Restricted

Office of the Minister for Primary Industries
Office of the Minister for Food Safety

Chair
Cabinet

Operation Concord Response – Staged release of information and implementation of additional testing

Proposal

1. This paper is to inform Ministers on the next steps in the all-of-government Operation Concord response to the threat to contaminate "infant and other formula" [redacted] 6(c), 9(2)(d)

2. A staged and managed release of information will occur in the first instance to [redacted] and affected manufacturers involved in making infant formula, before going to public health agencies, industry stakeholders, regulatory authorities in [redacted] markets and the wider public. 6(a)

3. It is important to let manufacturers know of the threat as early as possible, as this will allow manufacturers to commence testing for 1080 and ensure that supply chains are secure. The process is scheduled to commence from early February 2015 and will take a minimum of three to four weeks.

Executive Summary

4. On 27 November 2014, Fonterra and Federated Farmers received an anonymous threat to release 1080 contaminated infant or other formulas onto [redacted] A sample of formula accompanied the letters. Analytical testing has confirmed the formula contained a dose of 1080 [redacted] 6(c), 9(2)(d)

5. Officials are treating this with the utmost seriousness because of the scale and significance of the consequences. Knowledge of the threat is restricted and is subject to strict confidentiality agreements.

6. The most important objective of the response is the health and wellbeing of consumers. Officials are focussed on how government and manufacturers can [redacted] protect New Zealand's reputation. 6(c)

7. [redacted] 6(c)

[redacted] 6(c)

8. [redacted]

9. The existing manufacturing quality control processes combined with the additional 1080 testing provide strong evidence that contamination with 1080 has not occurred in the New Zealand dairy manufacture and supply chain through to export, or entry into the domestic retail chain. [redacted] 6(c), 9(2)(b)(ii)

10. Officials are ready to lead contingency plans for a product recall, act to maintain domestic infant formula supply and respond to an unplanned release of information. The all of government response is being coordinated through the ODESC process.

11. [redacted] 9(2)(d)

12. Transparency is an important principle in managing food safety effectively. Officials recommend taking a managed and staged approach to informing, firstly, [redacted] and affected manufacturers of the threat plus key global infant formula companies; then public health organisations, other industry stakeholders, the regulatory authorities in [redacted] markets and ultimately consumers. 6(a)

13. The affected parties fall into two groups:
Group A 6(a)
    - [redacted]
    - Affected manufacturers of infant formula;
    - Key global companies that dominate world trade in infant formula;
    - Regulatory authorities in export markets, as required;

Group B

- New Zealand public health agencies;
- Infant formula, dairy industry stakeholders and laboratories [redacted] 6(c)
- [redacted] trading partners; 6(a)
- The public including customers and consumers and wider public.

14. Officials have explored a range of timing options for informing Group A and Group B stakeholders and believe the best option is to begin notification of Group A before going to Group B three to four weeks later.

15. The overall strategy is to ensure the government can best manage the release of information to affected manufacturers to secure the supply chain and prepare for contingency situations. MPI proposes using a staged process that will culminate in a public release, unless the threat is eliminated. The process and meetings will be led by MPI in association with the Police and will begin from early February 2015.

16. [redacted] 9(2)(d)

17. The critical step of advising affected manufacturers allows them to put into place additional measures to protect consumers and their business. [redacted] 6(a), 9(2)(d)

18. New Zealand has a world class food safety system, but no country's food safety system is designed to detect or prevent a criminal act involving intentional contamination of a food product. Existing controls within the food safety system provide us with a high level of assurance and MPI has focussed on exploring further assurances in light of this threat.

19. Since December 2014, MPI [redacted] have worked closely with testing laboratories to develop a validated method for testing for 1080 in milk and milk products on a commercial scale. Testing has begun. The [redacted] MPI designated accredited laboratories and [redacted] are aware of the threat and are maintaining confidentiality as part of their normal contractual arrangements. [redacted] In addition, officials do not want to prejudice the police ongoing investigation. 9(2)(b)(ii), 9(2)(b)(ii), 6(c)

20. As testing proceeds, officials will progressively gather information and provide improved assurance that product in the New Zealand controlled supply chain is not contaminated. [redacted] 6(c), 9(2)(d)

21. Officials have been working with the Financial Markets Authority to understand the legal obligations of publicly listed companies and the trigger points for disclosure of information to the market. Within Fonterra and government, knowledge of the threat is being tightly held.

