

2007

SHUR/111

C07004791-WLN

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You Reference:

Our Reference:

FROM: Wellington (TND)

C07004791-WLN 21/12/2007 09:58 a.m. WLN

Routine

out of scope

LIVESTOCK EXPORTS FOR SLAUGHTER: COMMUNICATIONS ON DECISION AND
BILATERAL ARRANGEMENT

Summary

We agree with Post's proposed approach to advise the Saudis of the decision reached on the review along with next steps on re-engaging on the bilateral arrangement.

Message

Action

Post to advise Saudis on next steps for the bilateral arrangement along the lines suggested in our para 4.

Report

Our C07004692 of 18 December and various s 9(2)(a) emails also refer.

2 Our thanks for your advice regarding re-engagement with the Saudis on recent decisions around livestock exports for slaughter.

out of scope

3 As you know, we have been giving thought to re-engagement with Saudi Arabia on the bilateral arrangement which has been on hold due to the policy review. With a decision now reached on the review and with the imposition of the Customs Export Prohibition (Livestock for Slaughter) Order on 21 December, we are looking to re-invigorate negotiations on the arrangement. As you will be aware, the action on the arrangement currently lies with us. We will need to review the arrangement and revert with advice to the Saudis on it and any proposed changes that we wish to make. We have received advice from the Ministry of Agriculture and Forestry (Sherwin, O'Neil) that the arrangement should be finalised along the lines that was originally intended. This will obviously assist us in moving forward.

4 We agree with your proposal to advise the Saudis (by letter from Ambassador or Charge d'Affaires to Minister of Agriculture) both of the decision and of next steps in the arrangement process at the same time. In terms of the arrangement, we would suggest that you note that as a final decision has now been made on the review, New Zealand is looking to recommence negotiations on the bilateral arrangement. We will look to formally respond to Saudi Arabia early in the New Year on the basis of the previous draft we received.

5 We leave it to your judgement as to how best to convey and articulate the message in our para 4 to the Saudis.

6 For your information, we would note that there is an exporter interested in trying to export to Saudi around March 2008. This tight timing will obviously present some challenges in concluding a bilateral arrangement, even one which is nearing the end of the road.

Message ends

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

PCO 12781/4

Drafted by S9(2)(a)

IN CONFIDENCE

Customs Export Prohibition (Livestock for Slaughter) Order 2007

Governor-General

~~Order in Council~~

At Wellington this day of 2007

Present:

in Council

Pursuant to section 56 of the Customs and Excise Act 1996, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, and being of the opinion that the prohibition effected by this order is necessary in the public interest, makes the following order:

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Order

1 Title

This order is the Customs Export Prohibition (Livestock for Slaughter) Order 2007.

2 Commencement

This order comes into force on 21 December 2007.

3 Interpretation

In this order,—

Director-General means the chief executive of the Ministry of Agriculture and Forestry

livestock means any cattle, deer, goats, or sheep

4 Export of livestock for slaughter prohibited

The export of livestock for slaughter is prohibited, except—

- (a) with the consent of the Director-General; and
- (b) subject to any conditions specified by him or her that are not inconsistent with this prohibition.

Clerk of the Executive Council.

Explanatory note

This note is not part of the order, but is intended to indicate its general effect.

This order, which comes into force on 21 December 2007, prohibits the export of cattle, deer, goats, and sheep for slaughter, unless with the consent of the chief executive of the Ministry of Agriculture and Forestry (the **Director-General**) and subject to any conditions, not inconsistent with the prohibition, that he or she specifies.

Under section 56(5)(b) of the Customs and Excise Act 1996, this order expires on the close of 31 December 2008 except so far as it is expressly confirmed by Act of Parliament passed before that date. Even if confirmed completely in that way, under section 57 of that Act, this order expires on the close of 20 December 2010 unless it is sooner revoked or extended for a further period of up to 3 years.

Customs Export Prohibition (Livestock for
Slaughter) Order 2007

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*:
This order is administered by the New Zealand Customs Service.

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Commercial: In Confidence

Cabinet External Relations and Defence Committee

ERD Min (07) 9/2

Copy Number: 13

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Policy Review of New Zealand's Requirements for Export of Livestock for Slaughter

On 12 December 2007, the Cabinet External Relations and Defence Committee (ERD):

- 1 noted that in October 2007, the Cabinet External Relations and Defence Committee:
 - 1.1 agreed in principle that controls on the export of livestock for slaughter are in the public interest;
 - 1.2 agreed in principle to put a Customs Export Prohibition Order in place;
 - 1.3 directed the Ministry of Agriculture and Forestry to consult with exporters of livestock and industry groups on the findings of the review and options for implementation, and report to the Cabinet External Relations and Defence Committee by 12 December 2007;

[ERD Min (07) 7/1]

- 2 noted that exporters, industry groups, selected trading partners and other parties have been consulted and that this consultation included seeking comment on the possible factors to be taken into account by the Director-General of the Ministry of Agriculture and Forestry (MAF) in assessing any applications for exemptions to a Customs Export Prohibition Order;
- 3 noted that there was general support for the government's decision to place tighter controls on the export of livestock for slaughter, but that some adjustments have been made to the proposed draft exemption factors as a result of stakeholder submissions;
- 4 confirmed the in-principle decisions in paragraphs 1.1 and 1.2 above;
- 5 agreed that the Director-General of MAF may take the following factors into account when considering any application for an exemption to a Customs Export Prohibition Order:
 - 5.1 the export is for slaughter of livestock in commercial slaughter houses;
 - 5.2 the Director-General is satisfied that the importing country has requirements in place that meet the World Organisation for Animal Health *Guidelines for the Slaughter of Animals*;

- 5.3 cattle exported for slaughter must be stunned prior to slaughter in accordance with any of the methods described in the Guidelines;
- 5.4 the Director-General is satisfied that the importing country has requirements in place that meet the World Organisation for Animal Health *Guidelines for the Transport of Animals by Land, Sea and Air*, in relation to the unloading and post-journey handling and transport of livestock;
- 5.5 a pre-shipment audit of slaughter facilities by inspectors nominated by MAF, and carried out at the exporters' expense, demonstrates compliance with the above requirements;
- 5.6 any other matter the Director General of MAF considers necessary to manage the risk to New Zealand's reputation as a responsible exporter of agricultural products;

6 agreed that:

- 6.1 the Director-General MAF may require a bilateral arrangement be in place to support the requirements of importing countries set out above, along with any other requirements he or she believes are necessary to maintain New Zealand's reputation as a responsible exporter of agricultural products;
- 6.2 in deciding whether to require a bilateral arrangement the Director-General could take into account relevant experience with exporting livestock to that country;
- 6.3 the Director-General may review the factors he or she considers relevant for consideration at any time, taking into account such matters as the experience from past trade;

7 noted that the Customs Export Prohibition (Livestock for Slaughter) Order 2007 prohibits the export of cattle, deer, goats, and sheep for slaughter, unless with the consent of the chief executive of the Ministry of Agriculture and Forestry and subject to any conditions that he or she specifies;

8 noted that the order is an interim measure until such time as amendments can be made to primary legislation;

9 authorised the submission to the Executive Council of the Customs Export Prohibition (Livestock for Slaughter) Order 2007 [PCO 12781/4];

10 agreed to waive the 28-day rule for the Customs Exports Prohibition (Livestock for Slaughter) Order 2007 to enable the Order to come into effect on 21 December 2007.

s 9(2)(a)

Secretary

Reference: ERD (07) 36

Copies to: (see over)

[Not relevant to request]



RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Chair
Cabinet External Relations and Defence Committee

POLICY REVIEW OF NEW ZEALAND'S REQUIREMENTS FOR EXPORT OF LIVESTOCK FOR SLAUGHTER

Proposal

1. This submission summarises the outcomes of consultation with exporters of livestock and industry groups on the findings of the review of exports of livestock for slaughter. It proposes that Cabinet agrees to put in place the Customs Export Prohibition (Livestock for Slaughter) Order 2007 as an interim measure until such time as amendments can be made to primary legislation. It further proposes that the normal 28 day rule applying to new regulations be waived so that the Order may come into effect on 21 December 2007.

Executive Summary

2. At its meeting on 23 October 2007 Cabinet agreed in principle to put a Customs Export Prohibition Order in place restricting the export of livestock for slaughter as an interim measure until such time as amendments can be made to primary legislation. The in principle decision was subject to the outcome of consultation with exporters of livestock and industry groups.
3. Current legislation does not allow the treatment of New Zealand livestock in an importing country to be considered when an animal welfare export certificate is issued. There could be significant public concern and possible international consumer reaction if exports of livestock for slaughter were to recommence from New Zealand to countries that have slaughter or handling practices that are significantly at variance to those used in New Zealand. New Zealand's reputation and the integrity of our agricultural export system are at risk.
4. As directed by Cabinet, the Ministry of Agriculture and Forestry (MAF) has consulted with exporters of livestock and industry groups. A total of 41 submissions were received from industry groups, the New Zealand Veterinary Association, animal welfare advocacy groups, the National Animal Welfare Advisory Committee and Sue Kedgley, MP. The majority of submitters, including key exporters and industry groups, supported the Government's decision to place tighter controls on the export of livestock for slaughter.
5. The Ministry of Foreign Affairs and Trade has also advised selected trading partners. Reaction has been mixed.

s 6(a), 6(b)(i)

6. It is proposed that the Cabinet authorise the submission of the Customs Export Prohibition (Livestock for Slaughter) Order 2007 to the Executive Council for the Order to come into effect on 21 December 2007. The Order would prohibit the export of sheep, cattle, deer and goats for slaughter, and give the Director-General MAF discretion to approve individual consignments on a case-by-case basis in circumstances where he or she considers the risks can be adequately managed.
7. Consultation was also carried out on factors the Director-General might take into account when considering exemption applications. The proposed factors were generally agreed as being pertinent to the exercise of the discretion, except for a proposed requirement relating to the pre-slaughter stunning of livestock in the importing country. The New Zealand Veterinary Association and the National Animal Welfare Advisory Committee supported this proposal. The majority of exporters did not, pointing out that New Zealand could be accused of a double standard in that it permits shechita (Jewish) slaughter and non-commercial home-kill, neither of which involve a pre-slaughter stun requirement. Shechita slaughter of sheep, goats and poultry is permitted without requirements for stunning. Shechita slaughter of deer is permitted with a post-cut stun.
8. On balance, and taking into account the differing animal welfare concerns between cattle and other livestock, it is proposed that the pre-slaughter stun requirement be applicable to cattle only.
9. In light of the above, the Director-General of MAF may take the following factors into account when considering any applications for an exemption:
- the export is for slaughter of livestock in commercial slaughter houses;
 - the importing country complies with the World Organisation for Animal Health *Guidelines for the Slaughter of Animals*;
 - cattle must be stunned prior to slaughter;
 - the importing country complies with the World Organisation for Animal Health *Guidelines for the Transport of Animals by Land, Sea and Air*, in relation to the unloading and post-journey handling and transport of livestock;
 - a pre-shipment audit of slaughter facilities demonstrates compliance with the above requirements; and
 - any other matter the Director-General of MAF considers necessary.
10. Exporters may also be required to provide an affidavit as to the purpose of export for all livestock exports, and satisfy the Director-General of MAF as to the conditions for international transport of livestock up until the point of disembarkation.

