

In Confidence

Office of the Minister for Agriculture
Chair, Cabinet Economic Development Committee

LIVESTOCK EXPORT REVIEW: APPROVAL TO RELEASE A PUBLIC DISCUSSION PAPER

Proposal

1. This paper seeks approval to release a discussion paper on options to improve the welfare of livestock being exported, and protect New Zealand's reputation.
2. The discussion paper seeks public feedback on four options: a total, or a conditional ban on livestock export, new regulations that do not require a ban, or continuous improvement (no new regulations required). The options address different stakeholder concerns to varying degrees.

Executive Summary

3. Strong animal welfare standards are important. Animals are sentient and can feel pain and distress. Animals contribute significantly to our economic prosperity, and our commitment to their welfare enhances our global reputation as a trusted food producer.
4. Exports of cattle, deer, goats and sheep (livestock) and other animals contribute to New Zealand's economy, and are valued by our trading partners. There is a comprehensive system in place to manage livestock exports. Nevertheless, some stakeholders are concerned that livestock exports could compromise animal welfare, and damage New Zealand's reputation.
5. I consider that changes are required to maintain confidence in the export system. Accordingly, Cabinet directed MPI to lead a review of livestock export. The review focuses only on livestock (cattle, deer, goats and sheep), and not the full range of animals New Zealand exports.
6. The review presents an opportunity to assess how the current rules could better meet New Zealanders' expectations, and whether they reflect our values as a country. It is important to successfully manage any risks to New Zealand's reputation as a responsible exporter in a timely way. The continued export of large numbers of livestock, if not properly managed, may be a risk to New Zealand's brand.

7. Livestock export is controlled under the Animal Welfare Act 1999 (the Act). The Act states that most livestock exports will require an Animal Welfare Export Certificate (AWEC) from the Ministry for Primary Industries (MPI). Regulations can be made under the Act: there is a regulation that places a conditional prohibition on exporting livestock for slaughter.¹
8. MPI has developed four options for public consultation:
- a total ban on livestock export;
 - a conditional ban on livestock export;
 - new regulations to enhance the export system; and
 - continuous improvement (no new regulations required).
9. During the review, MPI will continue to consider applications for livestock export under the current law. However, MPI is already implementing some operational improvements. An example is requiring more information from exporters about the animals' final destination in the importing country prior to an AWEC being issued. MPI will put into effect additional improvements (such as issuing new guidelines for transporting sheep and goats by sea) over the next 6 months. These enhancements will increase confidence in our existing livestock export controls while the review is underway.
10. I propose releasing the attached discussion paper on options for improving the livestock export system for public consultation in November 2019. At the same time, I intend to announce the proactive operational measures already being implemented.
11. Livestock export is a complex trade that requires a number of domestic economic and international trading impacts to be considered. New Zealand benefits significantly from the rules-based multilateral trading system and the network of free trade agreements we have negotiated. Final decisions on the review will need to carefully consider New Zealand's international legal obligations. International obligations
12. MPI has been working alongside the Ministry of Foreign Affairs and Trade (MFAT) and New Zealand Trade and Enterprise (NZTE) to ensure that trade issues are taken into account, and that our trading partners are fully informed of the review.
13. Subject to the outcome of public consultation, I anticipate bringing final policy proposals to Cabinet during March 2020.

¹ Animal Welfare (Export of Livestock for Slaughter) Regulations 2016.

Background

Cabinet directed MPI to review the livestock export trade

14. Following concern among some stakeholders about livestock exports,² on 12 August 2019, Cabinet directed the Ministry for Primary Industries (MPI) to lead a review of the livestock export trade. This review was to improve the welfare of livestock (cattle, deer, goats and sheep) being exported, and enhance New Zealand's reputation (CAB-19-MIN-0398 refers). MPI was directed to consider a range of regulatory and non-regulatory options.
15. The scope of the review is restricted to cattle, deer, goats and sheep as:
 - this is consistent with the definition of livestock in the Animal Welfare (Export of Livestock for Slaughter) Regulations 2016; and
 - there have been particular concerns from some stakeholders about recent cattle exports, and in the past, sheep exports.
16. Appendix four gives further details about live animal exports that are out of scope of this review. Significant (either in volume or value) exports of animals other than livestock include horses (mainly racehorses travelling by air to Australia, Hong Kong, China, and Singapore by air), and poultry. In the year ended June 2019, New Zealand exported 2.1 million chicks (younger than 72 hours old) by air, mainly to China.