Operation Concord Response: Threat, risks and response

22. This paper has three key sections:
    1. A description of the threat, what officials have done to date and an overall assessment of the threat and proposed response approach (see paragraphs 23-66)
    2. Discussion of the risks that need to be managed (see paragraphs 67-100)
    3. How the effectiveness of the Government's response to the threat can be improved. (see paragraphs 101-127)

1. The threat

[redacted] 6(c)

23. On 27 November 2014, Fonterra and Federated Farmers received an anonymous threat to release 1080 contaminated infant or other formulas [redacted]

24. [redacted]

25. [redacted]

26. [redacted]

6(c)

27.

28.

29.

30.

Police investigation

6(c)

31.

32.

33.

34.

35. [redacted] 6(c)

The use of 1080 in New Zealand

36. In New Zealand, "pure" 1080 is available in two forms – the high purity laboratory grade 1080 that is used by laboratories for research and testing, and the commercial grade 1080 active ingredient that is imported for the manufacture of 1080 pest control products. Both the laboratory grade 1080 and the commercial grade 1080 are highly toxic chemicals.

37. New Zealand uses between 1 – 3.5 tonnes of commercial grade 1080 annually, which accounts for about 80% of the world production of the pesticide. It is imported into New Zealand from the United States and transported to a manufacturing facility for use in the manufacture of 1080 pest control products.

38. New Zealand uses 1080 pest control products for the control of vertebrate pests and is the only country that undertakes widespread aerial application of baits containing 1080. 1080 is highly water soluble, readily biodegradable in soil and dilutes quickly in water. It does not accumulate in the food chain. There are strict controls on its production, storage and use, including the requirement to keep tracking records of its location and use. 1080 is an essential management tool for conservation and managing bovine tuberculosis in cattle herds and deer. Both aspects have the potential to negatively impact on export interests and reputation.

39. The use of 1080 in New Zealand has been reviewed by the Environmental Protection Authority (EPA) in 2007 and the Parliamentary Commissioner for the Environment (PCE) in 2011. In 2007, the EPA approved the continued use of 1080 and the PCE has subsequently endorsed its widespread use. Despite the outcome of these reviews, there remains opposition to the widespread use of 1080 from individuals and some hunting and environmental groups. Forest and Bird supports the use of 1080 to protect our wildlife and forests.

Access to 1080 and controls: [redacted]

40. [redacted] 6(c)

41. [redacted] 6(c)

42. [redacted]

43. [redacted]

Border controls

44. [redacted] 6(c)

45. [redacted]

Regulatory controls

46. [redacted] 6(c)

Officials' analysis

47. [redacted] 6(c)

48.

49.

50.

Affected manufacturers

51. [redacted] 6(c) 9(2)(b)(ii), 6(a)

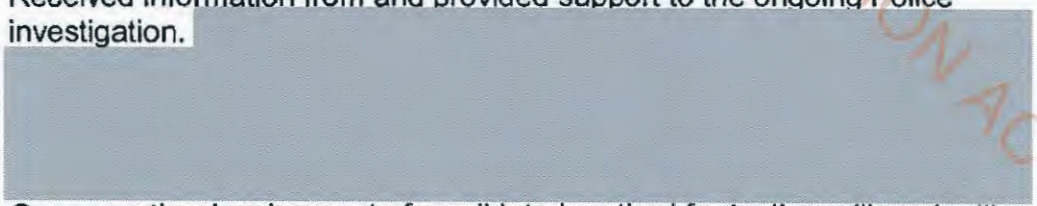
52.