Background

Customs Export Prohibition Order

11. At its meeting on 23 October Cabinet, acting on the advice of Cabinet External Relations and Defence Committee, agreed in principle:
- that controls on the export of livestock for slaughter is in the public interest;

- to put a Customs Export Prohibition Order in place in the interim, prohibiting the export of sheep, cattle, deer and goats for slaughter and giving the Director-General of MAF the discretion to approve individual consignments on a case-by-case basis in circumstances where the risks can be adequately managed subject to a report on the outcome of consultation on the matter;
- to direct the MAF to consult with exporters of livestock and industry groups on the findings of the review and options for implementation, and report to the Cabinet External Relations and Defence Committee by 12 December 2007.

12. On 5 November 2007 the Minister of Agriculture wrote to the Director-General of MAF instructing MAF to work with the New Zealand Customs Service and Parliamentary Counsel to prepare a draft Order so that it would be available for consideration by the External Relations and Defence Committee on 12 December and Cabinet and the Executive Council on 17 December 2007.

Control on export of Livestock for Slaughter

13. Current legislation does not allow the Director-General of MAF to consider how New Zealand livestock may be treated in an importing country when issuing an animal welfare export certificate, such as the manner in which the livestock are handled and subsequently slaughtered.
14. There is potential for significant public concern and possible international consumer reaction if exports of livestock for slaughter were to recommence from New Zealand to countries that have different slaughter or handling practices which are significantly at variance to those used in New Zealand.
15. New Zealand's reputation and economic risks at stake include:
- New Zealand's reputation as a "clean, green" and humane sustainable exporter and promoter of animal welfare; and
 - the integrity of our agricultural export system under which exports valued at \$18.3 billion were exported in 2006. Even a small decline in trade due to European Union consumer resistance to New Zealand agricultural exports would have a greater negative impact on the New Zealand economy than the lost revenue from restricting livestock exports for slaughter.
16. Cabinet also noted that restrictions on exports of livestock for slaughter would themselves entail international legal, commercial and diplomatic risks.

17. s 6(a), s 9(2)(g)(i), s 9(2)(h)

s 6(a)

s 9(2)(g)(i)

18. On 23 October 2007 Cabinet considered these risks and agreed to prohibit exports of sheep, cattle, deer and goats for slaughter with exemptions where the reputational risks to New Zealand outlined in paragraph 15 above can be managed to an acceptable level. Cabinet noted that an amendment to primary legislation offers the best long term solution. It agreed in principle that, as an interim measure until primary legislation can be amended and, subject to report back on the outcome of consultation with exporters of livestock and industry groups, a Customs Export Prohibition Order should be put in place.
19. The Customs Export Prohibition Order would prohibit the export of sheep, cattle, deer and goats for slaughter, and give the Director-General MAF discretion to approve individual consignments on a case-by-case basis in circumstances where he or she considers the risks can be adequately managed.
20. None of the restrictions will apply to exports of livestock for breeding or other purposes, and this trade may continue. Exporters will, however, be required to declare the purpose of export at the time of making an application.
21. As directed by Cabinet, MAF has consulted with exporters of livestock and industry groups on the findings of the review and the proposal to implement restrictions through a Customs Export Prohibition Order. Consultation meetings were also held with exporters and industry groups in Hamilton and Christchurch on 20 and 29 November and feedback from these meetings has been included in the summary of consultation below.
22. The Ministry of Foreign Affairs and Trade has advised selected trading partners, including Saudi Arabia, that a review has been undertaken and of the options for implementation and allowed them an opportunity to comment. Reactions from trading partners are also presented below.

Outcome of Public Consultation

23. Submissions were received from exporters of livestock, sheep breeders, Meat Industry Association, Deer Industry New Zealand, the New Zealand Veterinary Association, animal welfare advocacy groups, the National Animal Welfare Advisory Committee and Sue Kedgley, Member of Parliament. A total of 41 submissions were received.

24. Comment was received on:

- i. the decision to place tighter controls on the trade;
- ii. the international transport of livestock; and
- iii. the factors the Director-General of MAF may take into account in considering any application for an exemption to a Customs Export Prohibition Order.

25. The majority of submitters, including key exporters and industry groups, supported the Government's decision to place tighter controls on the export of livestock for slaughter, although certain exporters considered they should be exempted. Animal welfare advocacy groups variously preferred either that the trade in livestock for slaughter be prohibited without exemptions, or that livestock exports for any purpose be prohibited.

26. Many submitters commented on conditions for international transport of livestock. There were a variety of views ranging from suggestions that requirements should be tightened to provide better animal welfare protections, to views that existing requirements are adequate:

27. With regard to exemption factors, key exporters and industry groups supported adherence to the World Organisation for Animal Health guidelines for slaughter and for transport by land, sea and air. There was general support for pre-shipment audit of slaughter facilities and the requirement to provide an affidavit as to the purpose of export. One key exporter of livestock considered that pre-shipment audit of slaughter facilities should be limited to cases where animals are slaughtered within six months of departure from New Zealand. Some other exporters suggested that export for fattening and subsequent slaughter should be excluded regardless of the length of time until slaughter takes place.

28. Some submitters, including the New Zealand Veterinary Association and the National Animal Welfare Advisory Committee, supported the additional requirement for pre-slaughter stunning of all livestock. The majority of exporters of livestock and sheep breeders did not support making pre-slaughter stunning a necessary requirement. The key issues raised by exporters were:

- a perception that this would represent a double standard in that New Zealand permits shechita (Jewish) slaughter and non-commercial home-kill, neither of which involve a pre-slaughter stun requirement;
- slaughter without stunning is permitted under the World Organisation for Animal Health guidelines;
- unilateral decision making by New Zealand is not appropriate, particularly as New Zealand is a member of the World Organisation for Animal Health.

29. No submitters raised objections to the proposed requirement that exporters be required to provide an affidavit as to the purpose of export for all livestock exports.

Response to issues raised in submissions

Decision to place tighter controls on the trade

30. Cabinet has already considered the need to place tighter controls on the trade and agreed to prohibit exports of sheep, cattle, deer and goats for slaughter, with exemptions where the risks can be managed to an acceptable level.

International transport

31. Cabinet has excluded consideration of transport to the point of disembarkation as any risks associated with this are being managed already under existing mechanisms in the Animal Welfare Act. [CAB Min (07) 38/3]. The Minister of Agriculture has requested that the National Animal Welfare Advisory Committee develop a code of welfare for international transport of livestock to mitigate any residual risk associated with this aspect of the trade.

Factors for the Director-General to consider in processing any exemption application

World Organisation for Animal Health (OIE) Guidelines and pre-shipment auditing of slaughter facilities

32. It is noted that there is general support for tying exemption decisions to compliance with World Organisation for Animal Health Guidelines, and it is intended that this be confirmed as a factor the Director-General may take into account when considering exemption applications.
33. It is noted that there is also general support for pre-shipment auditing of slaughter facilities in the importing country and it is intended that this too be confirmed as a factor the Director-General may take into account. The process and timing of pre-shipment audits would be decided on a case-by-case basis.

Possible additional requirement of pre-slaughter stunning of livestock

34. The prevailing international view, which is subscribed to by the New Zealand National Animal Welfare Advisory Committee, is that conscious animals are likely to experience an unreasonable level of pain during the cut to the neck. The impacts on cattle are worse than on other livestock because of the additional time it takes for loss of consciousness to occur.
35. The Minister of Agriculture is considering issuing a draft commercial slaughter code of welfare that would require all large mammals and poultry being commercially slaughtered in New Zealand to be stunned prior to slaughter. An exemption is proposed for shechita (Jewish) slaughter whereby no pre-slaughter stun would be required, though cattle would need to be stunned within 5 seconds following the throat cut. Non-commercial slaughter (i.e. "home-kill") is not covered by the draft code, and therefore home-kill can also occur without a pre-slaughter stun.

36. The World Organisation for Animal Health *Guidelines for the Slaughter of Animals* does not require pre-slaughter stunning. It does, however, include guidance on suitable methods should pre-slaughter stunning be used. As they are guidelines, not mandatory requirements, there is nothing to preclude New Zealand adopting more restrictive measures.

37. The proposal to add an additional requirement for pre-slaughter stunning of exported animals would appear to be at odds with the permissive approach taken to shechita and home-kill slaughter in New Zealand.

s 9(2)(g)(i)

38. On balance, and taking into account the differing animal welfare concerns between cattle and other livestock, it is proposed that the pre-slaughter stun requirement be limited to cattle only.

Submitters' proposed exclusions

39. It is considered that all exporters should be treated equally, and that there should be no general exclusions from the Customs Export Prohibition Order.

40. With regard to exports for fattening and subsequent slaughter, it is considered that the length of time to slaughter is not a relevant consideration.

Declaration of purpose of export

41. It is noted that there is general support for a declaration, and it is intended that this be confirmed as a factor the Director-General may take into account when considering exemption applications.

Proposed factors for exemption

42. In light of the above, the Director-General of MAF may take the following factors into account when considering any applications for an exemption to a Customs Export Prohibition Order:

- the export is for slaughter of livestock in commercial slaughter houses;
- that the importing country has requirements in place that meet the World Organisation for Animal Health *Guidelines for the Slaughter of Animals*
- cattle exported for slaughter must be stunned prior to slaughter in accordance with any of the methods described in the Guidelines;
- that the importing country has requirements in place that meet the World Organisation for Animal Health *Guidelines for the Transport of Animals by Land, Sea and Air*, in relation to the unloading and post-journey handling and transport of livestock;
- a pre-shipment audit of slaughter facilities by inspectors nominated by MAF, and carried out at the exporters' expense, demonstrates compliance with the above requirements; and
- any other matter the Director General of MAF considers necessary to manage the risks to New Zealand's reputation as a responsible exporter of agricultural products.

43. Exporters may also be required to provide an affidavit as to the purpose of export for all livestock exports.
44. The Director-General of MAF may review the factors he or she considers relevant for consideration at any time, taking into account such matters as the experience from past trade, at which time further consultation may be undertaken with affected parties.
45. It is important from the perspective of relations with trading partners and exporters, as well as in the interests of transparency and predictability, to provide some guidance in a formal document as to the factors that the Director-General of MAF will take into account in deciding whether to grant an exemption. It is intended that MAF will prepare such a document as advice to trading partners and exporters following Cabinet's decision. In addition, the Director-General should provide any applicant with reasons in the event of deciding not to grant an exemption.
46. The Director-General may require a bilateral arrangement be in place to support the requirements of importing countries set out above, along with any other requirements he or she believes are necessary to maintain New Zealand's reputation as a responsible exporter of agricultural products. In deciding whether to require a bilateral arrangement, the Director-General could take into account relevant experience with exporting livestock to that country.

Additional Animal Welfare Act requirements

47. Exporters would also, in accordance with the requirements of the Animal Welfare Act 1999, need to satisfy the Director-General of MAF as to the conditions for international transport of livestock up until the point of disembarkation. Where livestock are being transported by sea this may include a requirement that a MAF-accredited veterinarian accompany the shipment, experienced stockmen are on board and provision are made for rapid disembarkation and, if required, quarantine.

Advice from trading partners

48. As agreed by Cabinet, the Ministry of Foreign Affairs and Trade advised a number of trading partners including Saudi Arabia, of the fact that a review has been undertaken and the options for implementation. Reaction has been mixed.

49. s 8(a), s 6(b)(i)

50. s 6(a); s 6(b)(i)

51.

Amendments to Primary Legislation

52. At its meeting on 23 October Cabinet noted that an amendment to primary legislation offers a long term solution by restricting trade conditionally, with discretion exercised by the appropriate Minister, or unconditionally. Review of primary legislation will commence in 2008 with view to bringing proposals before Cabinet for subsequent consideration.

