decision updating the eligibility criteria be blocked or restrict access only to Parties with CP2 commitments, in the absence of direct access to the mechanisms, New Zealand would need to negotiate a series of bilateral deals (such as bilateral linking, shadow registries, delinking the New Zealand market) to enable access. These would take time to design and implement, and may need to be considered in conjunction with an option of the NZ ETS transitioning to a domestic scheme for a period of time. This outcome would also trigger a reconsideration of New Zealand's conditional target range.

34 Further work will be undertaken on the domestic implications of lack of access for the period after 2015, including on the level of mitigation ambition that might be appropriate domestically, and how to communicate any consequent risks to ETS participants. This will form part of the basis for the decision on a New Zealand target referred to in para 23.

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Level of Ambition for an Emissions Reduction Commitment or Target

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36 A decision on our level of ambition can be deferred for the time being, but once we have announced which track we will take mitigation action under, New Zealand will need to determine a single number target during the transition period.

Comment [JT17]: 9(2)(f)(iv)

Factors include:

Comment [JT18]: 9(2)(f)(iv)

- linkages to domestic policy, and the Government's consideration of the introduction of auctioning;
- that New Zealand is the only developed country that has not tabled an unconditional minimum number; and
- the possibility that a target may be necessary in order to secure access to the Kyoto Protocol flexibility mechanisms for Parties not joining the second commitment period.

Comment [JT19]: 9(2)(f)(iv)

Additional factors to keep under review, would include:

Comment [JT20]: 9(2)(f)(iv)

- further clarity of Parties' mitigation actions during the transition is achieved; and
- progress made in meeting New Zealand's minimum 2020 target conditions, including on the future climate change legal agreement under the ADP.

37 Careful messaging around the eventual announcement of New Zealand's target will be crucial to ensure we retain the ability to influence negotiation of the future climate change agreement.

Comment [JT21]: 9(2)(f)(iv)

38 Therefore, and importantly, our target range and conditions still remain on the table. This signals our continued willingness to do more as others do more. This could be reviewed in 2015, coinciding with the next NZ ETS review, the UNFCCC international review and the proposed completion of the new international agreement under the Durban Platform. In the interim, the NZ ETS enables a level of mitigation effort in line with New Zealand's first commitment under the Kyoto Protocol.

³ Conditions listed in para 12

An Emissions Reduction Target Outside Kyoto

Applying a Kyoto Protocol framework

39 Should New Zealand take its post-2012 target under the Convention track, our strategic interests argue in favour of applying a Kyoto Protocol framework as we enter the transition period. These interests can be summarised as:

- securing a favourable and flexible long-term climate change legal agreement;
- ensuring the effective operation of the NZ ETS through access to Kyoto Protocol flexibility mechanisms⁴;
- applying a strong international framework to back up domestic policy; and,
- having the ability to account for our mitigation actions in a credible way.

40 In applying a Kyoto Protocol Framework to a Convention track target we would be in company with Japan, which has indicated that is the approach it plans to take.

41 International accounting is a separate issue from domestic accounting under the NZ ETS: it is desirable to minimise the differences, but the two need not be identical. Fiscal costs can arise in the difference between domestic and international settings if those differences create costs for the Crown that are not passed down to NZ ETS participants.

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43 It is proposed that New Zealand express an intention to continue to apply a Kyoto Protocol framework of rules if it decides not to take a CPZ commitment.

! The content and specific rules of the framework New Zealand applies would be decided after Doha along with the mitigation target, and could therefore balance the three factors of rule flexibility, access to Kyoto mechanisms and level of ambition.

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Comment [JT22]: 9(2)(f)(iv)

Comment [JT23]: 9(2)(f)(iv)

Comment [JT24]: 9(2)(f)(iv); 9(2)(g)(i)

⁴ See para 29-34 above for further discussion

Comment [JT25]: 9(2)(f)(iv)

46 Further work on New Zealand's international accounting approach will be undertaken by officials over the next 18 months, before reporting on post-2012 emissions and removals begins in 2015. It is envisaged that during the latter part of the transition to the new, as yet unknown, post-2020 regime, there could well be incremental changes to New Zealand's International accounting to enable a smooth evolution. These do not necessarily imply changes to the NZ ETS.

47 Concurrently, there is on-going work being done internationally (drafting methodological guidelines for implementation of CP2 LULUCF rules and making technical changes to ensure the flexibility mechanisms continue), as well as work to be completed domestically on the extent to which the CP2 LULUCF rules are directly transferred into settings for NZ ETS stakeholders (for example the newly-agreed harvested wood products rule).

