



# Cabinet

CAB Min (01) 31/11

## Minute of Decision

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Convenor, Ministerial Group on Climate Change

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Chief Parliamentary Counsel  
Legislation Coordinator  
Secretary, POL  
Monitoring System

### Climate Change: Paper 1: Policy Issues for Act 1 Ratification Legislation

On 8 October 2001, following discussion at the Cabinet Policy Committee (POL), Cabinet:

- 1 **noted** that on 3 September 2001 POL agreed to a staged approach to legislation to allow New Zealand to ratify the Kyoto Protocol by 2 September 2002, which would include the minimum legislation required for ratification (Act I), further consultation on development of the domestic policy mix and then legislation to implement the domestic policy mix (Act II) [CAB Min (01) 27/5A];
- 2 **directed** officials to report to POL by 7 November 2001 with a proposal inviting the Minister of Energy to issue drafting instructions to Parliamentary Counsel Office for an Act I Climate Change Protection Bill (the Bill) for ratification of the Kyoto Protocol;

- 3 **agreed** that the purpose of the Act I legislation will be to give effect to New Zealand's international obligations under the United Nations Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol to that convention;
- 4 **agreed** that the Bill include provision for:
- 4.1 Crown powers to issue New Zealand's initial assigned amount, sink credits, and any other type of emission unit into the Crown account, and to acquire and transfer emission units;
  - 4.2 establishment of a registry, in accordance with international requirements, to account for changes in New Zealand's holdings of emission units;
  - 4.3 provision for legal entities other than the Crown to hold emission units in the registry, and for the acquisition and transfer of emission units by those entities;
  - 4.4 establishment of an inventory to record New Zealand's greenhouse gas emissions by sources and their removals by sinks;
  - 4.5 sufficient inventory and registry agency powers for registry agencies to perform their functions, including data collection, monitoring, verification and search and seizure powers;
  - 4.6 creation of offences and penalties for non-compliance with inventory and registry agency powers;
  - 4.7 limited disclosure of private or confidential individual information held in the inventory or registry, including for the purpose of complying with international requirements;
  - 4.8 reporting to the UNFCCC by the responsible Minister, in consultation with other relevant Ministers, on the inventory, the registry and other information;
  - 4.9 creation of necessary regulation-making powers;
- 5 **agreed** to the proposed timeline and process for developing Act I legislation as set out in the annex attached to this minute;
- 6 **noted** that the Act I legislation will contain approximately 55 clauses, and will be narrower in scope than the approved bid on the Government's 2001 Legislation Programme for a 120 clause Climate Protection Bill (with a priority of 5: instructions to Parliamentary Counsel in 2001);
- 7 **noted** that, when officials report back to POL by 7 November 2001 (see paragraph 2) approval will be sought for any further policy decisions required for drafting instructions to be issued to Parliamentary Counsel Office for the Act I legislation;
- 8 **noted** that in the report back to POL by 7 November 2001 officials will seek approval for the institutional arrangements for the registry and inventory agency/agencies;

- 9 **noted** the risks of the legislative timeline referred to in paragraph 5, namely:
- 9.1 criticisms of the ratification legislation and ratification process leading to delays in the select committee process; and
  - 9.2 Regulations Review Committee scrutiny;
- 10 **noted** that the Government has signalled that it does not intend to rely on Act I only to meet Kyoto Protocol compliance requirements, and that it will put in place policy measures to manage emissions, which will be implemented using Act II legislation [CAB Min (01) 31/12];
- 11 **noted** that, although most of the policy options under discussion involve some level of cost recovery, there are scenarios where the policy measures alone might not be sufficient to meet the Crown's obligation to ensure that the quantity of emission units corresponded to the quantity of emissions. In addition, there is also the possibility that lack of compliance with the policy measures could lead to a residual fiscal liability for the Crown;
- 12 **noted** that where the policy measures are not sufficient, or where there is a lack of compliance with the measures, any residual cost could be met through retained sink credits generated from Kyoto forests and potential tax revenues from sink credits;
- 13 **agreed** that the Crown's Kyoto Protocol Compliance requirements will need to be considered as a factor when a decision is made on what proportion of sink credits are allocated to those undertaking sink activities;
- 14 **noted** that the issues relating to the proportion of sink credits that are allocated or retained in the Crown account will be addressed as part of the policy options discussion and decisions over the next year.

Secretary of the Cabinet

Reference: CAB (01) 571; POL Min (01) 26/7