Economic and Regulatory Impact

53. In 2006, New Zealand exported \$18.3 billion of agricultural exports. The export of meat was generally valued at NZ\$4.7 billion (14.27%), sheep meat alone accounted for NZ\$2.4 billion. Even a 10% decline in the value of sheep meat exports to the European Union alone (the most vulnerable market) would have a greater negative impact on the New Zealand economy than the lost revenue from restricting exports of livestock for slaughter. Other markets may be affected.

54. A regulatory impact statement was prepared and submitted as part of Cabinet's consideration of the matter on 23 October 2007 [CAB Min (07) 38/3].

Customs Export Prohibition Order 2007 – Public Interest

55. Section 56 of the Customs and Excise Act 1996 provides that if the Governor-General considers a prohibition is necessary in the public interest, the Governor-General may, by Order in Council, prohibit the exportation from New Zealand of any specified goods, or classes of goods.

56. We are satisfied that the Customs Export Prohibition (Livestock for Slaughter) Order 2007 is in the public interest of New Zealand as the Animal Products Act 1999 and the Animal Welfare Act 1999 do not provide for consideration of issues relating to the treatment of livestock in the importing country, including in relation to handling and slaughter practices. Currently providing exporters meet the requirements of the legislation and satisfy the Director-General of MAF as to the conditions for international transport of livestock up to the point of disembarkation, the export may proceed.

57. On balance, the Government has decided that the benefits to New Zealand's trade to be gained by restricting exports of livestock for slaughter with exemptions outweigh the international legal, commercial or diplomatic risks of imposing such restrictions [CAB Min (07) 7/1]. The export of livestock for slaughter could result in a number of negative impacts that could adversely affect New Zealand's reputation and economic interests as stated in paragraph 15 above.

Timing and 28 Day Rule

58. It is recommended that the Order ~~come into~~ effect on 21 December 2007.

59. An exemption to the 28-day rule is required to prevent persons from exporting livestock for slaughter after the Government has announced the decision to prohibit their exports.
s 9(2)(g)(i)

Compliance

60. Compliance is assumed as listed below:

a. Principles of the Treaty of Waitangi	Not applicable
b. The New Zealand Bill of Rights Act 1990	Not applicable
c. Human Rights Act 1993	Complies
d. The principles and guidelines set out in the Privacy Act 1993	Not applicable
e. Relevant international standards and obligations	Consistent with earlier advice provided to Cabinet, s 6(a), s 9(2)(g)(i), s 9(2)(h)
f. The Legislation Advisory Committee Guidelines: Guidelines on Process and Content of Legislation	Complies

Regulations Review Committee

61. It is not considered that there are any grounds for the Regulations Review Committee to draw the Customs Export Prohibition (Livestock for Slaughter) Order 2007 to the attention of the House under Standing Order 315.

Certification by Parliamentary Counsel

62. Parliamentary Counsel has certified the Customs Export Prohibition (Livestock for Slaughter) Order 2007 for submission to Cabinet.

Regulatory Impact Analysis

63. A regulatory impact statement was prepared in accordance with the necessary requirements and submitted with the paper to the Cabinet External Relations and Defence Committee [CAB Min (07) 38/3 refers].

Publicity

64. The Minister of Agriculture will issue a press statement after the Customs Export Prohibition (Livestock for Slaughter) Order 2007 has been approved by the Executive Council. There are advantages in making the announcement early in the week of 17 December to ensure that exporters are aware of the decision prior to the Christmas break. MAF will advise exporters and others who made submissions of the Cabinet decision following your announcement.

Consultation

65. The following departments have been consulted in the preparation of this paper (however, the urgent timeframes meant there was limited time for agencies to engage): Ministry of Foreign Affairs and Trade, New Zealand Food Safety Authority, Ministry of Economic Development, Treasury and Department of Prime Minister and Cabinet.

Financial Implications

66. There are no financial implications; all costs of implementation can be met from within existing budget.

Legislative Implications

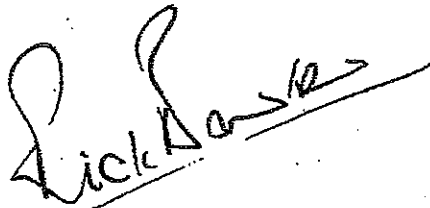
67. Adoption of this paper will result in the recommendation of a Customs Export Prohibition Order to be approved by the Governor-General by Order-in-Council.

Recommendations

68. We recommend that you:

1. note that exporters, industry groups, selected trading partners and other parties have been consulted about how the Government's decision to prohibit exports of livestock for slaughter, with exemptions where the risks can be managed to an acceptable level, could be implemented;
2. note that this consultation included seeking comment on the possible factors to be taken into account by the Director-General of the Ministry of Agriculture and Forestry in assessing any applications for exemptions to a Customs Export Prohibition Order;
3. note that there was general support for the Government's decision to place tighter controls on the export of livestock for slaughter, but that some adjustments have been made to the proposed draft exemption factors as a result of stakeholder submissions;
4. note that the Director-General of MAF may take the following factors into account when considering any application for an exemption to a Customs Export Prohibition Order:
 - i. the export is for slaughter of livestock in commercial slaughter houses;
 - ii. the Director-General is satisfied that the importing country has requirements in place that meet the World Organisation for Animal Health *Guidelines for the Slaughter of Animals*;
 - iii. cattle exported for slaughter must be stunned prior to slaughter in accordance with any of the methods described in the Guidelines;
 - iv. the Director-General is satisfied that the importing country has requirements in place that meet the World Organisation for Animal Health *Guidelines for the Transport of Animals by Land, Sea and Air*, in relation to the unloading and post-journey handling and transport of livestock;
 - v. a pre-shipment audit of slaughter facilities by inspectors nominated by MAF, and carried out at the exporters' expense, demonstrates compliance with the above requirements; and
 - vi. any other matter the Director General of MAF considers necessary to manage the risks to New Zealand's reputation as a responsible exporter of agricultural products;
 - vii. the Director-General MAF may require a bilateral arrangement be in place to support the requirements of importing countries set out above, along with any other requirements he or she believes are necessary to maintain New Zealand's reputation as a responsible exporter of agricultural products. In deciding whether to require a bilateral arrangement, the Director-General could take into account relevant experience with exporting livestock to that country; and
 - viii. the Director-General may review the factors he or she considers relevant for consideration at any time, taking into account such matters as the experience from past trade;
5. note that the Customs Export Prohibition (Livestock for Slaughter) Order 2007 is an interim measure until such time as amendments can be made to primary legislation;

6. **authorise** the submission of the Customs Export Prohibition (Livestock for Slaughter) Order 2007 to the Executive Council; and
7. **agree** to an exemption to the 28-day rule for the Customs Export Prohibition (Livestock for Slaughter) Order 2007 to enable the Order to come into effect on 21 December 2007.



Hon Rick Barker
Acting Minister of Customs

03 - 12 - 07



Hon Jim Anderton
Minister of Agriculture

3/12/07

RELEASED UNDER THE ACT
OFFICIAL INFORMATION

SAU/02/1/2
7.11.07

CRITERIA FOR EXEMPTIONS TO CUSTOMS EXPORT PROHIBITION ORDER LIVESTOCK EXPORTS FOR SLAUGHTER

Background

The Government has agreed in principle to put in place a Customs Export Prohibition Order prohibiting the export of sheep, cattle, deer and goats for slaughter, and giving the Director-General of the Ministry of Agriculture and Forestry (MAF) the discretion to approve individual consignments on a case-by-case basis in circumstances where the risks can be adequately managed. This decision is subject to the outcome of consultation with exporters of livestock and industry groups.

Proposed Customs Export Prohibition Order exemption criteria

MAF has given consideration to the criteria that the Director-General may take into account in considering any application for an exemption to a Customs Export Prohibition Order, should one be put in place, and invites comments by 26 November 2007. It is proposed that an exemption could be approved where:

- the Director-General is satisfied that the importing country has requirements which are equivalent to the World Organisation for Animal Health (OIE) *Guidelines for the Slaughter of Animals* with an additional requirement that livestock be stunned prior to slaughter in accordance with any of the methods described in the Guidelines;
- the Director-General is satisfied that the importing country has requirements which are equivalent to the OIE *Guidelines for the Transport of Animals by Land, Sea and Air*, in relation to the unloading and post-journey handling and transport of livestock;
- a pre-shipment audit of slaughter facilities by inspectors nominated by MAF, and carried out at the exporters' expense, demonstrates compliance with the above Guidelines; and that exporters would need to:
- provide an affidavit as to the purpose of export for all livestock exports.

A copy of the OIE *Guidelines for the Slaughter of Animals* and the *Guidelines for the Transport of Animals by Land, Sea and Air* can be obtained from:
http://www.oie.int/eng/normes/mcode/en_titre_3.7.htm.

In addition, the Director-General of MAF may require a country-to-country bilateral arrangement be in place to support the requirements of importing countries set out above, along with any other requirements he believes are necessary to maintain New Zealand's reputation as a responsible exporter of agricultural products and promoter of enhanced animal welfare. In deciding whether to require a bilateral arrangement, the Director-General could take into account relevant experience with exporting livestock to that country.

Additional Animal Welfare Act requirements

- Exporters would also, in accordance with the requirements of the *Animal Welfare Act 1999*, need to satisfy the Director-General of MAF as to the conditions for international transport of livestock up to the point of disembarkation. Where livestock are being transported by sea this may include a requirement that a MAF-accredited veterinarian accompany the shipment, experienced stockmen are on board and provisions are made for rapid disembarkation and, if required, quarantine.

Comments on the proposed criteria by which applications for exemptions to a Customs Export Prohibition Order may be considered should be sent by 26 November 2007 to:

s 9(2)(a)

Ministry of Agriculture and Forestry
Biosecurity New Zealand
P O Box 2526
Wellington

s 9(2)(a)

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OFFICIAL INFORMATION ACT

00966 1 4887912



Tel: (9661) 488 7988
Fax: +966 1 488 7912

NEW ZEALAND EMBASSY

PO BOX 94397
RIYADH 11693
SAUDI ARABIA

File Ref: SAL/NZ/119/2

FACSIMILE MESSAGE

DATE: 18 November 2007

TO: WELLINGTON

RPTD: CANBERRA

PRECEDENCE: Routine

PRECEDENCE: Routine

FROM: Trevor Matheson
Ambassador.

MFAT: MEA, FTAM, TND, DSP2
DSP5, DSP7, PATP

PAGE 1 OF: 2

MAF Biosecurity (Binnie,

MAF Policy (Carson,

NZ Food Safety (Zohrab)

SUBJ: SAUDI ARABIA/NEW ZEALAND: EXPORT OF LIVESTOCK
FOR SLAUGHTER

Further to our C07003898 of 5 November, we attach for information a letter dated 17 November from Hmood Al Ali Al Khalaf Trading & Transportation Est. of Dammam expressing concern about the possible prohibition on the export of livestock for slaughter from New Zealand. The letter seeks the continuation of the New Zealand - Saudi Arabia live export trade and notes that the company will be lodging a comprehensive submission with MAF before the 26 November deadline for receipt of comments. Relevant members of the visiting NZ FTA team have been provided with copies of the letter.

We have yet to receive any feedback on the live animal trade issue from the Saudi Ministry of Agriculture or other potentially affected interested parties in the GCC region, but will alert you if and when we receive any comments.