The review presents an opportunity to ensure our rules fit New Zealanders' expectations

17. I consider that changes are required to maintain confidence in the livestock export system. The review presents an opportunity to assess how the current rules could better meet New Zealanders' expectations, and whether they reflect our values as a country. Through the review, New Zealand has the chance to demonstrate leadership, and our continued commitment to high standards of animal welfare.

Strong animal welfare standards are important to New Zealanders, and the New Zealand economy

18. Strong animal welfare standards are highly valued by New Zealanders. Animals enrich our human and social capital through their companionship and their service as working animals.
19. Strong animal welfare standards are also important for New Zealand's reputation as a trusted producer of animals and animal products. New Zealand's good reputation adds value to our exports, and contributes to our standing as a responsible participant in the international trading system

² For example, on 24 October 2019 the animal advocacy group Save Animals From Exploitation (SAFE) submitted a petition signed by 30,095 people calling for legislation to be passed to prohibit the live export of farmed animals to countries that have lower animal welfare, transport and slaughter standards than New Zealand. This petition has been referred the Primary Production Committee.

20. Consumers increasingly care about where their food comes from, and animal welfare standards are a growing focus of consumers in New Zealand and overseas.³ We need to ensure we have good animal welfare standards as our economic wellbeing depends on our reputation.
21. The value of New Zealand's reputation to our exports is difficult to quantify. This is not unique to the animal welfare system. While a strong reputation does not necessarily create access to new markets, it may stop New Zealand products from losing access.⁴

Livestock exports are valued by exporters and our trading partners

22. Livestock exports enhance relationships with other countries, and provide income to rural communities. They are part of the broader global network of trade that substantially benefits New Zealand. New Zealand livestock is highly sought after for purposes such as breeding, to meet agricultural cooperation agreements, or as part of assistance to developing countries.
23. Sale of livestock for export is generally a small, but useful income generator across the rural sector. For example, industry has stated that over the last ten years around 5,000 farmers from all regions of New Zealand have supplied cattle to the breeding stock export trade, with the average number supplied per farm being over 40 animals. Livestock for export normally attracts a premium. Industry has indicated that an export heifer's value is approximately \$1,200. A heifer that does not meet export specifications is worth around \$650⁵.
24. The livestock export trade relies on overseas demand [REDACTED] international obligations [REDACTED] This means that it is difficult to identify export trends.
25. In the year ending June 2019, the value of New Zealand's livestock exports was approximately \$54 million. This comprised:
- **cattle** - 23,497 cattle worth \$47.4 million to China and Vietnam;
 - **goats** – 3,648 goats worth \$5.6 million to China and Singapore (and one individual animal to Argentina); and
 - **sheep** – 368 sheep worth \$0.5 million to the United Kingdom, Japan, Singapore and Argentina.
26. There were no deer exports in the year to June 2019.
27. This trade in livestock is in the context of a broader trade in animals, and animal products, worth around \$30.8 billion.

³ In some instances, consumers are willing to pay more for products on the basis of animal welfare. However, consumers also care about other matters such as price and food safety. This means that trade-offs based on individual preference will occur.

⁴ KPMG (2017) Animal Welfare System Operating Model. Report developed for the Ministry for Primary Industries.

⁵ Unpublished briefing paper by the Animal and Germplasm Trade Association, August 2019.

There is a comprehensive system in place to manage livestock export

28. The primary legislation governing livestock export is the Animal Welfare Act 1999 (the Act). The Act recognises that animals are sentient,⁶ and sets a broad framework for protecting their welfare.
29. Exporting animals is regulated under Part 3 of the Act. The purpose of Part 3 is to protect animal welfare, and New Zealand's reputation as a responsible exporter of animals and animal products.⁷ Most exports of livestock require an Animal Welfare Export Certificate (AWEC) from MPI before an export can proceed.
30. The Act provides that regulations may be made on a broad range of matters relating to export. This includes the ability to prohibit, either absolutely or conditionally, any specified type of export.⁸
31. Appendix one illustrates the high-level decision making process for exports of live animals, including livestock, under the Act. Key points are:
 - if a conditional prohibition is in place, exporters first need to satisfy the Director-General of MPI that any risks to the welfare of the animals being exported and any risk to New Zealand's reputation can be mitigated before applying for an AWEC;
 - the AWEC approval process can result in a broad range of conditions being imposed to protect the welfare of animals being exported and New Zealand's reputation, and includes a right of review; and
 - low-risk exports (such as animals travelling for fewer than six hours, or pets on ships) are currently exempt from requiring an AWEC via notice in the Gazette.
32. To gain final approval to export, there is a detailed operational process and a range of controls summarised in Appendix two. This can include separate approvals under the Animal Products Act 1999, and adhering to international transport regulations and guidelines.
33. During the review, MPI is continuing to consider applications for livestock export under the current law.

