



COVERSHEET

Minister	Hon David Clark	Portfolio	Minister of Commerce and Consumer Affairs
Title of Cabinet paper	Technical update to the New Zealand Tariff to meet our international obligations to the World Customs Organization	Date to be published	3 November 2021

List of documents that have been proactively released

Date	Title	Author
September 2021	Technical update to the New Zealand Tariff to meet our international obligations to the World Customs Organization	Office of the Minister of Commerce and Consumer Affairs
22 September 2021	Technical update to the New Zealand Tariff to meet international obligations to the World Customs Organization DEV-21-MIN-0184	Cabinet Office

Information redacted

NO

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In Confidence

Office of the Minister of Commerce and Consumer Affairs

Cabinet Economic Development Committee

Technical update to the New Zealand Tariff to meet our international obligations to the World Customs Organization

Proposal

1. I seek Cabinet's agreement to amend the New Zealand Tariff (and associated legal instruments that cite the New Zealand Tariff) in accordance with the revised Harmonised Commodity Description and Coding System (HS Code).

Relation to government priorities

2. The HS Code is a fundamental element of New Zealand's participation in the international trading system.

Background

3. As the Minister of Commerce and Consumer Affairs, I am responsible for tariff policy in New Zealand. The Minister of Customs is responsible for the administration of the New Zealand Tariff (the Tariff), including drafting necessary amendments to the Working Tariff Document.
4. The Tariff is based on the HS Code which is an international system that codifies all goods. The HS Code is used by over 200 countries (including New Zealand) as a basis for tariff charging and for collecting international trade statistics. The World Customs Organization (WCO) manages the HS Code.
5. The WCO updates the HS Code periodically to reflect changes in technology and trade patterns. Every country that uses the HS Code must implement the updated version in their national tariff. The WCO has agreed to the HS Code 2022. Consequential amendments are now required to the New Zealand Tariff, the Excise and Excise-equivalent Duties Table and other instruments that use the Tariff to determine tariff duties and levies, for implementation on 1 January 2022.

I seek Cabinet's agreement to update the Tariff and associated legal instruments, to reflect changes arising from the revision of the HS Code

6. The HS Code changes for 2022 extend the initiatives of the previous revision in 2017 and concentrate primarily on environmental and social issues that are of global concern and require enhanced monitoring, including:
 - 6.1. identifying and monitoring of agricultural products of importance to the food security programme of the Food and Agriculture Organisation of the United Nations;

IN CONFIDENCE

- 6.2. creating tariff subheadings for specific chemicals, to facilitate monitoring and control of international trade in these products under the Stockholm Convention on Persistent Organic Pollutants, the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and the Chemical Weapons Convention;
- 6.3. creating tariff subheadings to facilitate monitoring and control of narcotic drugs and psychotropic substances;
- 6.4. creating tariff subheadings to facilitate monitoring and control of trade in waste products under the Basel Convention;
- 6.5. restructuring across the HS Code to account for now obsolete trade (such as certain textiles) and to provide for new technologies increasing in commercial significance, like solar energy products and 3-D printers.
7. The changes in the main affect only the description and coding of the goods, not the rates of duty. Goods which are free of duty will remain free; those which are subject to duty will remain dutiable at appropriate levels.
8. However, there are a small number of goods (e-waste from broken electronic goods, semi-conductors and free display panels) that currently carry a duty that will now be grouped with goods that are duty free. It is not possible to provide tariff data on these specific goods as they are bundled with other goods of which they comprise a small part.
9. I seek Cabinet's approval to remove the duties on these goods. Officials consider there will likely be no (or very negligible) financial implications from this update. The trade in these goods is incredibly small. In most cases, New Zealand's free trade agreements, or other international commitments such as the Information Technology Agreement, mean that the goods are already duty free.

Consequential amendments are also required

10. The HS Code 2022 tariff structural changes require consequential amendments to the Customs and Excise Regulations 1996 which implement the rules of origin under New Zealand's free trade agreements and closer economic partnership agreements. These rules establish the manufacturing thresholds required to qualify for preferential tariff treatment. Rules of origin are the criteria that determine the national source of a product and whether the product qualifies for preferential tariff treatment.
11. These rules are constructed as schedules under customs legislation and are expressed in terms of the current HS Code nomenclature. The amendments will be completely neutral in terms of our international obligations relating to both tariff commitments and the operation of rules of origin.