27751

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سفارة نيوزيلندا - الرياض

ص ب: ٤٤٣٩٧ الرياض ١١٦٩٣ - المملكة العربية السعودية

تليفون: ٤٨٨٧٩٨٨ (٩٦٦١) فاكس: ٤٨٨٧٩٩٢ (٩٦٦١)

مملكة البحرين
مكتب التجارة والصناعة



مملكة البحرين
مكتب التجارة والصناعة

HMOOD AL ALI AL KHALAF TRADING & TRANSPORTATION EST.

G.R. 2050002779

His Excellency, Mr. Jim Howell
Ambassador of New Zealand,
Riyadh, The Royal Kingdom of Saudi Arabia

17th November 2007

Subject [LIVESTOCK EXPORT FOR SLAUGHTER]

Dear Mr. Howell,

I write to express concern about information that I have received from our Company in New Zealand regarding the possible prohibition of livestock export for slaughter.

We have previously received assurance from the New Zealand Authorities that there was nothing standing in the way of finalizing a Government to Government MOU to enable the trade to resume.

Our Company has invested heavily in the importation of live sheep from New Zealand, with several million imported over the last twenty years. In the course of this business we have invested in New Zealand Farms, Feedlot, Animal Welfare Research and Development, Awassi Sheep Breeding Programs, and worked closely with New Zealand farmers for contract and supply.

Please note that our New Zealand group of companies (Awassi NZ Limited - Hmood Al Khalaf Trading and Transportation NZ Limited - Awassi NZ Landholding Limited), along with our New Zealand coordinating company, Challenge Livestock Partnership, will be lodging comprehensive submission to meet the deadline due on the 26th November 2007 as set by MAF to the New Zealand Government on the matter.

We request these submissions and seek the continuation of the New Zealand - Saudi live export trade, for which our company has proven capability to manage to a high standard.

Could you please your Excellency pass our concern to the appropriate authorities in the Ministries of Trade, Foreign Affairs and Agriculture and Forestry.

Yours Faithfully,
Hmood Al Ali Al Khalaf
Chairman, Hmood Al Ali Al Khalaf Trading and Transportation Est.

C07000146-RIY

RESTRICTED
NOT FOR CABLE EXCHANGE

FILE COPY

SAU/12/

Your Reference:

Our Reference:

FROM: Riyadh

C07000146-RIY 05/11/2007 05:08 p.m.

TO: Wellington

CC:

MFAT:

out of scope

AGENCIES:

SAUDI ARABIA: CALL ON MINISTER OF AGRICULTURE, JMC AND LIVESTOCK
EXPORTS FOR SLAUGHTER

Summary

s6(a)

s9(2)(ba)

Message

Report

Ambassador called 4 November on the Saudi Minister of Agriculture, HE Dr Fahad Bin Abdulrahman Bin Suleiman Balghunaim. Dr s9(2)(a) (Deputy Minister for Agricultural Research and Development Affairs), Eng. s9(2)(a) (Assistant Deputy Minister for Animal Resources), s9(2)(a) (Director of the Foreign Relations and International Cooperation Department) and the Assistant Deputy Minister for Fisheries (who's name we did not catch) sat in on the meeting. DHOM accompanied the Ambassador.

Joint Ministerial Commission

6/11/2007

NOT FOR CABLE EXCHANGE
RESTRICTED

Page 1 of 5

s6(a)

RELEASED UNDER THE
OFFICIAL INFORMATION ACT**Export of Livestock for Slaughter**

4 With the Minister clearly pleased to receive the JMC invitation, Ambassador said he now wished to turn to the second message – to convey personally to Minister Balghunaim the outcomes of a review of New Zealand's policy for the export of livestock for slaughter (sheep, cattle, deer and goats), and the implications for Saudi Arabia. Drawing on generic messages in Wellington's C07003709 of 24 October and handing Minister Balghunaim a copy of Mr Anderson's media statement of the same date, Ambassador took the Minister and his officials through the background to the review, our motivations in conducting the review, the conclusion we had reached – that tighter controls on the export of New Zealand livestock is necessary, and our proposed solution (subject to Cabinet approval) to put in place as an interim measure a Customs Export Prohibition Order (CEPO).

5 Ambassador stressed our actions were universal. The interim CEPO would apply to all countries. No single country or region was being targeted. The Order would only apply to exports of livestock intended for slaughter. Exports of livestock for breeding or other purposes would be permitted to continue unaffected. Our actions were proportionate to the level of risk identified. The Order would allow under certain circumstances for the possibility of individual export consignments being approved on a case-by-case basis. At the same time we were keen to obtain thoughts and comments from trading partners, in particular Saudi Arabia, on their reaction to the review findings and proposed CEPO by 26 November, so this could appropriately inform the Cabinet decision-making process in Wellington.

6 Turning specifically to bilateral trade with Saudi Arabia, Ambassador conveyed the country-specific messages inscribed in Wellington's refel of 24 October drawing particularly attention to our wish to work collaboratively with Saudi authorities in managing this issue, inviting the Ministry of Agriculture to provide any relevant information including on animal welfare that might be relevant in New Zealand taking an informed decision on the CEPO, and noting our willingness to consider this issue as an agenda item for next year's JMC.

s 6(a)

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Pages 4 to 5 are withheld under s 6(a)

C07000392-CBA

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FILE COPY

You Reference:

Our Reference:

FROM: Canberra

C07000392-CBA 05/11/2007 12:36 p.m.

TO: Wellington

CBA
Routine

Out of scope

RE (C07003709-WLN): LIVESTOCK EXPORTS FOR SLAUGHTER: POLICY REVIEW
OUTCOMES AND ADVICE TO TRADING PARTNERS

Summary

We advise Australian contacts of the proposed changes to New Zealand's policy on the export of livestock for slaughter.

s 6(a)

Message

Action Required

For information.

Report

2 Your C07003709 of 24 October and telecons/emails s 9(2)(a) refer. As requested we have advised relevant DAFF and DFAT officials (s 9(2)(a), Executive Manager, Technical Market Access, DAFF and s 9(2)(a), Assistant Secretary, Trade Development Division, DFAT) about the proposed changes to New Zealand's policy on the export of livestock for slaughter.

s 6(a)

s 9(2)(a)

Pages 2 and 3 are withheld under s 6(a) and s 9(2)(b)

You. Reference:

Our Reference:

FROM: Wellington (TND) C07003709-WLN 24/10/2007 02:44 p.m.
TO: Riyadh, s 9(2)(a) WLN
Priority

s 9(2)(a)

ATTACHMENTS: 1280211.03.doc; 1280667.01.doc

LIVESTOCK EXPORTS FOR SLAUGHTER: POLICY REVIEW OUTCOMES AND
ADVICE TO TRADING PARTNERSSummary

Following a review of New Zealand's policy for exports of livestock (sheep, cattle, deer and goats) for slaughter, Cabinet has agreed that further restrictions on the export of livestock for slaughter is in the public interest and decided in principle to put in place a Customs Export Prohibition Order in the interim while longer term options are pursued. None of the proposed restrictions will apply to exports of livestock for breeding or other purposes and this trade will be able to continue unaffected. We seek posts' assistance in advising selected trading partners that a review has been undertaken and its outcomes, the options for implementation and to provide them with an opportunity to comment if they wish.

MessageAction

As per our para 9, grateful if action posts could draw on the key messages in the attachment to our message and approach the following trading partners: **Saudi Arabia**, **Out of scope**. For other posts, while we do not wish you to approach your host country or countries of accreditation, you may use the generic key messages in the attachment on an 'if approached' basis.

Report

At the direction of Cabinet, officials reviewed New Zealand's policy for exports of livestock for slaughter. Livestock in this case are sheep, cattle, deer and goats. The policy was reviewed to ascertain whether it provides the government with the ability to manage the risks to New Zealand as a responsible exporter of agricultural products resulting from the export of livestock for

slaughter. Officials concluded that the status quo does not provide a means to manage the risk to New Zealand as a responsible exporter of agricultural products. Cabinet has agreed that further restrictions on the export of livestock for slaughter is in the public interest and decided in principle to put in place a Customs Export Prohibition Order in the interim while longer term options are pursued. The Minister of Agriculture has also issued a press release on this issue which is attached for posts' information.

The review

2 The purpose of the review was to address concerns about the pre-slaughter handling practices and slaughter methods in some importing countries and the potential impact on New Zealand's reputation as a responsible exporter of agricultural products, along with any economic consequences resulting from an adverse event. It was concluded that the status quo may not provide a means to manage the risk to New Zealand as a responsible exporter of agricultural products.

3 The current legislation does not provide for consideration of issues relating to the treatment of livestock in the importing country, including in relation to handling and slaughter practices. Providing exporters meet the requirements of the Animal Products Act and the Animal Welfare Act, and satisfy the Director-General of the Ministry of Agriculture and Forestry as to the conditions for international transport of livestock up to the point of disembarkation, the export may proceed.

Risks

4 Taking action to change these requirements carries positive and negative risk. The export of livestock for slaughter could result in a number of negative impacts that could adversely affect New Zealand's reputation and economic interests. Interests at stake include:

- New Zealand's reputation as a "clean, green" and humane sustainable exporter and promoter of animal welfare; and
- the integrity of our agricultural exports which are valued at \$18.3 billion per annum.

s 6(a)

= 9(2)(d)

5 Conversely, the imposition of any further restrictions on exports of livestock for slaughter will itself entail international legal, commercial and diplomatic risks.

s 6(a)

= 9(2)(g)(i)

Conclusions

6 The Government has made the judgement that the benefits to New Zealand's trade to be gained by restricting exports of livestock for slaughter with exemptions outweigh the international legal, commercial and diplomatic risks of imposing such restrictions. Accordingly, the Government has:

agreed to prohibit exports of sheep, cattle, deer and goats for slaughter, with exemptions where the risks can be managed to an acceptable level;

* agreed in principle that controls on the export of livestock for slaughter is in the public interest and as interim measure, to use a Customs Export Prohibition Order to prohibit their export with a discretion to approve individual consignments on a case-by-case basis in circumstances where the Director-General of MAF judges that the risks can be adequately managed;

* noted that none of the restrictions proposed will apply to exports of livestock for breeding or other purposes and that this trade can continue unaffected;

Advice to trading partners

7 We are aware that the imposition of restrictions on livestock exports for slaughter is likely to have an impact on New Zealand's bilateral relationships and in particular with the Kingdom of Saudi Arabia with whom we have been negotiating a bilateral arrangement to facilitate the resumption of trade in sheep for slaughter. Any adverse effects on the Saudi-New Zealand bilateral economic relationship could in turn have wider implications for regional political and economic relationships,

s9(2)(j)

8 We wish, therefore, to be proactive in managing the risk to and impact on bilateral relationships with trading partners who either are or are likely to be affected by the Government's decision. We have been directed to advise them of the fact that a review has been undertaken, the options for implementation, and allow them an opportunity to comment if they wish. We are required to report back to Cabinet by 12 December 2007. Additionally, MAF will be consulting with exporters of livestock and industry groups

9 Grateful if action posts could draw on the key messages in the attachment to our message and approach the following trading partners: Saudi Arabia, *out of scope*. For other posts, while we do not wish you to approach your host country or countries of accreditation, you may use the generic key messages in the attachment on an 'if approached' basis

Out of scope

11 As we are required to report back to Cabinet by 12 December 2007, we would be grateful for any reporting on reactions from trading partners by 26 November. If trading partners wish to provide any comment, we will also need to receive this by 26 November.