⁶ Sentience means the ability to perceive or feel things.

⁷ Section 38, Animal Welfare Act 1999.

⁸ Section 183C, Animal Welfare Act 1999.

Some stakeholders are concerned about livestock export

34. There are a range of views about livestock export. Where stakeholders express concerns, these generally fall into three categories:

- **Animal welfare during transport:** some stakeholders are focused on protecting animal welfare at all stages of transport, both within New Zealand to the port of departure, and during the journey overseas. Some people are particularly concerned about sea transport, which is usually used for larger consignments of livestock, and takes longer than voyages by air.

Comment: Although mortality has been low, the review has identified where improvements to New Zealand's existing transport rules could be made. Voyage mortality rates have decreased dramatically over the last three decades. Expected mortality on routine cattle shipments are 0.035 percent, or 1 animal death during the voyage per 3000 animals exported. MPI requires exporters to notify it of any mortality levels on or above 0.5% of the consignment. Out of 32 shipments since 2015, this mortality level has been reached once.⁹ Voyage report summaries, including information on mortalities, are publically available on MPI's website.

- **The purpose of the export:** export for slaughter has raised significant concerns in the past.

Comment: There is a conditional prohibition in place on the export of livestock for slaughter. Since 2008, there have been no exports for this purpose. Animals exported for breeding purposes will eventually be slaughtered.

- **Animal welfare standards in receiving countries:** some stakeholders are concerned about the standards of care and farming methods in the destination country, and how the animals are eventually slaughtered. This may mean that even if animal welfare is safeguarded until the animals arrive at their destination, the export itself may not be acceptable. For some, this concern may be mitigated if the receiving farm has at least the same animal welfare standards as New Zealand.

Comment: New Zealand has little control over animal welfare outcomes once livestock have left our jurisdiction. We are constrained by international obligations regarding extra-territorial limits. These prevent a country from attempting to enforce its laws beyond its jurisdiction, even to protect animal welfare.

International obligations

For example, MPI now asks for additional information from exporters about animal management at the livestock's final destination as part of all livestock AWECS.

⁹ In that case, 32 of the 34 fatalities died due to acidosis and other metabolic conditions as a result of overfeeding of concentrates.

There are alternatives to transporting livestock that can be explored further

35. New Zealand is committed to working with trading partners in the context of our broader trading relationships. This includes identifying broader animal welfare co-operation opportunities. Collaboration of this nature may include assisting developing countries meet their food security aspirations by building the capacity and capability of people and systems in countries that receive our animals, and exploring alternatives to exporting livestock.
36. Genetic material may not always be a substitute for the opportunity to import livestock for breeding. ^{International obligations}
[REDACTED]
Semen and embryos are only useful to importers if they have recipient animals that are the right age, and that are physically capable of birthing the potentially larger offspring that are typical of New Zealand's larger-framed production animals.
37. New Zealand officials will continue to explore any alternatives that meet our trading objectives without risks to animal welfare, or New Zealand's reputation, as the Review progresses. However, there is no guarantee that alternatives such as germplasm export, will be sufficient to offset trading partner concerns about potential loss of access to livestock.

There are parallels between the current situation, and when the livestock export trade was last reviewed

38. Restrictions on livestock (cattle, deer, goats and sheep) export for slaughter were implemented from December 2007. The 2007 review addressed concerns about the treatment and handling of livestock, and slaughter practices in importing countries. It also looked at the potential impact on New Zealand's reputation as a responsible exporter of agricultural products. The review concluded that improvements were needed to manage the risks of potential ill-treatment of animals and any economic consequences that might result from that.
39. Restrictions were initially put in place by way of Customs Export Prohibition Orders. Following changes to the Animal Welfare Act 1999 in 2015, the restrictions are now implemented through a conditional prohibition on livestock export for slaughter.¹⁰
40. As concerns relating to animal welfare and New Zealand's reputation have re-surfaced, it is timely to consider the law surrounding the export of livestock more generally.

