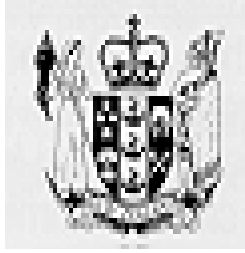


ATTACHMENT



DRAFT ONLY

NEGOTIATED GREENHOUSE AGREEMENT

BETWEEN

THE GOVERNMENT OF NEW ZEALAND

AND

[Industry Partner]

2002 – 2007


**Wellington
New Zealand
[Date]**

Preamble

DRAFT ONLY

Recognising the serious environmental threat of climate change and the urgent need for global action to control greenhouse gas emissions New Zealand has signed the Kyoto Protocol to the United Nations Framework Convention on Climate Change. New Zealand intends to ratify the Kyoto Protocol by mid 2002. Following ratification and subject to the Kyoto Protocol entering into force New Zealand will be required to take responsibility for its greenhouse gas emissions in excess of 1990 levels, on average, during the period from 2008 – 2012.

The Government is implementing measures prior to the first commitment period to build national capacity to meet targets, and to allow New Zealand to meet early requirements of the Protocol. Article 2 of the Protocol requires parties to implement and further elaborate policies and measures in areas such as: enhancing energy efficiency; protecting and enhancing sinks and reservoirs; and promoting sustainable agriculture. Article 3 requires Annex I parties to show “demonstrable progress” towards meeting reduction commitments by 2005.

New Zealand’s -2008 measures to meet these requirements include the implementation of a wide range of programmes to promote the uptake of energy efficiency and renewable energy. This includes product energy efficiency labelling, more demanding building standards, and government and industry leadership programmes, leading up to the likely use of emissions trading and other measures in 2008-2012. In addition the National Energy Efficiency and Conservation Strategy will be issued by 1 October 2001. It is intended that Negotiated Greenhouse Agreements (NGAs) between Government and Industry will be a vital component of early action measures.

The Government recognises the efforts to date by industry to take responsibility for their greenhouse gas emissions through participation in the Voluntary Agreements programme, and the importance of continued cooperation between Industry and Government to achieve Kyoto Protocol targets. The Government wants increased certainty on how it will manage future emissions.

Industry recognises the importance of engaging constructively with Government at an early stage to achieve Kyoto Protocol targets in a manner which minimises distortions to the economy and trade competitiveness impacts. Industry wants flexibility to determine the best methods for meeting reduction commitments balanced by certainty in the rules to be applied to its relationship with government. Industry also wants assurance that they will not be disadvantaged for taking early action.

Government and Industry intend that NGAs, developed and implemented through a structured process as described in Annex X to this agreement¹, will reduce greenhouse gas emission intensity of New Zealand industry in a way that addresses both Government and Industry concerns and objectives.

¹ Developing and implementing negotiated greenhouse agreements is a three-stage process comprising:

1. Consultation with potential NGA participants concerning common issues for NGAs, leading to a generic framework.
2. Negotiation of a heads-of-agreement document with individual firms or collective groupings that intend to complete an NGA.
3. Negotiation of this final agreement.

The model heads-of-agreement document for this NGA is attached as Annex 1; assumptions and conventions relevant to this agreement are attached as Annex 4.

Parties to this agreement

DRAFT ONLY

This agreement is between [the industry partner]² and the Minister of Energy representing the Government of New Zealand.

[Options: *[the industry partner]* may be:

1. *A single firm; or*
2. *A group of firms in a sector, represented by a sector association in the process of negotiation and development of the NGA but on the understanding that they will be individually responsible for compliance with this agreement; or*
3. *Any group of firms that wish to form an association for the purpose of negotiating an NGA and determining a composite emissions target. They will be jointly and severally liable for their commitments under this agreement. Any such approach must have transparency of relationships, a clearly identified administrator and clarity of negotiation and distribution of the collective target.]*

Target and reporting commitments

[The industry partner] undertakes to:

- Meet a target of...

[Options for target definition:

1. *GHG emissions to be limited to a specified level for each reporting year. The level may be defined directly as an agreed figure for total tonnes as CO₂-equivalent, or may be derived as a reduction against an agreed baseline (refer to Annex 5 for baseline definition); or*
 2. *GHG emissions per unit of a measure of output to be limited to a specified level for each reporting year. Refer to Annex 4 for definition of the measure of output.]*
- Report annually as described in Annex 4 progress in implementing the target; and
 - Respond as described in Annex 4 to [the scheme administrator's] reports.

[The Government] undertakes to:

- Maintain and publish information and reports on NGA participants, agreements and performance as described in Annex 4; and
- Respond as described in Annex 4 to annual reports submitted by [the industry partner].

Other provisions

Term of Agreement

The following time limits are placed on this agreement:

DRAFT ONLY

² Eligibility to enter into an NGA could be managed by whether government agrees to negotiate with a party. For smaller parties the Government could suggest that their size makes the agreement uneconomic and that they might like to engage in sector groups.

- This agreement enters into force when both parties deposit signed copies at the Office of the Minister of Energy
- This agreement covers greenhouse gas emissions by [the industry partner] up to 31 December 2007.
- *[Reporting requirements after 2007]*
- This agreement may be terminated as provided in the provisions on review and renegotiation below.

Project-based activities

[The industry partner] may include mitigation by investment in projects that achieve reductions outside its own activities.

Industry partner not to be disadvantaged

The Government agrees that emission reductions achieved under this NGA will not disadvantage [the industry partner] for the allocation³ of any units for a post-2008 domestic emissions trading (DET) system (or any other post-2008 price measure).⁴ *[How to provide a means of enforcing/assuring it will occur?]*

Review and renegotiation of this agreement

Parties may request a review of this agreement at any time after two years have passed from the date of entering this agreement.