Message ends

RESTRICTED

REVIEW OF NEW ZEALAND'S POLICY FOR THE EXPORT OF LIVESTOCK FOR SLAUGHTER

Generic messages

- New Zealand has reviewed its policy for exports of livestock for slaughter. Livestock in this case are sheep, cattle, deer and goats.
- The motivation for this review was concerns around the risks and potential impact on our reputation as an exporter along with any economic consequences if something was to go wrong with this trade. It has been concluded that the status quo does not provide sufficient ability for the Government to manage the risks associated with this trade to New Zealand.
- The New Zealand Government has agreed that tighter controls on the export of livestock for slaughter are necessary. It is proposed that in the longer-term, this may be able to be achieved through an amendment to legislation.
- In the interim, however, a legal instrument called a Customs Exports Prohibition Order will, in principle, be used to manage the trade. While, the Order would put in place a prohibition on all exports of livestock for slaughter, it would also provide for the possibility of individual consignments being approved on a case-by-case basis.
- Such approval would be at the discretion of the Director-General of New Zealand's Ministry of Agriculture and Forestry and would be granted in circumstances where the Director-General judges that the risks could be adequately managed.
- This Order would only apply to exports of livestock intended for slaughter. Exports of livestock for breeding or other purposes would be permitted to continue unaffected.
- We would welcome any thoughts or comments you might like to share on this with us.

Country-specific messages

Saudi Arabia

- Grateful for support of Saudi Ministry of Agriculture in carrying out negotiations to date on the bilateral Arrangement on the Trade in Live Animals. We apologise for the delay in providing New Zealand's response to KSA's comments on the draft text dated 14 June 2006.

The proposed CEPO means that approval of any future livestock exports to the KSA under the provisions of the Arrangement would be subject to further case-by-case assessment of the welfare risks.

RESTRICTED

- In the interests of assisting New Zealand authorities to carry out these assessments, New Zealand would be very grateful to receive any information the MOA can provide on animal welfare regulations governing the treatment of livestock for slaughter in KSA. New Zealand would be happy to have discussions on or share information regarding our respective policies regarding animal welfare.

s 6(a)

s 9(2)(ba)

- We look forward to hosting the next round of the Saudi/NZ JMC in 2008, and would be pleased to formally discuss this issue further in that context.
- New Zealand proposes that negotiations towards the conclusion of the Arrangement be deferred in the meantime.

If implications for/of the FTA are raised:

s 6(a)

s 9(2)(j)

out of scope

Page 3 is out of scope



Commercial: In Confidence

Cabinet External Relations and Defence Committee

ERD Min (07) 7/1

Copy Number 40

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

New Zealand's Requirements for Livestock Exported for Slaughter

On 17 October 2007, the Cabinet External Relations and Defence Committee (ERD):

- 1 noted that there is currently no legal mechanism to prevent livestock exports for slaughter based on the treatment of animals in the importing country, providing exporters meet the requirements of the Animal Welfare Act 1999 and satisfy the Director-General of the Ministry of Agriculture and Forestry as to the conditions for international transport of animals up to the point of disembarkation;
- 2 noted that there would potentially be significant public concern and possible international consumer reaction if exports of livestock for slaughter were to recommence from New Zealand to countries that do not practise pre-slaughter stunning of animals, or where other handling practices are significantly different to those used in New Zealand;
- 3 noted that restrictions on exports of livestock for slaughter would themselves entail international legal, commercial and diplomatic risks, including impact on:
 - 3.1 s 6(a), s 9(2)(g)(i)
 - 3.2 s 6(a), s 9(2)(i)
- 4 noted that there are three options:
 - 4.1 prohibit exports of sheep, cattle, deer and goats for slaughter outright;
 - 4.2 prohibit exports of sheep, cattle, deer and goats for slaughter, with exemptions where the risks can be managed to an acceptable level;
 - 4.3 retain the status quo whereby sheep, cattle, deer and goats are allowed to be exported without consideration of their treatment in the importing country;
- 5 noted that officials do not support the option in paragraph 4.1;
- 6 noted that a judgement is required as to whether benefits to New Zealand's trade to be gained by restricting exports of livestock for slaughter with exemptions outweigh the international legal, commercial and diplomatic risks of imposing such restrictions;

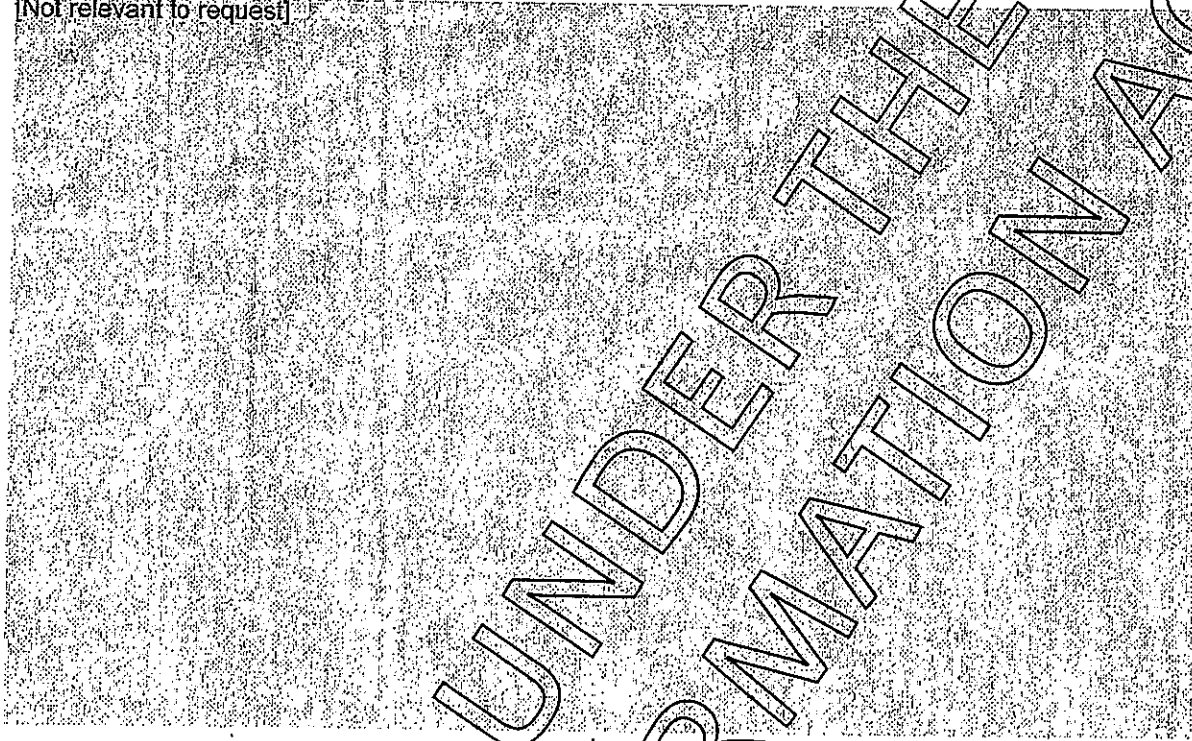
- 7 agreed to prohibit exports of sheep, cattle, deer and goats for slaughter, with exemptions where the risks can be managed to an acceptable level;
- 8 noted that an amendment to primary legislation offers a long term solution by restricting trade conditionally, with discretion exercised by the appropriate Minister, or unconditionally;
- 9 directed officials from the Ministry of Agriculture and Forestry, the Ministry of Foreign Affairs and Trade, New Zealand Customs Service and New Zealand Food Safety Authority to develop these proposals further and report to the Cabinet External Relations and Defence Committee with a proposal for legislative amendment by 30 March 2008;
- 10 agreed in principle:
- 10.1 that controls on the export of livestock for slaughter is in the public interest;
- 10.2 to put a Customs Export Prohibition Order in place in the interim, prohibiting the exports of sheep, cattle, deer and goats for slaughter and giving the Director-General of the Ministry of Agriculture and Forestry the discretion to approve individual consignments on a case-by-case basis in circumstances where the risks can be adequately managed;
- subject to the report in paragraph 13 below,
- 11 noted that none of the restrictions proposed will apply to exports of livestock for breeding or other purposes and that this trade can continue unaffected;
- 12 directed the Ministry of Foreign Affairs and Trade to advise trading partners, including Saudi Arabia, of the fact that a review has been undertaken and of the options for implementation, and allow them an opportunity to comment if they wish;
- 13 directed the Ministry of Agriculture and Forestry to consult with exporters of livestock and industry groups on the findings of the review and options for implementation, and report to the Cabinet External Relations and Defence Committee by 12 December 2007.

§ 9(2)(a)

for Secretary of the Cabinet

Copies to: (see over)

[Not relevant to request]



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OFFICIAL INFORMATION ACT

Cabinet Paper for ERD – Briefing for CEO

Title of Cabinet paper	Policy review of New Zealand's requirements for livestock exported for slaughter
Lead division(s)/ group(s)/ agency	<p>The MFAT division(s), NZAID group(s) and officer(s), or government agency(ies) responsible for drafting or coordinating comment on this paper are:</p> <ul style="list-style-type: none"> MAF paper with TND (s9(2)(a)) and TLU (s9(2)(a)) coordinating the Ministry's input into the policy review and paper.
Key issues	<p>The paper's key issue(s) are:</p> <ul style="list-style-type: none"> There are concerns around risks to New Zealand's reputation and the consequential effects an adverse event associated with the export of livestock for slaughter. Officials concluded that the status quo may not provide a means to manage these risks to New Zealand as a responsible exporter of agricultural products. Preferred option to manage this risk is an amendment to primary legislation; however, this is a longer term solution. In the interim, should Ministers wish to manage the risk, it would be necessary to put in place a Customs Export Prohibition Order or CEPO. The CEPO would prohibit the export of livestock for slaughter but would contain a discretion for the Director-General of MAF to approve exports where he deemed that the risk could be managed. <p>It is proposed that officials consult both domestically and with selected trading partners on the outcomes of the review and provide the opportunity for comment.</p>
Consultation	<p>The key departments and/or groups consulted in preparing this paper are:</p> <ul style="list-style-type: none"> consulted with MFAT, NZFSA, DPMC, Customs, MED and The Treasury within MFAT (TND (), TLU (), MEA (), FTAM () <p>s 9(2)(a)</p>

Views

s 9(2)(g)(i)

MFAT's views are

- We consider that there are clear foreign and trade policy risks associated with placing further restrictions on trade.
- From the perspective of our bilateral relationship with Saudi Arabia, there is a clear preference not to place any further restrictions on trade.
- Prior to the review, we had also been working to negotiate a bilateral arrangement with Saudi Arabia (s 6(a)) to manage the identified risks associated with ensuring that consignments of livestock would be able to be unloaded on reaching the port of destination without delay. The review has directly impacted on progress with concluding these negotiations.

Risks

Actual or potential risks identified in relation to the policy proposal are:

- There are legal and trade policy risks associated with imposing restrictions placed on the export of livestock for slaughter. Such restrictions could:

s 9(2)(h)

s 9(2)(d)

s 6(a)

s 9(2)(g)(i)

To be completed by the CEO:

Oral briefing

Oral briefing required?

Yes

☐

No

☐

Chair
Cabinet External Relations and Defence Committee

POLICY REVIEW OF NEW ZEALAND'S REQUIREMENTS FOR LIVESTOCK EXPORTED FOR SLAUGHTER

Proposal

1. The paper proposes that Cabinet agree to either:
 - i. prohibit the export of livestock for slaughter, with exemptions where the risks can be managed to an acceptable level and, if so, provide direction to officials to achieve this;
 - or
 - ii. continue the status quo whereby livestock are allowed to be exported without consideration of their treatment in the importing country.