12. Levies and excise-equivalent duties applied to products at the border also rely on the product classification in the Tariff. Where a specific tariff item is cited in regulation, other than the Tariff, and this tariff item is changed through the HS Code revision process, consequential amendments will need to be approved. This includes the Excise and Excise-equivalent Duties Table that will need to be amended to reflect a new tariff heading for certain tobacco products and the Synthetic Greenhouse Gas Levy. The changes will affect only the coding and description of the goods; the rates of excise and excise-equivalent duties or the amount of the levy will not change.
13. There is a consequential issue created by the new tariff item for tobacco products. "Tobacco products" for the purposes of inflation adjustments for excise rates, are defined in Clause 21(6) of Schedule 3 of the Customs and Excise Act 2018 and reference to two specific tariff headings (24.02 and 24.03). After 1 January 2022 some of these tobacco products will be reclassified under the new tariff heading 24.04 and will therefore not be covered under our existing inflation adjustment.
14. If the Government intends to maintain consistent excise rates for these tobacco products, which are inflation adjusted annually, a change to the definition of tobacco products in Schedule 3 clause 21 (6) of the Customs and Excise Act 2018 will be required to include the new tariff heading 24.04. The next affected annual inflation adjustment is currently scheduled for 1 January 2023 so the Act would need to be amended by around July 2022.
15. I seek Cabinet's approval to issue drafting instructions for this technical amendment to the Customs and Excise Act 2018 to include the new HS 2022 tariff heading 24.04 in the definition of tobacco products in clause 21(6) of Schedule 3.

Financial Implications

16. Officials consider there will likely be no (or very negligible) financial implications from this update.

Legislative Implications

17. To implement the update, I seek Cabinet's approval for the legislative amendments below.
 - 17.1. Tariff Amendment Order to amend the structure of the New Zealand Tariff and remove duties under the Tariff Act 1988.
 - 17.2. Amendment to the Customs and Excise Regulations 1996 to update the rules of origin schedules under New Zealand's free trade agreements.
 - 17.3. Amendment to the Customs and Excise Act 2018 to include the new HS 2022 tariff heading 24.04 in the definition of tobacco products in clause 21(06) of Schedule 3.
 - 17.4. Order in Council amending tariff items in the Excise and Excise-equivalent Duties Table.

- 17.5. Amendments to other legislative instruments (such as those that relate to the Synthetic Greenhouse Gas Levy) which specifically cite the New Zealand Tariff nomenclature. These technical changes will not change the operation or revenue of the levies.
18. Under our WCO obligations, the HS Code update needs to be in force by 1 January 2022. The Minister of Customs will seek Cabinet approval to implement the legislative amendments by the end of October 2021.

Impact Analysis

19. Treasury's Regulatory Impact Analysis team has determined that this proposal is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it is the minimum necessary to comply with international obligations that are binding on New Zealand.

Additional Implications

20. As this update is technical and operational, there are no implications for:
- 20.1. The Treaty of Waitangi
 - 20.2. Climate change
 - 20.3. Human Rights
 - 20.4. Gender
 - 20.5. Disability
 - 20.6. Māori
 - 20.7. Small business owners.

Consultation

21. The Ministry of Business, Innovation and Employment consulted the Ministry of Foreign Affairs and Trade, The Treasury, the Ministry for the Environment, the Ministry of Health, and New Zealand Customs Service on the update.

Communications

22. Following Cabinet approval, officials will engage freight forwarders, customs brokers and importers to raise awareness of this technical and operational update.

Proactive Release

23. This paper will be proactively released with redactions where appropriate.

Recommendations

The Minister of Commerce and Consumer Affairs recommends that the Committee:

1. **note** that New Zealand has an international obligation to update its Tariff to reflect changes arising from the revised Harmonized Commodity Description and Coding System (HS Code) by 1 January 2022;
2. **note** that the changes to the Tariff are primarily a technical transposition and any impact on annual tariff revenue will be negligible;
3. **note** that the changes in the New Zealand Tariff will also impact other legal instruments that cite the Tariff, such as rules of origin regulations, Excise and Excise-equivalent Duties Table under New Zealand Customs Service legislation and various instruments that use the Tariff to identify goods subject to levies;
4. **agree** to update the Tariff, the Excise and Excise-equivalent Duties Table and associated legal instruments;
5. **agree** to eliminate duties on the products as identified in paragraph 8, that are now grouped with zero rated products as a result of the HS Code update;
6. **agree** to amend clause 21(6) of Schedule 3 of the Customs and Excise Act 2018 to include the new tariff heading for tobacco products created by HS 2022;
7. **invite** the Minister of Customs, to instruct the New Zealand Customs Service to draft the necessary legislative amendments to update the Working Tariff Document, and the Excise and Excise-equivalent Duties Table, and on behalf of all relevant Ministers, to instruct Parliamentary Counsel Office to draft consequential amending legislation where necessary;
8. **authorise** the Minister of Customs to make decisions, consistent with the proposals in these recommendations, on any issues that arise during the drafting process;
9. **note** that officials will engage freight forwarders, customs brokers and importers to raise awareness of this technical and operational update;

Authorised for lodgement

Hon Dr David Clark

Minister of Commerce and Consumer Affairs