6(c), 9(2)(b)(ii), 6(a)

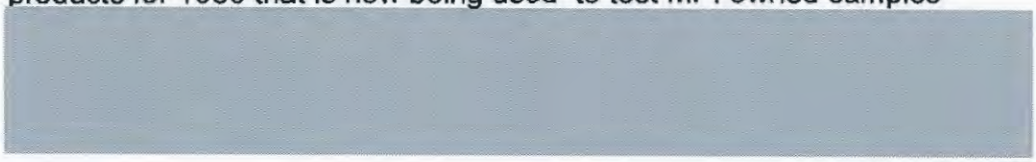
53.

54.

Activities to date

55. In the six weeks since receiving the threat officials have:
    - Received information from and provided support to the ongoing Police investigation.
    - 

6(c)

    - Overseen the development of a validated method for testing milk and milk products for 1080 that is now being used to test MPI owned samples
    - 

6(c), 9(2)(b)(ii)

[redacted] 6(c), 9(2)(b)(ii)

- Identified significant export markets for infant formula and begun preparing contingency communications for overseas regulators;
- Devised extensive reactive and proactive communications materials to respond to a range of scenarios by which the threat may become public;
- Put in place an alert so that 1080 imports, both retail ready and chemical derivatives, are identified and able to be inspected;
- [redacted]

Overall assessment of the current situation and response

56. Decisions need to be made now on the appropriate timings to confidentially inform affected parties. MPI plans to use a staged process that will culminate in a public release, unless the threat is eliminated. The process and meetings will be led by MPI in association with the Police. Further detail on the proposal and timing options can be found in section 3 of this paper (paragraphs 97-123).

57. Affected parties can be divided into two groups: Group A that manufacture, control and manage infant formula and mitigate risks to the supply chain from supply to market. Informing this group allows them to actively decrease risks to health and improve assurances that milk products are free from 1080 contamination. Their actions will also increase assurances to the market that their product is safe, helping minimise economic threats. This group needs to be advised in advance of Group B. The key members of Group A are:
    - [redacted] 6(a)
    - Key manufacturers of infant formula:
    - Key global companies that dominate world trade in infant formula;
    - Regulatory authorities in export markets (as required).

58. Group B consists of people that are affected by the threat at the retail end of the supply chain. Informing them will help mitigate risks at retail, where regulators and manufacturers have little control. It is important to allow time for customers to make choices about the best way for them to manage any infant formula stocks and have assurances that stock they have is safe. [redacted] 9(2)(g)(i) The key members of this group are:
    - New Zealand public health agencies;
    - Infant formula, dairy industry stakeholders and other laboratories;
    - [redacted] trading partners; 6(a)
    - The public including customers and consumers and wider public.

Informing Group A (to secure the supply chain and begin wider testing)

59. We now have the ability to test for 1080 in the dairy supply chain on a larger scale that is sufficient for immediate needs. Implementing this requires MPI to engage with the key affected manufacturers of infant formula (or ingredients)

about the threat. MPI will outline arrangements for product sampling and testing and coordinate the supply of samples to laboratories. 6(a)

60. [redacted] 6(c)

61. [redacted]

62. However, if publicity about the threat is imminent or other circumstances arise, plans are in place to inform other companies and industry groups swiftly, as well as potentially trading partners. [redacted] 6(a), 9(2)(g)(i)

63. Shortly after the affected manufacturers are informed, MPI will inform the remaining key global formula companies so that they too can prepare. [redacted] As the manufacturers and infant formula customers have close relationships, there is a high likelihood that these parties would find out in a relatively short time, if not informed directly. These companies too are best placed to understand and mitigate risks in the retail markets. 9(2)(b)(ii)

Informing Group B (to allow people to respond and be vigilant)

64. The next step in the staged release is to inform Group B, including health authorities and other key trading partners in advance of a public release. Health authorities would take the lead in preparing public health agencies, such as Plunket and Healthline. Officials are ready to lead contingency plans for a product recall or act to maintain domestic formula supply to allay public concerns over availability or quality.

65. Finally, industry groups and other stakeholders, such as the Infant Formula Exporters Association, the Dairy Companies Association of New Zealand (DCANZ), Dairy NZ and the Food and Grocery Council will be notified by MPI before the wider public to ensure they are appropriately prepared.