Executive Summary

2. At the direction of Cabinet, officials have reviewed New Zealand's requirements for exports of livestock for slaughter. It is concluded that the status quo may not provide a means to manage the risk to New Zealand as a responsible exporter of agricultural products. Livestock in this case are sheep, cattle, deer and goats.
3. The current legislation does not provide for consideration of issues relating to the treatment of livestock in the importing country, including in relation to handling and slaughter practices. Providing exporters meet the requirements of the Animal Products Act and the Animal Welfare Act, and satisfy the Director-General of the Ministry of Agriculture and Forestry as to the conditions for international transport of livestock up to the point of disembarkation, the export may proceed.
4. Taking action to change these requirements carries positive and negative risk. The export of livestock for slaughter could result in a number of negative impacts that could adversely affect New Zealand's reputation and economic interests. Interests at stake include:
 - New Zealand's reputation as a "clean, green" and humane sustainable exporter and promoter of animal welfare; and
 - the integrity of our agricultural exports which are valued at \$18.3 billion per annum. Even a small decline in trade due to European Union consumer resistance to New Zealand agricultural exports would have a greater negative impact on the New Zealand economy than the lost revenue from restricting livestock exports for slaughter.

5. Conversely, the imposition of any further restrictions on exports of livestock for slaughter would itself entail international legal, commercial and diplomatic risks. s 6(a), s 9(2)(g)(i), s 9(2)(h)

s 6(a)

s 9(2)(g)(i)

6. If Cabinet decides to adopt more restrictive requirements for the export of livestock for slaughter, there are a number of implementation options. The preferred option is to amend primary legislation. While an absolute prohibition of exports of livestock for slaughter is possible, this is not recommended as it would be unnecessarily restrictive and removes trade opportunities with countries and in circumstances where the risks are low and the trade can be adequately managed. Officials consider that any restriction on trade should be subject to exemptions. Officials could be directed to further investigate the mechanisms for implementation and to report back with a proposal for legislative amendment by 30 March 2008.
7. If Cabinet wishes to restrict the trade with early effect, an interim regime would be desirable while changes to primary legislation are progressed. This could be achieved via a Customs Export Prohibition Order implemented early in 2008. s 6(a)
8. Officials recommend that any decision to adopt more restrictive export requirements be consulted with affected parties to mitigate the risk of domestic legal challenge. Affected parties would include exporters of livestock for slaughter and industry groups (Meat Industry Association and Meat and Wool New Zealand Limited) as well as representatives of farmers involved in the production of livestock for slaughter (Federated Farmers of New Zealand Incorporated). Consultation will allow affected parties to express their views and for these to be taken into account. In this event, it is proposed that officials be directed to report back by 12 December 2007 to allow Cabinet External Relations and Defence Committee (ERD) to consider the outcome of consultation.
9. At the same time, officials would also recommend that trading partners, Saudi Arabia in particular, be advised that a review has been undertaken and be given the opportunity to comment.

Background

10. In August 2006, I directed officials to review government policy on the export of livestock for slaughter. The purpose of the review was to address concerns about the pre-slaughter handling practices and slaughter methods in some importing countries and the potential impact on New Zealand's reputation as a responsible exporter of agricultural products, along with any economic consequences resulting from an adverse event.
11. On 13 August 2007, Cabinet directed officials to report back to ERD by March 2008 on the outcome of the initial stages of the review. Cabinet also invited me, in consultation with the Minister of Trade, to provide a paper to the ERD by 22 August 2007 on how affected exports would be dealt with during the period of the review and a possible communications strategy regarding the review [CAB Min (07) 29/2A refers].
12. Officials concluded that the work required for the initial paper to ERD would comprise a significant proportion of the total work for the review and that by giving the review work a high priority the full review could be completed by October 2007. Taking this into account, Cabinet directed officials to complete the review and report to ERD by 17 October 2007 [CAB Min (07) 33/3A refers]. The review was undertaken in the context of developing the report-back to ERD and this paper represents the product of the review.

Current policy and reasons for concern

Existing Legislation

13. New Zealand's current policy for the export of livestock is reflected in the Animal Products Act 1999 and the Animal Welfare Act 1999.
14. The Animal Products Act provides for the regulation of all products derived from animals and the export of those products. The scope also covers trade in livestock including their export. The object of the Animal Products Act is to minimise and manage risks to human and animal health arising from the production and processing of animal material and products by instituting measures that ensure so far as is practicable that all traded animal products are fit for their intended purpose. It also facilitates the entry of animal material and products into overseas markets by providing the controls and mechanisms needed to safeguard official assurances for entry into those markets. It does not fit with the purposes of the Act to prohibit, restrict, or control exports of livestock for other reasons such as animal welfare.
15. The Animal Products Act includes a requirement that exporters of animal material and products must be registered, with certain exceptions. Exporters have a duty to comply with any standards and specifications issued under the Act and, as such, these must fall within the object and purposes of the Act.

16. Under the Animal Welfare Act it is an offence to export an animal without an animal welfare export certificate except where exempted by Gazette notice, or where the animal is exported under the Wildlife Act 1953 (which covers native species and many species established in the wild) or the Wild Animal Control Act 1977 (which covers wild animals such as wild deer and possum).
17. Under the Animal Welfare Act:
- (i) the Director-General of the Ministry of Agriculture and Forestry may only take into account matters related to the transport of animals *up to the point of disembarkation*;
 - (ii) the Director-General may not take into account the treatment of animals in the importing countries including in relation to handling and slaughter practices;
 - (iii) exporters are not required to specify the purpose of export (i.e. for breeding, for slaughter); and
 - (iv) once an exporter satisfies the Director-General that the requirements of the Act have been met, the Director-General must issue an Animal Welfare Export Certificate and the export may then proceed.
18. The Animal Welfare Act does not provide for the ability to consider issues related to the treatment of livestock in the importing country. Providing exporters meet the requirements of the Animal Welfare Act and satisfy the Director-General of the Ministry of Agriculture and Forestry as to the conditions for international transport of livestock up to the point of disembarkation, the export may proceed.
19. The current policy was reviewed to ascertain whether it provides the government with the ability to manage the risks to New Zealand as a responsible exporter of agricultural products resulting from the export of livestock for slaughter.
20. The current legislation does not provide for the management of risks once livestock have disembarked, such as the manner in which the livestock are handled and subsequently slaughtered e.g. without stunning. While there are risks simply from the export trade recommencing, the risk to New Zealand would be magnified should it become involved in an adverse event such as the *Cormo Express* incident in 2003, where a shipment of Australian sheep was unable to unload in the destination country; or media coverage of the conditions faced by animals in some markets, similar to the 2005 Australian *60 Minutes* programme on the treatment of livestock in Egypt after their transportation from Australia.
21. The review identified that the current policy may not provide a means to manage the risk to New Zealand as a responsible exporter of agricultural products, and any economic consequences resulting from an adverse event. Officials determined that the export of livestock for slaughter could result in a number of negative impacts that could adversely affect New Zealand's reputation and economic interests, although the likelihood of these impacts occurring was unable to be determined. Interests at stake include:

- *New Zealand's international reputation* as a "clean, green" and humane sustainable exporter and a promoter of animal welfare. Studies indicate that New Zealand would lose its edge in overseas marketing should this reputation be tarnished; and
- *the integrity of our agricultural exports* valued at NZ\$18.3 billion per annum; the export of meat generally is valued at NZ\$4.7 billion (14.27%), sheep meat alone accounts for NZ\$2.4 billion. Even a 10% (\$150 million per annum) decline in the value of sheep meat exports to the European Union alone (the most vulnerable market) would have a greater negative impact on the New Zealand economy than the lost revenue from restricting exports of live animals for slaughter. Other markets could also be affected. The total export of livestock in 2006 was valued at NZ\$49 million (0.26% of total exports), most of which comes from the export of animals for breeding, not for slaughter. While this could be larger if the sheep trade to Saudi Arabia were to resume, it is likely to remain negligible (e.g. one or two shipments per year valued at approximately NZ\$4.8 million each and some export of cattle for slaughter).

22. It should be noted that in assessing the risks, it was difficult to determine the likelihood of an adverse event occurring. Australia, which exports some two to three million sheep a year to Saudi Arabia, has not had a repeat of the 2003 *Cormo Express* affair. There has however been media exposure of handling and slaughter practices in countries that do not practice pre-slaughter stunning in 2005 and 2007. In addition, a global campaign against the long distance transportation of livestock for slaughter is scheduled to be launched in early 2008 by the World Society for the Protection of Animals. Given the difficulty in determining the likelihood of an adverse event, it is a question of whether, in light of the significant consequences associated with an adverse event, it is necessary to impose additional restrictive measures on the trade to reduce the probability of an adverse event occurring.

23. Should Cabinet decide to adopt more restrictive measures on livestock exports, officials recommend that the measures need only apply to livestock exports for slaughter. Export of livestock for breeding and other purposes comprise most of New Zealand's trade in exports of livestock and usually involve high value animals that are well treated during transportation and on arrival. Such trade was worth \$94 million in 2006. Few problems have been identified with this trade and it should not be further restricted.

International legal and policy risks

24. s 6(a), s 9(2)(g)(i), s 9(2)(h)

s 6(a), s 9(2)(g)(i), s 9(2)(i)

25 s 6(a), s 9(2)(g)(i)

26 s 6(a), s 9(2)(g)(i)

27. Saudi Arabia is by far New Zealand's largest market in the Middle East, with exports of all products to June 2007 worth \$436.8 million. There has been investment (in land and New Zealand-based breeding programmes) in New Zealand from Saudi Arabia with the express purpose of exporting shipments of live Awassi sheep from New Zealand to Saudi Arabia. The trade had a declared worth of \$2.7 million in 2002 and \$3.7 million in 2003 but is estimated to be worth more in the future as these sheep have been specifically bred for the Saudi market.

s 6(a)

28. A bilateral Arrangement has also been under negotiation to allow for the resumption of live sheep exports on a commercial basis, and the Saudis have received good-faith assurances from New Zealand to this end. The imposition of restrictive measures which adversely impacted on the success of the Awassi New Zealand project would have implications related to the attractiveness of New Zealand as a secure environment for investment, and failure to negotiate the reinstatement of the live sheep trade could result in some negative political fallout with Saudi Arabia.

29 s 6(a)

s 9(2)(i)

Domestic economic considerations

30. If New Zealand restricts exports of livestock for slaughter there will be a loss of business opportunity for some potential future exporters. There may also be additional requirements to be met, or a delay, before existing trade can resume depending on the mechanism of implementation that is chosen.
31. There is some interest in exports of livestock for slaughter with a confirmed expression of interest from one exporter to export sheep to Saudi Arabia in 2008. As noted above, one exporter has, over recent years, invested in breeding programmes specifically in order to serve that market with the expectation that trade would resume. Should Cabinet decide to adopt more restrictive requirements for the export of livestock for slaughter, this trade would likely be restricted by decisions arising from the review unless assurances were received that the trade did not pose undue risk.

Options for more restrictions on exports of livestock for slaughter

32. There are two possible options to better manage the risks associated with the export of livestock, should Ministers wish to pursue them. The options are:
 - i. prohibit exports of livestock for slaughter outright;
 - or
 - ii. restrict exports of livestock for slaughter, with exemptions where the risks can be managed to an acceptable level.

Evaluation of options should Ministers decide to further restrict the trade.