The parties to this agreement will meet before 31 March 2005 to review progress towards meeting the NGA target.

Following a review, a renegotiation of the target may be initiated by [the industry partner] only if there has been:

- Relevant and significant changes in environmental requirements that influence its greenhouse gas emissions; or
- Unanticipated market changes requiring investment in new products or processes that influence greenhouse gas emissions; or
- Major structural or company ownership changes *[financial difficulty?]* that materially affects the ability of [the industry partner] to achieve its agreed target; or
- *[Any other general government initiatives that have a significant impact on the ability of parties to meet commitments.]*

Following a review, the Government may initiate renegotiation of this agreement only where, [in the opinion of the scheme administrator] [the industry partner] has failed to comply with reporting commitments under this agreement.

DRAFT ONLY

³ An issue to consider is the treatment of an industry partner that is not a point of obligation. Is this irrelevant or would they have some form of allocation?

⁴The original reference is to the minutes of the June 2000 Cabinet paper on pre-2008 cross-sectoral and price measures. Should there be reference here to any provisions on non-disadvantage if included in the Climate Protection Bill?

Where parties renegotiate this agreement the revised agreement shall be entered within six months of the commencement of negotiations.

[Where an agreement is not reached within 6 months of negotiations commencing should there be provision for one or the other of the parties to terminate the NGA?]

Verification of reported results

[The industry partner] agrees that reports made under the provisions of this agreement will be made available for [*independent*] verification at the discretion of [the scheme administrator]. This may cover greenhouse gas inventory data, calculation of emissions baselines and project based activities under this agreement as outlined in Annex 4.

Sanctions

Sanctions for non performance will be outlined in the Climate Protection Bill and could include:

- *Loss of future access to any Government assistance programmes for a period*
- *Reporting publicly on individual NGA non-achievement*
- *Rescinding agreements*
- *Fines*
- *Loss of non-disadvantage or privileges*

Annex 1 – Heads-of-Agreement

DRAFT ONLY

Parties to Heads-of-Agreement

This agreement is between [the industry partner] and [*the Convenor of the Ministerial Group on Climate Change*]⁵ representing the Government of New Zealand and indicates an intention by both parties to complete a Negotiated Greenhouse Agreement (NGA).

Commitments

[The industry partner] undertakes to:

- Within one year after signing this heads-of-agreement create a timetable for implementing the commitments below;
- Enter an NGA within 12 months of signing this heads-of-agreement document;
- Prepare and report a greenhouse gas emissions inventory covering the years 1990, 1995, 2000 [*or other*]. This should record both its on-site emissions of greenhouse gas emissions and off-site emissions from purchased electricity and steam;
- Carry out energy audit[s] in accordance with AS/NZS 3598:2000 covering [*specify facilities or processes*] to be completed by [*date*]⁶;
- Share information between the NGA heads-of-agreement partners (as per the agreed confidentiality conditions) [*as specified in Annex 4*];
- Develop investment criteria for the assessment of emission reduction projects identified by the audit [*and other processes*];
- Prepare a preferred ranking of emission abatement projects; and
- Negotiate emission limitation targets and an indicative timetable based on the preferred list of projects, in addition to other aspects of an NGA.

[The Government or the agency] undertakes to:

- Make parties who sign heads-of-agreement and NGAs eligible for assistance under [xyz] audit support programme for the energy audits [under certain conditions];
- Keep confidential data provided as part of this head-of-agreement or a related NGA as outlined in Annex 4.
- Prepare a draft publicly available summary of the proposed NGA for consideration by both parties; and
- Negotiate targets, indicative timetables and other aspects of an NGA.

⁵ It will be necessary to get a legal opinion on whether the Minister can delegate signing authority for the HOA.

⁶ It is not possible to do an energy audit for non-energy emissions.

Annex 2 – Proposed activities

DRAFT ONLY

To include a description of the projects or actions (with an indicative timetable) that are planned to enable the target to be met.

Annex 3 – Company profile

[Relevant information on the activities of the industry partner.]

DRAFT ONLY

Annex 4 – Assumptions (rules) and conventions

[The material included in this annex will be a major focus of the next consultation and will most likely require a “reference group” approach to develop/agree on detail. It is important that as much of this annex as possible is common across agreements. This may not be possible for all matters for all industry partners or additional assumptions may be required in some cases (e.g. associated with unique processes). If so then this annex could be split into common and specific sections.]

Annex 4 is likely to contain the following elements:

- The methodology and assumptions for the treatment of purchased electricity and steam;
- A methodology and emission factors to allow recognition of the avoided emissions benefits of co-generation plants and additional renewable energy;
- A description of verification methodologies or standards;
- Conventions regarding emissions-per-output targets;
- Conventions regarding business-as-usual projections;
- Conventions regarding confidentiality requirements;
- Conventions regarding meeting targets and timetables with a focus on just under what circumstances sanctions are invoked and whether there are options to “put right” non-achievements;
- Conventions regarding a range of sanctions that might apply;
- Conventions and detail regarding the 2005 review and conditions where renegotiation would be possible *[or adequately covered in the NGA itself?]*;
- Minimum reporting requirements and times re what annual reporting and NGA summary documents might include;⁷ *[This will include details of the annual reporting and review process and deadlines for Government responses to annual reports and industry responses to scheme administrator’s reports.]*
- Others.....

Annex 5 – Baseline relevant to this agreement

- A clear description of historical emissions and a business-as-usual projection to enable an NGA target to be negotiated (consistent with an aggregate NGA objective);
- Clear definition of targets relative to a specific baseline; and
- Baseline descriptions as required for any project-based-activities.

⁷ What if an industry group and their electricity supplier bubble? Does this necessitate a re-shaping of the NGAs?