¹⁰ Animal Welfare (Export of Livestock for Slaughter) Regulations 2016

Some enhancements to the livestock export system can be implemented immediately

41. As I have directed officials to ensure that a broad range of options are considered, it will take some time to consult stakeholders about the options Cabinet could progress, and (depending on the final policy choices) time to implement Cabinet's decisions.
42. However, to maintain New Zealand's reputation and confidence in our regulatory system, MPI has identified a suite of initiatives to strengthen our export system. Some of these enhancements are already underway.
43. Table 1 overleaf gives examples of key enhancements, and when they will be completed. MPI is continuing to identify and implement operational improvements.

Table 1: Key livestock export system improvements already underway

Initiative	Status
MPI now requires post-voyage and post-arrival reports for all livestock AWEC applications, rather than only for some applications. ¹¹	Completed and ongoing.
MPI is identifying and analysing trends in post voyage and post arrival reports. This will enable it to target improvements and address any issues through new requirements and future AWEC conditions.	Ongoing and more rigorously applied to shipments from September 2019.
MPI is updating guidelines for cattle travelling by sea, including considering stocking densities, feed and water monitoring, emergency procedures, veterinary oversight and presence.	Ongoing and to be completed by February 2020.
MPI to issue new guidelines for sheep and goats exported by sea.	To be completed by February 2020.

Explanation of proposals in the discussion paper

There are four broad options explored in the discussion paper

44. The discussion paper presents four options to improve the livestock export system. These options differ slightly from those originally presented to Cabinet in August 2019. This is because the review process has allowed MPI to refine how the full range of alternatives is presented. The four options are explored in more detail in Appendix Three. They are:
 - a total ban on livestock export;
 - a conditional ban on livestock export;
 - new regulations to enhance the export system; and

¹¹ These reports include details such as deaths and health issues including abortions, heat stress, and respiratory problems.


- continuous improvement of the export system (no new regulations required).
45. The status quo is not included. I consider that changes are necessary to maintain confidence in the livestock export system.
46. The options address different stakeholder concerns to varying degrees. Choosing between options will involve balancing concerns about animal welfare, protecting New Zealand's reputation, possible impacts on rural communities and our economy, and New Zealand's international obligations.

Three options require regulatory change

47. Three of the options require making a regulation under the Act. They may take a further 12 months post-consultation to implement. As the analysis in the discussion paper is high-level, this period would include targeted consultation on the detailed design of any new regulations.
48. Two of the options relate to bans: either a total ban (absolute prohibition) on livestock export, or a conditional ban (conditional prohibition). There are several design options for any export bans.
49. Total or conditional bans could be broad (for example, covering all livestock), or narrow (for example, covering transport by sea only). The type of matters that could form the basis of any conditional ban, either separately, or in combination with each other include:
- the species, age, number and fitness of animals;
 - the duration and date of journeys;
 - the transport vehicles and associated facilities, such as loading and unloading equipment;
 - the purpose of the export;
 - pre-conditions to be satisfied before the journey;
 - the people accompanying the animals; and
 - pre-loading facilities.
50. The advantages of a conditional ban is that it can be targeted to the factors most closely linked to risks to animal welfare, or New Zealand's reputation, while allowing some exports to continue under stricter controls. Placing rules in regulations means they are transparent, certain and enforceable. A counter view is that this approach is less flexible and may increase costs for few animal welfare or reputational gains. It takes time to change regulations if they do not work as anticipated. Care would need to be taken in the design of any conditional ban to ensure that it would not operate in practice as a total ban.

51. Any conditional bans, particularly the broad ban, would need to be supported by detailed operational policy. This policy would create a transparent decision making process that the Director-General would follow when deciding whether applications could proceed to the next stage (as illustrated in Appendix one). A clear approval process that sets out the standards that prospective exporters must meet will mitigate legal risks and promote transparency in decision making.
52. A third regulatory option is to make new regulations to enhance the export system without using bans. Regulation making powers relating to exports are broad. The discussion paper focuses on two possible enhancements: an exporter registration scheme, and independent voyage monitoring. These ideas would promote greater transparency and accountability within the export process, and place stronger controls over who is able to export. *The fourth option does not require regulatory change*
53. The final option (continuous improvement) is largely non-regulatory.¹² It could be implemented relatively quickly. Continuous improvements can be combined with other options, or implemented separately. It would mean that exporters would have clearer and more consistent requirements to meet. MPI could monitor the effectiveness of each intervention and change practices as required.