66. The process will conclude with a full public release to allow end consumers time to understand and prepare themselves [redacted] It will also allow people to be vigilant against the potential for tampering, report any 6(c)

suspicious packaging and buy extra formula ahead of time, should they wish to. [redacted] 9(2)(g)(i), 9(2)(c) 6(c)

2. Managing Risks

Food safety and testing

67. The existing manufacturing quality control processes combined with the additional 1080 testing provide strong evidence that contamination with 1080 has not occurred in the New Zealand dairy manufacture and supply chain through to export, or entry into the domestic retail chain. [redacted] 6(a)

68. The testing of milk and milk products for 1080 will provide an additional level of assurance for customers and consumers that New Zealand milk and milk products are not contaminated. Overseas authorities will seek details of any testing undertaken. [redacted] 9(2)(ba) 6(c), 9(2)(b)(ii)

69. [redacted] 6(c) MPI will prioritise an allocated portion of testing capacity so that all manufacturers have equitable access to testing. In addition, MPI will be purchasing some of the equipment needed to increase laboratory capacity.

70. A sampling strategy has been developed. The development and implementation of a validated test for detecting low levels of 1080 contamination of milk and formulated product including infant formula, gives MPI substantially increased confidence about the security and safety of the infant formula supply chain in New Zealand. This confidence will progressively increase as more test results are received from the MPI and company testing programmes.

71. [redacted] 9(2)(c)

Assurance levels provided by the new testing regime

72. In addition to MPI's current National Chemical Contaminants Programme, confidence in the infant formula supply is assured through the additional MPI sampling and testing programme for 1080. This programme will:
    - Provide a higher level of confidence that 1080 is not present in NZ raw milk, milk products or formulated milk products for infants and young children
    - Have a high probability of identifying contamination of milk, milk products or formulated milk products, if this were to occur at the point of milk production or manufacture
    - Ensure all laboratories undertaking testing of samples for this programme are accredited to ISO 17025 and approved as MPI recognised dairy laboratories
    - Ensure test methods are validated, and able to test to very low levels of sensitivity that are below the toxicological 'safe level'
    - Require immediate reporting of all results as soon as they are available
    - Enable MPI to provide robust assurance to other competent authorities and markets that New Zealand dairy products are free of 1080.

73. The expected widespread dairy industry testing of milk, milk products or formulated milk products will include a significantly greater numbers of samples than the MPI programme. It will add confidence that industry testing does indeed provide results that can be relied upon, and that New Zealand milk, milk products or formulated milk products are free of 1080. The results of industry testing will:
    - Provide robust evidence to importers and importing countries that commercial consignments of dairy products are free of 1080
    - Enhance confidence in each manufacturer's products.

74. [redacted] 6(c)

Infant Formula Supply Chain: New Zealand Retail Supply

75. Fonterra is the only manufacturer aware of the threat and officials have worked with them closely to understand their supply chain. At this point, further detail on the full New Zealand supply chain is difficult to provide, because officials have not spoken with manufacturers. We would need to work with approximately [redacted] other base powder or infant formula manufacturers to confirm what is currently supplied into the New Zealand retail market. 9(2)(g)(i)

76. [redacted] 9(2)(b)(ii)

[redacted] 9(2)(b)(ii)

Markets and trade

77. [redacted] 9(2)(d), 6(a)

78.

79.

80.

81.

82. [redacted] 9(2)(d), 6(a)

Releasing information

83. The section below discusses the risks of advising affected manufacturers, the associated global infant formula customers, public health and stakeholders, as well as the wider public. Details on options for timing can be found in section 3: Staged and managed release of information (paragraphs 107-123).