34. *Option i:* officials advise against adoption of an outright prohibition as it is unnecessarily restrictive. It does not allow exports to countries in circumstances where the risks can be adequately mitigated. It would, for example, prohibit the current trade in cattle for fattening and slaughter for the production of Kobe beef to Japan. This trade has been undertaken for a number of years and the risk arising is considered negligible.
35. *Option ii:* this is officials preferred option. If Ministers choose this option then exports could take place for species, purposes or in circumstances where the Minister of Agriculture considers that there are no significant animal welfare risks.

Mechanisms for implementing more restrictive measures for the export of livestock for slaughter

36. If Ministers wish to either prohibit or restrict the export of livestock for slaughter, officials recommend the new policy be implemented via an amendment to primary legislation.

37. Should Ministers decide to adopt an outright prohibition (option i), then it could be given effect under several pieces of legislation, including the Animal Welfare Act and the Customs and Excise Act. A number of ancillary considerations would need to be taken into account, including the extent to which it fits with the purpose of the legislation and administrative provisions.
38. There are a number of possible means of effecting partial restrictions on export of livestock for slaughter (option ii). The easiest of these to implement would be to prohibit all exports of livestock for slaughter, with exemptions where the risks can be adequately managed. Exemptions could include export:
- to countries where the Minister of Agriculture believes there are no significant animal welfare risks; and
 - under bilateral arrangements or other mechanisms covering post-arrival animal welfare considerations and slaughter practices.
39. An exception for export under a bilateral arrangement has parallels with the approach taken by Australia. Development of a bilateral arrangement is also the approach currently being used by New Zealand in its negotiations with Saudi Arabia for the export of sheep (and possibly other livestock in the future) for slaughter. However, under this option, the bilateral arrangement would also need to be extended by agreement with the importing country to include livestock handling and slaughter practices after their arrival.
40. Taking such an approach could preclude existing and future trade in the short term, for example, pending the negotiation of a bilateral arrangement. In further developing this option, officials would seek to identify how it can be implemented to cause minimum disruption to existing trade where there are no concerns about post arrival treatment and slaughter, possibly by Gazetting exemptions to the prohibition.
41. Exporters are currently not required to advise the purpose for which livestock are being exported. To manage livestock exports for slaughter through legislation, it would be necessary to obtain this information from exporters either as part of the documentation requirements or by way of statutory declaration.
42. It would be advisable to ensure that, if adopted, a restriction could be supported by reference to relevant international guidelines such as those promulgated by the World Organisation for Animal Health (OIE) and domestic New Zealand practices, noting that a new code of welfare for commercial slaughter is expected to be issued in 2008.
43. A number of other mechanisms for legislative implementation of this option were considered and have been set aside. The possible options were assessed against a number of criteria to determine whether the option mitigates the risk to an acceptable level. The criteria used were a strategic fit with the purpose of the review, net benefit, commercial impact, regulatory impact, feasibility, resources required to implement the option, barriers to success, transparency of the desired outcome, and consistency with New Zealand's international obligations and current trade policy settings. Annex 1 provides an analysis of the alternative options against the criteria.

44. In conclusion, if Cabinet decides to adopt more restrictive requirements for the export of livestock for slaughter, it is proposed that officials be directed to further develop proposals to amend primary legislation, in particular the option of prohibiting all livestock exports in the first instance, subject to specified exemptions or circumstances in which the Minister of Agriculture is satisfied that the risks can be adequately managed.

Interim measures

45. Should Cabinet decide to adopt more restrictive requirements, and given the likely delay in effecting change in primary legislation, consideration has been given to interim measures. Two options were identified: use of a Customs Export Prohibition Order to restrict trade and negotiation of a voluntary moratorium with exporters.

Customs Export Prohibition Order

46. Under Section 56 of the Customs and Excise Act 1996, if the Governor-General considers prohibition is necessary in the public interest, the Governor-General may by Order in Council prohibit the exportation of any product from New Zealand, in this case livestock for slaughter. A prohibition may be general or limited to export to a specified place or by or to a specified person or class of persons. Whether general or limited, a prohibition may be absolute or conditional. The reasons why a prohibition order on the export of livestock for slaughter is necessary in the public interest are set out in paragraph 22.
47. If approval is given to introduce a Customs Export Prohibition Order, it should prohibit the export of livestock for slaughter except with the consent of the Director-General of the Ministry of Agriculture and Forestry. This will give the Director-General the discretion to approve individual consignments on a case by case basis.
48. In exercising his discretion, the Director-General could allow trade in circumstances he believed did not pose undue risk using criteria similar to those proposed if a decision is made to amend primary legislation. As the criteria for exempting, or not exempting, exports of livestock for slaughter would not be specified in the Order in Council, there may be an opportunity for legal challenge of decisions.

Voluntary Moratorium

49. A voluntary moratorium could be negotiated between government and exporters of livestock to allow time for government to review options for managing the export of livestock for slaughter and to implement the outcomes of the review.
50. While some exporters of livestock for slaughter may agree to a moratorium, it is unlikely to be acceptable to all. Legal action is currently being pursued by Redex New Zealand Limited in an effort to overturn the Director-General of the Ministry of Agriculture and Forestry's decision to decline to issue an Animal Welfare Export Certificate for export of cattle for slaughter to Korea and it would seem unlikely that this exporter would agree to a voluntary moratorium.

51. In conclusion it is proposed that, should Cabinet decide to adopt more restrictive requirements for the export of livestock for slaughter, it also agree in principle that:
- a Customs Export Prohibition Order is necessary in the public interest; and
 - a Customs Export Prohibition Order is the preferred interim solution; and
 - it review its decision once the outcome of consultation with affected parties is known.

Future consultation with affected parties

52. If Cabinet decided to adopt more restrictive requirements, government should consult with affected exporters of livestock for slaughter on how requirements should be implemented. Consultation is preferable in order to mitigate the risks of legal challenge of decisions made without affected parties having had the right to be heard.
53. The number of exporters actively pursuing livestock exports for slaughter is few, although should the trade resume other potential exporters may emerge depending on the profitability in specific markets. One existing exporter periodically exports feeder and slaughter cattle to Japan for the production of Kobe beef; another potential exporter has applied and been declined an Animal Welfare Export Certificate for the export of cattle for slaughter to Korea on the basis of concerns about potential delays in disembarkation of cattle; and two further potential exporters have made written and verbal approaches about the export of sheep for slaughter to Saudi Arabia and Australia.
54. Officials recommend that consultation also be undertaken with industry groups (e.g. Meat Industry Association and Meat and Wool New Zealand Limited) and representatives of farmers (e.g. Federated Farmers of New Zealand Incorporated). Farmers may be directly affected if part or all of their production has been geared to producing livestock to be exported for slaughter. This would include any stock that has been bred or cross-bred for export, or fed and managed to specialist requirements of the export market, such as for production of Kobe beef or fat-tailed lambs. Even those not actively involved in the trade could be indirectly affected if an option to sell livestock is removed as a result of the review. There are indications that industry and some farmers' groups are likely to support measures taken to restrict trade in order to protect New Zealand's reputation as a responsible agricultural exporter overall.
55. It is recommended that trading partners, Saudi Arabia in particular, be advised that a review has been undertaken and be given the opportunity to comment. In doing so, it would be necessary to take into account the possibility of a negative reaction to this advice as well as the implications for the negotiation of the bilateral arrangement.

Consultation

56. The following departments have been consulted in the development of this paper and concur with its recommendations: Ministry of Agriculture and Forestry, Ministry of Foreign Affairs and Trade, New Zealand Customs Service, New Zealand Food Safety Authority, Ministry of Economic Development, Treasury and the Department of Prime Minister and Cabinet.

Process following consideration of this paper

57. If Cabinet decides to adopt more restrictive requirements for the export of livestock for slaughter and agrees in principle to a Customs Export Prohibition Order as an interim measure, a process and possible timetable for the next steps would be:

October 2007	Cabinet decision
November 2007	Consultation with affected parties completed; trade partners advised
December 2007	Cabinet agrees to enact Customs Export Prohibition Order
March 2008	Customs Export Prohibition Order takes effect
March 2008	ERP / Cabinet considers preferred options for amendment of primary legislation
April 2008	Law drafting begins, priority decided by Government.

Financial Implications

58. There are no financial implications; all costs of the review, its implementation and consultation with affected parties can be accommodated within budget.

Human Rights Implications

59. The review of policy and its implementation are consistent with the Human Rights Act 1993.

Legislative Implications

60. Consideration of the recommendations has no legislative impact. Implementation of decisions may result in changes to primary or secondary legislation.

Regulatory Impact Analysis

61. The Ministry of Agriculture and Forestry confirms that the principles of the Code of Good Regulatory practice and the regulatory impact analysis requirements have been complied with. A Regulatory Impact Statement (RIS) was prepared and the Regulatory Impact Analysis Unit considers the RIS and the regulatory impact analysis to be adequate given the decisions being sought from Cabinet. Following the next steps recommended by officials, all the regulatory impact analysis requirements should be met. The RIS was circulated with the draft Cabinet paper for departmental consultation.

Recommendations

62. It is recommended that you:

1. note that there is currently no legal mechanism to prevent livestock exports for slaughter based on the treatment of animals in the importing country, providing exporters meet the requirements of the Animal Welfare Act and satisfy the Director-General of the Ministry of Agriculture and Forestry as to the conditions for international transport of animals up to the point of disembarkation;
2. note that there would potentially be significant public concern and possible international consumer reaction if exports of livestock for slaughter were to recommence from New Zealand to countries that do not practise pre-slaughter stunning of animals or where other handling practices are significantly different to those used in New Zealand;
3. note that restrictions on exports of livestock for slaughter would themselves entail international legal, commercial and diplomatic risks, including impact on:
 - i. s 6(a), s 9(2)(g)(i)
 - ii. s 6(a), s 9(2)(i)
4. note that there are three options:
 - i. prohibit exports of sheep, cattle, deer and goats for slaughter outright;
 - ii. prohibit exports of sheep, cattle, deer and goats for slaughter, with exemptions where the risks can be managed to an acceptable level; or
 - iii. status quo whereby decisions on the export of sheep, cattle, deer and goats are allowed to be exported without consideration of their treatment in the importing country.
5. note that officials do not support option i and would need to report back on its implementation should Ministers choose it.
6. note that a judgement is required as to whether benefits to New Zealand's trade to be gained by restricting exports of livestock for slaughter with exemptions outweigh the international legal, commercial and diplomatic risks of imposing such restrictions.

agree to

EITHER

 - i. prohibit exports of sheep, cattle, deer and goats for slaughter, with exemptions where the risks can be managed to an acceptable level;

OR

- ii. continue the status quo whereby decisions on the export of sheep, cattle, deer and goats are allowed to be exported without consideration of their treatment in the importing country.

AND should Ministers agree to recommendation 7(i):

8. note that an amendment to primary legislation offers a long term solution by restricting trade conditionally, with discretion exercised by the appropriate Minister, or unconditionally;
9. direct officials from the Ministry of Agriculture and Forestry, the Ministry of Foreign Affairs and Trade, New Zealand Customs Service and New Zealand Food Safety Authority to develop these proposals further and report back with a proposal for legislative amendment by 30 March 2008;
10. agree in principle that controls on the export of livestock for slaughter is in the public interest and to put a Customs Export Prohibition Order in place in the interim, prohibiting the exports of sheep, cattle, deer and goats for slaughter and giving the Director-General of the Ministry of Agriculture and Forestry the discretion to approve individual consignments on a case-by-case basis in circumstances where the risks can be adequately managed;
11. note that none of the restrictions proposed will apply to exports of livestock for breeding or other purposes and that this trade can continue unaffected;
12. direct the Ministry of Foreign Affairs and Trade to advise trading partners including Saudi Arabia of the fact that a review has been undertaken and of the options for implementation, and allow them an opportunity to comment if they wish; and
13. direct the Ministry of Agriculture and Forestry to consult with exporters of livestock and industry groups on the options for implementation of the findings of the review and report back by 12 December 2007.