Comment [JT26]: Para's 48-52 out of scope

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Comment [JT27]: Paras 53-56 out of scope

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Comment [JT28]: Paras 57-60 out of scope

Consultation

65 The following departments were consulted in the development of this paper: Ministry of Foreign Affairs and Trade, Ministry for the Environment, the Treasury, Ministry for Primary Industries, Ministry of Transport, Ministry of Business, Innovation and Employment and Te Puni Kōkiri. The Department of Prime Minister and Cabinet has been informed.

Financial Implications

66 This paper has no immediate appropriation implications, as no decisions are sought on a specific post-2012 mitigation target at this time. The costs associated with any mitigation target would be presented to Cabinet at the point a commitment is taken.

67 The costs to New Zealand of its long-term finance commitments are uncertain, as negotiations have not yet progressed to consideration of specific finance commitments to be taken

beyond 2012. In the meantime, any climate change finance will be provided through existing appropriations.

Human Rights Implications

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

Legislative Implications

69 This paper has no immediate legislative implications. If the UN climate change negotiations result in new international climate change commitments for New Zealand, then there would be potential implications for the Climate Change Response Act 2002 and associated regulations. If New Zealand decides to ratify the amendments to the Kyoto Protocol (irrespective of whether we take a CP2 commitment or not), which are expected to be adopted at Doha, this will require a treaty process. Depending on the nature of the commitment or target New Zealand takes after 2012, amendments to domestic legislation and/or regulations may be required.

Regulatory Impact

70 The potential financial and legislative implications are outlined in paragraphs 66, 67 and 69 above. The primary tool for implementing any future regulatory adjustments required would be the NZ ETS established under the Climate Change Response Act 2002 and associated regulations.

71 The potential regulatory impacts of changes proposed to the existing negotiating mandate are analysed in this paper. Specifically, the known potential changes to carbon market access arrangements as a result of a Kyoto Protocol decision are outlined in paragraphs 29-34. Other updates to the negotiating mandate do not change the potential future regulatory impacts analysed in the Regulatory Impact Analysis contained in the paper setting out New Zealand's negotiating position for the Cancun meeting [E61 (11) 21/3, November 2011]. Any additional Regulatory Impact Analysis, or a Regulatory Impact Statement, are not required for this paper. The Regulatory Impact Analysis Team (RIAT) has reviewed the Interim regulatory Impact analysis prepared by MFAT for the Kyoto Protocol decision and considers that, given the uncertainties and constraints on analysis inherent in treaty negotiation, the information and analysis summarised in this paper meets the quality assurance criteria.

72 If and when further decisions are sought from Ministers that require consideration of legislative or regulatory options for implementation, assessments of regulatory impact will be provided. Depending on the progress of negotiations, this may occur as more specific negotiating mandates are sought.

73 An extended National Interest Analysis (incorporating a full Regulatory Impact Analysis) will be presented to Cabinet when negotiations have concluded and any resulting treaty is submitted for approval.

Publicity

74 New Zealand's negotiating position is likely to be the subject of public comment during the Doha negotiations.

Officials are developing a communications plan to address any public comment on these issues.

Comment [JT30]: 6(b)(1)

75 This paper contains information that could prejudice New Zealand's position in the international climate change negotiations and it is therefore appropriate that this paper not be publicly released at this time, subject to Official Information Act requirements.

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Recommendations

The Minister for Climate Change Issues recommends that the Committee:

- 1 Note that the Ministerial conference of the United Nations Framework Convention on Climate Change will take place in Doha, Qatar from 26 November-7 December 2012;
- 2 Note that the meeting is expected to finalise decisions around a Kyoto Protocol second commitment period (CP2), terminate the 'Convention track' negotiations in the Ad-hoc Working Group on Long-term Cooperative Action (AWG-LCA) and make progress on the negotiations for a new climate change legal agreement under the Durban Platform (ADP);
- 3 Confirm that New Zealand's mandate for International climate change negotiations as detailed in CAB Min (11) 36/6, CAB Min (10) 43/5B and CAB Min (09) 42/16 remains valid (to the extent not overtaken by the following decisions) and should guide New Zealand's general approach at the Doha meeting;