Benefits of a staged release of information

84. Providing confidential information early in a sequenced way to affected parties will result in a better outcome by:
    - Allowing end consumers and retail markets to be well informed of the threat [redacted] to have the right information to detect possible tampering with product. 6(c)
    - Ensuring that all relevant New Zealand infant formula manufacturers share the same knowledge about the threat, including potential market reactions (Fonterra is currently the only manufacturer with this knowledge);
    - [redacted] 6(c)
    - Allowing manufacturers to implement procedures to test milk and/or milk products for 1080;
    - Recognising the shared interests of manufacturers and the government in maintaining confidence in New Zealand's food products;
    - Enabling careful management of public communications when customers and consumers are informed of the threat;
    - [redacted] 6(c), 9(2)(d), 6(a)

Risks of staged release of information

85. The decision to proactively release information to a wider group of people increases the likelihood of the threat becoming public before planning is completed. This could potentially spark consumer and market reactions, as well as affect the Police investigation.

86. In addition, some of the manufacturers have complex ownership arrangements, which may require them to share information with head offices positioned in other countries. This further increases the risk of information becoming public, or known to other regulatory authorities. We would seek to [redacted] briefing the affected manufacturers. Where necessary, officials would do the same [redacted] as required, as a preferred outcome to them finding out from other sources. 6(a)

87. There are also Financial Markets Authority (FMA) reporting obligations (discussed later in this section) and contractual obligations to customers which will affect publicly listed companies' ability to maintain full confidentiality of the information provided to them by the New Zealand government. Potentially, similar requirements will be triggered offshore.

Mitigating risks of a staged release of information

88. [redacted] 9(2)(g)(i)

89. [redacted] 6(a)

90. Additional actions are recommended to further mitigate the above risks. These include:
    - Confining information to an initial group of affected manufacturers first, and then the key global infant formula companies;
    - Requiring all parties to agree to and sign confidentiality agreements prior to receiving a verbal briefing;
    - A commitment by officials to provide parties with regular updates on developments with the investigation and involving them in the response;
    - A comprehensive communication strategy that includes material to support a proactive release (including to New Zealand Posts), as well as material to support an unplanned release
    - Being prepared to brief other governments, as required.

Continuous disclosure requirements of the Financial Markets Authority (FMA)

91. MPI has engaged with the Financial Markets Authority over this matter. Listed companies are required to disclose material information (broadly,

information that affects the price of shares) immediately, unless all of the following points are met:

- The information is confidential and its confidentiality is maintained; and
- The information comprises matters of supposition or is insufficiently definite to warrant disclosure; and
- A reasonable person would not expect the information to be disclosed.

92. Disclosure to the market is required if the information is material and any one of these criteria ceases to apply. Companies must form their own view of whether information is material. However, it is a question of fact whether the confidentiality of the information in relation to the 1080 threat is maintained.

93. [redacted] 6(a), 9(2)(d)

94. [redacted]

95. MPI and the FMA will keep this matter under review. A joint meeting between MPI, FMA and NZX will also occur prior to any proposed meeting with manufacturers.

96. As noted, disclosure is a company responsibility that each will need to take advice on. The FMA considers it would be preferable for each company to be able to point to an announcement that is made by government in order to satisfy their disclosure obligations to ensure that further speculation is not created by different company announcements. To this end the timing of the government announcement is critical to companies being able to satisfy their disclosure obligations, assuming they consider they have an obligation – the FMA would be surprised if companies formed a view that this was not material. Companies can then reference the public announcement made by government in their own announcements. MPI and the FMA will work together to develop an announcement and offer this to companies to use in the event that Operation Concord becomes public. MPI will not provide any advice on a company's disclosure obligations; however, the FMA has agreed to engage with the listed manufacturers directly.

97. The FMA recommends that any notification to Group B parties, described in paragraph 58, should occur as close as possible to the public notification. This could be managed by notification outside of market trading hours, and then advising the public prior to market opening. Officials are aware that the 9(2)(g)(i)

global supply companies are customers of Fonterra and, potentially of the other listed companies. The FMA notes that any adverse customer reaction may of itself trigger the materiality threshold.

98. At a meeting on 13 January, the FMA requested a register of all persons who are aware of Operation Concord. This is being developed and will be supplied to FMA and continuously updated.

People aware of the threat

99. [redacted]

9(2)(b)(ii), 6(c)

100. [redacted]

3. Staged and Managed Release of Information

Affected parties

101. There are a range of affected parties that need to be informed about the Concord threat. Managing the release of information in a managed and staged way before there is a public media release will help mitigate the risks from threat.