Comment on trade considerations

54. Trade implications were discussed in detail in my earlier paper (CAB-19-MIN-0398 refers). International obligations
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Next steps

55. MPI will continue to identify, prioritise and implement measures to strengthen the livestock export system as outlined in Table One.
56. If Cabinet agrees, after the discussion paper is released, public consultation will start in November 2019 and finish in January 2020. MPI has developed a plan to guide the consultation process. The plan identifies key stakeholders and ensures that the public will be informed about the review, and can contribute to it.

¹² Amending any of the existing exemptions from requiring an AWEC would require changes to Gazette notices.

57. MPI will engage stakeholders through its website, social media, news releases and targeted face-to-face stakeholder meetings. This will include an online submission option. I am not anticipating that consultation will include public meetings.
58. Subject to the outcome of public consultation, I anticipate bringing final policy proposals to Cabinet during March 2020.

Consultation

59. In September, MPI convened separate working groups representing exporters, and animal welfare advocates. MFAT and New Zealand Trade and Enterprise were invited to attend. Both meetings were productive and cordial. Officials have used feedback from pre-engagement to inform the attached discussion paper.
60. The following government agencies were consulted on this paper: the Ministry of Foreign Affairs and Trade, New Zealand Trade and Enterprise, Department of Prime Minister and Cabinet (National Security Policy Directorate, the Ministry of Civil Defence and Emergency Management), New Zealand Customs Service, Te Arawhiti, the Ministry for Business, Innovation and Employment, the Ministry of Transport, and the Ministry of Justice. The Department of Prime Minister and Cabinet (Prime Minister) and the Treasury were informed.

Financial Implications

61. There are no direct financial implications arising from this paper.

Legislative Implications

62. This paper has no direct legislative implications.

Impact Analysis

63. The discussion paper functions as an interim Regulatory Impact Assessment. The Ministry for Primary Industries Quality Assurance panel has reviewed the discussion Paper and confirms that it is likely to lead to effective consultation and support the delivery of Regulatory Impact Analysis to inform subsequent decisions.

Human Rights, Gender Implications, and Disability Perspective

64. The proposals in this paper have no gender or disability implications, or human rights implications under the human Rights Act 1993 or the New Zealand Bill of Rights Act 1990.

Publicity

65. I announced that work on livestock export was underway on 11 June 2019. Since Cabinet's direction in August 2019 that the review would proceed, MPI has updated its website and has been engaging with key stakeholders.


66. Subject to Cabinet approval, I intend to issue a press release announcing:
- the immediate steps I have taken to strengthen the approval system for livestock exports; and
 - the release of the public discussion paper.

Proactive Release

67. Following Cabinet consideration I intend to consider the release of this paper, with certain redactions in line with the Official Information Act 1982.

Recommendations

The Minister for Agriculture recommends that the Economic Development Committee:

1. **Note** that Cabinet directed the Ministry for Primary Industries to lead a review of the livestock export trade to improve the welfare of livestock being exported and enhance New Zealand's reputation (CAB-19-MIN-0398 refers).
2. **Note** that MPI has identified four options to strengthen the livestock export system: a total ban on livestock export, a conditional ban on livestock export, new regulations to enhance the export system, and continuous improvement.
3. **Note** that MPI has also identified initiatives that will strengthen the livestock export system for immediate implementation.
4. International obligations

5. **Note** that I consider that the continued export of large consignments of livestock may be a risk to New Zealand's brand, and that action is required to successfully manage any unnecessary risks to New Zealand's reputation as a responsible exporter.
6. **Agree** to the release of the attached public discussion paper *Livestock Export Review*.
7. **Note** the intention that public consultation will start in November 2019 and finish in January 2020.
8. **Agree** that the Minister of Agriculture may approve any minor or technical amendments to the discussion paper before consultation starts.
9. **Agree** that the Minister of Agriculture will issue a media statement announcing immediate improvements to the livestock export approval system, and inviting submissions on the public discussion paper.
10. **Note** that the Minister of Agriculture anticipates seeking approval for final policy proposals during March 2020.

Authorised for lodgement

Hon Damien O'Connor
Minister of Agriculture