Kyoto Protocol Negotiations

- 4 Note that it is likely and desirable that Kyoto Protocol amendments will be adopted in Doha, thus completing the current negotiations under that instrument;
- 5 Agree that subject to recommendation 23 below, New Zealand should join consensus on adopting Kyoto Protocol amendments at Doha or thereafter;
- 6 Note that whether or not New Zealand takes a CP2 commitment it would nonetheless need to undertake a domestic treaty process in order to accept the amendments and that legislative amendments required at the conclusion of the treaty process could be included in the 2015 review of the Climate Change Response Act;
- 7 Agree that while New Zealand does not support provisional application of the Kyoto Protocol amendments, it could accept a decision providing for some form of provisional application, provided that it was optional or there was an opt-out provision;
- 8 Agree to support an eight-year commitment period under the Kyoto Protocol in preference to five years, in order to ensure alignment with the expected entry into force of the new climate agreement;
- 9 Confirm that New Zealand's preference is for no limits on the ability to carry over surplus Assigned Amount Units from the end of the first commitment period (CP1), but that a restriction could be acceptable, provided it ensured no constraints on New Zealand's ability to bank and use our full surplus against future commitments;
- 10 Note that there are arguments for and against New Zealand taking a CP2 commitment but that on balance, considering domestic interests, the Intentions of trading partners and competitors and in terms of longer-term strategic objectives, taking a CP2 commitment is unlikely to be desirable for New Zealand;

11 Note

Comment [JT31]: 6(b)(i)

12 Agree that, if Australia decides to take a CP2 commitment, it would not preclude a New Zealand decision to take its mitigation commitment under the Convention track;

13 Agree, on the basis of considerations referred to in recommendation 10, that New Zealand will not take a CP2 commitment but will instead take a post-2012 target under the Convention track, and will consider advice on the level of its target in light of the Doha meeting outcomes;

Comment [JT32]: 9(2)(f)(iv)

14 Note that New Zealand has agreed to work in step with Australia and that it is desirable, though not essential, to announce decisions at the same time;

15 Agree that New Zealand should announce this decision once Australia has made an announcement about its post-2012 commitment;

16 Direct officials to prepare advice for a Cabinet decision on the level of New Zealand's mitigation ambition, and the content of the Kyoto Protocol framework. It would apply if taking a Convention track target, once it has been able to make an assessment of the Doha meeting's outcomes;

Comment [JT33]: 9(2)(f)(iv)

Access to Kyoto Protocol Flexibility Mechanisms

17 Note that New Zealand's goal is to develop a broad and efficient international carbon market, access to which is a key condition of New Zealand's 2020 mitigation target range;

18 Note that full access to the Kyoto Protocol flexibility (carbon market) mechanisms, such as the Clean Development Mechanism and International Emissions Trading, including the ability to trade through the International Transaction Log (ITL, which facilitates Kyoto Protocol transactions), is currently limited to Parties with Kyoto Protocol mitigation commitments;

19 Note that some Parties are seeking to restrict future access to the Kyoto Protocol flexibility mechanisms to those Parties taking a CP2 commitment;

20 Agree that New Zealand will seek to build support for access to the Kyoto Protocol flexibility mechanisms for all Parties regardless of whether they take a CP2 commitment or a target under the Convention Track;

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Comment [JT34]: 9(2)(i)

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Comment [JT35]: 9(2)(i)

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Comment [JT36]: 9(2)(i)

24 Note that in the event of being locked out of Kyoto Protocol flexibility mechanisms, New Zealand would seek to negotiate bilateral arrangements for access to carbon markets;

25 Note that being locked out of Kyoto Protocol flexibility mechanisms may also affect the level of mitigation ambition that New Zealand is able to commit to internationally;

An Emissions Reduction Target Outside Kyoto

26 Note that countries representing more than 70% of global emissions have pledged mitigation action in the 2013-2020 transition under the Convention track, including minimum quantified reduction pledges by all developed countries other than New Zealand;

27 Note that if New Zealand does not take a CP2 commitment, it will be expected that we pledge a single, firm emissions reduction target;

28 Note that New Zealand's 2020 conditional mitigation target range remains on the table;

29

30 Agree that while not taking a CP2 commitment, New Zealand would nevertheless apply a Kyoto Protocol framework of rules during the transition, with the exact nature of the framework to be decided by Cabinet on the basis of the advice described in recommendation 15;

Comment [JT37]: 9(2)(f)(iv)

Comment [JT38]: Recommendations 31-34 out of scope

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Comment [JT39]: Recommendations
35-37 out of scope

Comment [JT40]: Recommendations
38-40 out of scope

Decision-making

41 Confirm that the delegated authority for decision-making on New Zealand's position in the international negotiations, as detailed in EGI Min (11) 21/3, CAB Min (10) 43/5B, CAB Min (09) 42/16 and confirmed in CAB Min (11) 36/6, remains current, except where updated through this paper;

Publicity

42 Note that this paper contains information that could prejudice New Zealand's position in the International climate change negotiations and its bilateral relations with Australia, and that it is therefore appropriate that the paper not be publicly released at this time, subject to Official Information Act requirements;

43 Note that a communications plan is being developed should New Zealand's negotiating position draw significant public comment,

56(b)(i)

Comment [JT41]:

Hon Tim Groser
Minister for Climate Change Issues

Date