102. MPI will finalise the sequencing of the timing of the release after initial discussions with affected manufacturers. Decisions about the timing for informing these groups must balance the value of the actions that companies and others can take to mitigate food safety and market risk, with the increasing risks of uncontrolled release of information about the threat.

103. The affected parties fall into two groups:
Group A
- [redacted]

6(a)

- Affected manufacturers of infant formula;
- Key global companies that dominate world trade in infant formula;
- Regulatory authorities in export markets, as required;

Group B

- New Zealand public health agencies;
- Infant formula, dairy industry stakeholders and laboratories [redacted] 6(c)
- [redacted]rading partners; 6(a)
- The public including customers and consumers and wider public.

104. The key feature of Group A is that these companies and agencies can take active and useful steps to mitigate the threat and market reactions to it. [redacted] 9(2)(g)(i)

105. [redacted]

Timing between Group A and B

106. MPI advises that there should be a minimum period of two weeks between advising Group A and Group B to give manufacturing companies time to send their retention samples of 2014 product to MPI for 1080 testing.

107. Officials have explored a range of timing options for informing Group A and Group B stakeholders and believe the best option is to begin notification of Group A before going to Group B three to four weeks later.

108. [redacted] 6(a), 6(c)

109. For Group B: A three to four week gap provides the greatest benefits in managing health, economic and information release risks, as manufacturers will be able to provide assurances that their products have not been contaminated and end consumers will have more time to prepare. However, the longer the gap between Group A and Group B, the less time that B has to prepare.

110. Officials caution that some flexibility will be needed in implementation to be able to respond to unanticipated market reactions, perceptions of risks, or the possible uncontrolled release of partial or full information about the threat.

Timing of the first proposed meeting

Pre-requisite actions before advising affected manufacturers

111. MPI has identified the following key actions to be completed before any information about the threat is released.

- [redacted] 6(a)
- Finalise Communication strategy and associated messaging for stakeholders and/or media (Completed – subject to any updating as circumstances change)
- Communications plan for responding to test results confirming deliberate contamination once 1080 testing regime is in place. (underway)

112. Arranging the meeting will require at least three days. It will be a face-to-face meeting held in Wellington that is expected to take up to three hours. [redacted] 6(a)

113. A detailed sequencing of activities has been planned to ensure the meeting achieves its objectives and to enhance the prospects of maintaining confidentiality.

114. [redacted] 6(a)

115. [redacted]

116. [redacted]

117. [redacted]

6(a)

118.

119.

120.

Communications Planning

121. Extensive communications planning has been underway since the Concord threat was made. There has been cross agency input into this and it covers a range of scenarios for the threat being made public from an uncontrolled leaking of the threat to a planned and deliberate announcement.

122. One of the principles officials have been working to is that a planned, proactive announcement of the threat, at the appropriate time, is the best manner of maintaining public and trading partner trust and confidence (as opposed to an uncontrolled leak). Furthermore, this would ideally be at a time when appropriate supporting information and advice is suitably developed and mitigating actions have been put in place. This may be alleviated if the threat was in some way eliminated, for example following a Police arrest.

123. This information (when it becomes public) is likely to lead to sustained global media attention being focused on New Zealand. MPI will be the lead agency for media responses, but NZ Inc agencies have developed an international media response protocol to support MPI. This includes setting up a media response centre and undertaking global media (and social media) monitoring. MFAT and NZTE offshore staff will also support the MPI response by providing advice on specific media requirements for their countries and regions.

Process for proactive announcement

124. As noted elsewhere in this paper, informing key parties of the Concord threat is essential to enable risk mitigation measures to be put in place, in particular 1080 testing, [redacted] and to manage relationships with trading partners. Key proactive release talking points are attached to this paper in Annex 3. 6(c)

125. MPI estimates that these measures would be in place by early to mid February and will enable a planned and proactive public announcement about that time. This scenario clearly assumes that other matters that might trigger an earlier announcement do not arise – for example a leak, financial market disclosure requirements, developments to the threat or criminal investigation, [redacted] 6(a)

126. Additional planning is underway around post-announcement communications considering, for example, managing public health concerns (development of information and scripts for Healthline, Plunket DHBs etc), shaping the inevitable debate around 1080 use, social media engagement and developing regular media briefings.