Hon Jim Anderton
Minister of Agriculture

10 / 10 / 2007

Annex 1: Rejected options for restricting trade in exports of livestock for slaughter

A number of options for amending primary legislation under existing or new legislation were considered in the review. Those options which have been considered and rejected are listed below, along with the reasons for doing so.

Regulated moratorium: This option was assessed as having a moderate to high level of fit with most criteria. It requires a moderate level of resources to implement and is unlikely to be achieved in a short time frame. A Customs Export Prohibition Order is an existing mechanism that fills the same purposes, provides a good fit with the strategic direction of the review and can be more easily implemented. *Conclusion:* This option is not worthy of further consideration.

Permitting livestock exports for slaughter subject to specified exceptions: This option has a high level of fit with most criteria. It requires a moderate level of resources to implement and is unlikely to be achieved in a short time frame. It could be administratively difficult to prevent an exporter from circumventing specified exemptions by providing false information or by on-selling stock in the importing country. To reduce this problem it would be necessary for the permit system to allow the decision-maker to take previous actions into account when considering approving future consignments. The alternative of prohibiting exports of livestock for slaughter subject to exemptions or in circumstances where the decision-maker considers that the risks can be adequately managed is considered more effective and administratively efficient.

Overseas market access requirement, emergency regulated control scheme or regulations under the Animal Products Act 1999: This option was assessed as having moderate fit with several criteria. However, it scores low on feasibility as it is inconsistent with the objectives of the Animal Products Act, is inconsistent with the scheme of the Act and, further, there is no emergency situation. *Conclusion:* This option is not worthy of further consideration.

Licensing of exporters: This option has a moderate level of fit with most criteria. It does not, however, fit well with the strategic purpose of the review, has low transparency with the desired outcome, and adds a high level of regulatory impact. Cabinet Economic Development Committee rejected this option when considering the Animal Welfare Bill in 1998 in favour of a certification scheme for each export consignment, unless exempted. Reasons include the need to consider the characteristics of each consignment, the mode of transport and related matters. These reasons are still valid. *Conclusion:* This option is not considered worthy of further consideration.

Export duties: This option was assessed as having a low level of fit with most criteria. In particular it has a low level of fit with its ability to meet the strategic purpose of the review. It is inconsistent with other government strategic objectives in relation to trade. *Conclusion:* This option is not considered worthy of further consideration.

Regulatory Impact Statement

Executive summary

The export of livestock for slaughter to countries where pre-slaughter handling practices and slaughter methods of livestock may differ significantly from those practiced in New Zealand may adversely affect New Zealand's reputation as a responsible exporter of agricultural products. If a decision is made to adopt more restrictive requirements for the export of livestock for slaughter, there are a number of options for its implementation. The preferred option is to amend primary legislation to prohibit exports of livestock for slaughter, with exemptions where the risks can be managed to an acceptable level. A Customs Export Prohibition Order is proposed as an interim measure to protect New Zealand from immediate and potentially irreversible risks. Under the preferred option, the government would have greater ability to manage the risks to New Zealand's reputation as a responsible exporter of agricultural products resulting from the export of livestock for slaughter. Conversely, the imposition of any further restrictions on exports of livestock for slaughter could itself entail international legal, commercial and diplomatic risks.

Adequacy statement

The Regulatory Impact Analysis Unit has reviewed this regulatory impact statement and considers it to be adequate according to the adequacy criteria, given the decisions being sought from Cabinet.

Status quo and problem

New Zealand's current policy for the export of livestock (cattle, sheep, goats and deer) is reflected in the *Animal Products Act 1999* and the *Animal Welfare Act 1999*.

The Animal Products Act provides for the regulation of all products derived from animals and the export of these products. The scope also covers trade in livestock including their export. The object of the Animal Products Act is to minimise and manage risks to human and animal health arising from the production and processing of animal material and products by instituting measures that ensure so far as is practicable that all traded animal products are fit for their intended purpose. It also facilitates the entry of animal material and products into overseas markets by providing the controls and mechanisms needed to safeguard official assurances for entry into those markets. It does not fit with the purposes of the Act to prohibit, restrict, or control exports of livestock for other reasons such as animal welfare.

The Animal Products Act includes a requirement that exporters of animal material and products must be registered, with certain exceptions. Exporters have a duty to comply with any standards and specifications issued under the Act and, as such, these must fall within the object and purposes of the Act.

Under the Animal Welfare Act it is an offence to export an animal without an animal welfare export certificate (AWEC) except where exempted by Gazette notice, or where the animal is exported under Department of Conservation legislation. Under the Act:

the Director-General (the DG) of the Ministry of Agriculture and Forestry may only take into account matters related to the transport of animals up to the point of disembarkation;

- the DG may not take into account the treatment of animals in the importing countries including in relation to handling and slaughter practices;
- exporters are not required to specify the purpose of export (i.e. for breeding, for slaughter); and
- once an exporter satisfies the DG that the requirements of the Act have been met, the DG must issue an AWEC and the export may then proceed.

The current legislation does not provide for the ability to consider issues related to the treatment of livestock in the importing country. Providing exporters meet the requirements of the Animal Products Act and the Animal Welfare Act, and satisfy the Director-General of the Ministry of Agriculture and Forestry as to the conditions for international transport of livestock up to the point of disembarkation, the export may proceed.

Concerns over the export of livestock for slaughter arise primarily from the pre-slaughter handling and slaughter methods of some other countries, which differ significantly from those practised in New Zealand (for example, commercial slaughter without prior stunning). The export of live cattle for slaughter is of particular concern. There is scientific evidence that it can take up to 90 seconds for cattle which have not been stunned to become unconscious after their throats are cut. Sheep are also an issue of concern, particularly in relation to pre-slaughter handling practices. Footage of pre-slaughter handling of cattle and sheep exported for slaughter to the Middle East, aired on Australian television in 2005 and in New Zealand in 2007, showed cattle having tendons slashed and eyes gouged, and sheep being confined in car boots.

New Zealand has not exported live cattle for slaughter except to countries that practise pre-slaughter stunning following concerns from a previous Minister of Agriculture. It has also not exported live sheep for slaughter since 2003 following an incident involving a high death toll and international media attention as a result of delayed offloading of live sheep from Australia to Saudi Arabia (the *Cormo Express* incident). There is interest in trade in cattle for slaughter from a number of countries (including Saudi Arabia, Egypt, the Republic of Korea, Malaysia and Russia).

s 6(a)

There are potential risks in resuming trade in livestock for slaughter on the basis of the current legislative framework, including increased public outrage and possible international commercial reactions arising from animal welfare concerns about the treatment of New Zealand animals on their arrival in some destination countries. This risk would be magnified should there be any problems with the trade or adverse publicity.

Animal welfare is a developing international concern and various markets have threatened to boycott various agricultural products from countries that tolerate low animal welfare standards. New Zealand's mainstream trade in agricultural products could be negatively affected, and may be subject to reduced prices in some key markets, if the export of livestock for slaughter were to resume. The key features of New Zealand's trade in agricultural products are:

- agricultural exports in 2006 were valued at NZ\$18.3 billion. Meat exports represent a significant portion of this, generating NZ\$4.7 billion in export earnings (14.27% total exports) with sheep meat alone accounting for NZ\$2.4 billion; and
- the value of livestock exports for slaughter is economically insignificant by comparison. The total export of livestock in 2006 was valued at NZ\$49 million (0.26% of total exports) most of which comes from the export of animals for breeding, not slaughter.

s 6(a)

Any consumer boycott would be most likely to come from the European Union and American markets where agricultural exports totaled NZ\$3.9 billion and NZ\$2.6 billion respectively. A decline in the value of exports as small as 10% in the European Union sheep meat export alone (the most vulnerable single market) would reduce New Zealand revenue by about NZ\$150 million per year and could adversely impact the New Zealand economy. This impact is likely to be greater than any lost revenue from stopping the export of livestock for slaughter.

Losses could escalate if major international retail chains adopt a boycott on sales or a labeling programme on New Zealand agricultural products. Supermarket chains in the United Kingdom, such as Tesco, are demanding more in terms of the environmental and social integrity in the produce they retail. There is increasing demand for farm assurance schemes and product traceability, and animal welfare concerns are becoming particularly prominent. The risk would be magnified should New Zealand be involved in an incident such as the *Cormo Express* or an expose of the conditions faced by animals in some markets.

More broadly, resuming trade in livestock for slaughter could damage New Zealand's clean, green and 100% pure reputation, of which animal welfare is a part. While potential losses are difficult to quantify, studies have indicated that they could be significant, potentially up to NZ\$500 million for the dairy industry and up to NZ\$1 billion for tourism.

Objective

To manage the risks to New Zealand's reputation as a responsible exporter of agricultural products resulting from the export of livestock for slaughter.

Alternative options

Outright prohibition

Should Ministers decide to adopt an outright prohibition on livestock exports for slaughter, it could be given effect under several pieces of legislation, including the Animal Welfare Act and the Customs and Excise Act 1996. Regardless, a number of ancillary considerations would need to be taken into account, including the extent to which it fits with the purpose of the legislation and administrative provisions.

An outright prohibition does not provide the Minister of Agriculture with discretion to allow export to countries or in circumstances where the risks can be adequately mitigated. It would, for example, prohibit the current trade in cattle for fattening and slaughter for the production of Kobe beef to Japan. This trade has been undertaken for a number of years and the risk arising is considered negligible.

While an outright prohibition on livestock exports for slaughter is possible, it is considered to be more trade restrictive than necessary and is not the preferred option. If applied, it would prevent trade to established markets not currently of concern.

Voluntary moratorium

A voluntary moratorium could be negotiated between government and exporters of livestock as an interim measure to allow time for government to review options and implement outcomes of the review, should it decide to adopt more restrictive requirements for the export of livestock for slaughter.

While some exporters of livestock for slaughter may agree to a moratorium, it is considered very unlikely to be acceptable to all. The negotiation of a voluntary moratorium as an interim measure is therefore not considered viable.

Preferred option – prohibition with exemptions

If a decision is made to adopt more restrictive requirements for the export of livestock for slaughter there are a number of options for its implementation and the costs and benefits are similar for each. The preferred option is to amend primary legislation to prohibit exports of livestock for slaughter in the first instance, with exemptions where the risks can be managed to an acceptable level. Exemptions could include export:

- to countries where the Minister of Agriculture believes there are no significant animal welfare risks; and
- under bilateral arrangements or other mechanisms covering post-arrival animal welfare considerations and slaughter practices.

Should a decision be made to adopt more restrictive requirements for the export of livestock for slaughter, it is recommended that officials be directed to further develop proposals for legislative amendment and report back to Cabinet by 30 March 2008. This is the shortest timeframe possible for the review, with enactment of amending legislation to follow in accordance with the Parliamentary timetable.

Given the likely delay in effecting change in primary legislation, a Customs Export Prohibition Order is proposed as an interim measure to protect New Zealand from immediate and potentially irreversible risks. Under the Customs and Excise Act, if the Governor-General considers prohibition is necessary in the public interest, the Governor-General may by Order in Council prohibit the exportation of any product from New Zealand, in this case livestock for slaughter. A Customs Export Prohibition Order could prohibit the export of livestock for slaughter except with the consent of the Director-General of Ministry of Agriculture and Forestry. This would give the Director-General the discretion to approve