Public announcement process

127. The key points in the announcement process from the Communications Strategy are:
    - The initial public announcement will be made at a media conference, at Police National Headquarters, convened by Police and MPI
    - The Police Commissioner and MPI Director-General will lead the media conference – supported by appropriate senior staff
    - The media conference will be timed to enable a simultaneous market disclosure announcements for listed companies affected by the Concord threat
    - The initial media conference will be followed by a ministerial media conference – one to two hours later.

Further information

128. Operation Concord planning has considered a range of scenarios that might lead to the controlled, uncontrolled or partially controlled release of this matter to the public and has prepared plans accordingly.

129. [redacted] 6(c)

130. [redacted] 6(c)

131. [redacted]

Consultation

132. The following agencies have been consulted in the preparation of this paper, concur with the contents and agree with the recommendations:
    - Treasury
    - Ministry of Foreign Affairs and Trade
    - Environmental Protection Authority
    - New Zealand Police
    - Department of Conservation
    - The New Zealand Customs Service
    - Ministry for the Environment
    - Ministry of Health

133. The Department of the Prime Minister and Cabinet are aware of the contents of this paper.

Financial and Legislative Implications

134. There are no financial or legislative implications arising from this paper.

Regulatory Impact Analysis

135. The requirements for preparing a Regulatory Impact Analysis do not apply.

Recommendations

136. The Minister for Primary Industries and the Minister for Food Safety recommend that the committee:

The threat to contaminate infant formula with 1080 and the immediate government response

1. **Note** that a threat was received by Fonterra and Federated Farmers [redacted] to contaminate New Zealand infant and other formula with 1080 [redacted] 6(c), 9(2)(d)

Noted

2. [redacted] 6(c)

Noted

3. **Note** Officials are taking the threat seriously, as the threat was accompanied by a milk powder sample that contained [redacted] 1080, and the Officials Committee for Domestic and External Security Coordination (ODESC) is overseeing the government response.

Noted

4. **Note** the threat has two dimensions – human health, if the threat is carried out, and economic, if the threat is made public and regardless of whether the threat to contaminate milk product is carried out.

Noted

5. **Note** that the Police quickly launched an intensive investigation that focused on the collection of evidence to identify the person or persons responsible for the threat.

Noted

6. **Note** that there are no plans to accede to the threat's demand to cease using 1080 in New Zealand.

Noted

Managing the risks from the threat

7. **Note** that Fonterra is the only company with knowledge of the threat and that informing other New Zealand infant formula manufacturers of the threat will allow the risks to be mitigated, as manufacturers can better reduce risks along their supply chain and begin testing of milk and milk products for 1080 contamination.

Noted

8. [redacted] 6(c), 6(a)

Noted

9. **Note** that officials are engaging with the Financial Markets Authority regarding the continuous disclosure obligations of publicly listed companies.

Noted

10. **Note** that although information about this threat and the government response is being closely restricted, this situation could rapidly change and result in the information being released in partially controlled or uncontrolled way.

Noted

11. **Note** that extensive communications materials have been prepared to respond to a range of scenarios by which the threat could be made public.

Noted

Responding to the threat

12. **Note** that officials have considered a range of options for managing the release of information about the threat.

Noted

13. **Note** that officials have identified two key groups of stakeholders that will need to be informed if Ministers agree to the sharing of information about the threat:

Group A

- Affected manufacturers of infant formula:
- [redacted] 6(a)
- Key global companies that dominate world trade in infant formula;
- Regulatory authorities in export markets, as required;

Group B

- New Zealand public health agencies;
- Infant formula, dairy industry stakeholders and laboratories [redacted] 6(c)
- [redacted] rading partners; 6(a)
- The public including customers and consumers and wider public.

Noted

14. **Note** that a process will be implemented to inform Group A stakeholders.

Noted

15. **Note** that a process will be implemented to inform Group B stakeholders three to four weeks after informing Group A stakeholders.

Noted

16. **Note** that officials will notify Group A and B immediately, if an uncontrolled release of information about the threat occurs or is about to occur.

Noted

17. **Note** that the proposed sequence and timing of the information release will need to be able to respond quickly to any adverse export market responses, trade restrictions, early release of partial of full information about the threat, company obligations regarding disclosure to the stock market and a range of other possible factors.

Noted

18. **Note** that officials may need to modify the details of the sequence and timing of informing groups to respond to particular circumstances which need to be managed to protect human health, trade, New Zealand reputation or other issues.

Noted

19. **Note** that officials will seek guidance from Ministers in advance of a proactive public announcement, including on the content of public messages, role of Ministers in media engagement, and strategy for advising specific trading partners.

Noted

20. [redacted] 6(c), 9(2)(d)

Noted

Hon Nathan Guy
Minister for Primary Industries

29 / 1 / 2015

Hon Jo Goodhew
Minister for Food Safety

29 / 01 / 2015

Annex 1: Key government agency actions in response to the Concord threat

Immediate actions following receipt of the threat

- Threat received by Fonterra and Federated Farmers on Thursday 27 November 2014 6(c)
- Police and Government agencies advised;
- Police investigation initiated;
- Officials begin working [redacted] on a response to the threat. 9(2)(d), 9(2)(b)(ii)

All of Government response coordination through ODESC and Watch Group

- First watch group convened Thursday 27 November;
- First ODESC meeting Friday 28 November;
- Activities coordinated by DPMC with regular weekly watch group meetings and two-weekly ODESC meetings.
- ODESC meeting on 9 January 2015 commissioned BN14-303 for Ministers.
- Paper submitted to Cabinet for 27 January meeting (Sub14-030).

Initial preparedness activity

- Across agency communications meeting to commence comms planning – reactive and proactive messages prepared to respond to different scenarios by which information about the threat might become public.

Police investigation

- [redacted] 6(c)

MPI activities

- Established a formal response to Concord threat;
- [redacted] 6(c)
- [redacted] developed validated test method to detect 1080 in milk and milk powder; 9(2)(b)(ii)
- Developed a contingency plan, if tests detect 1080 in milk or milk powder;
- [redacted] 6(a)
- Prepared and continued to update, a communications strategy;
- Developed procedures and sequencing for advising infant formula manufacturers, foreign regulators and others about the threat;
- Worked with FMA over continuous disclosure requirements for listed companies;
- Worked with EPA to understand the 1080 supply chain.

MFAT activities

- [redacted] 6(a)
- [redacted]

EPA activities

- [redacted] 6(c)

Keeping Ministers informed

- First aide memoire to Ministers Guy and Goodhew Monday 1 December; (AM14-263)
- Subsequent aide memoires to Ministers Guy and Goodhew – also used by other departments to advise Ministers:
    - Friday 5 Dec (AM-272)
    - Friday 12 Dec aide memoire (AM-280)
    - Friday 19 Dec aide memoire (AM-288)
    - Wednesday 21 January aide memoire (AM-309)
    - Wednesday 28 January aide memoire (AM 326)

Annex 2 is withheld under 6(c)

Annex 3: Key Talking points for proactive announcement

Ministry for Primary Industries
Manatū Ahu Matua

Communications Plan - Controlled Announcement of Operation Concord Threat

(Version 23 January 2015)

This plan considers a planned, proactive announcement of the Concord threat. It considers the lead up to and the day of the announcement. Further detailed planning is well underway for the post-announcement period.

This plan assumes that the implementation of a new 1080 testing regime for the manufacturing of retail ready infant formula and relevant base powders is underway. This scenario also assumes that other matters that might trigger an earlier announcement do not arise – for example a leak, financial market disclosure requirements, developments to the threat or criminal investigation [redacted] 6(a)

[redacted]

Timing (and other plan detail) may need to be amended if there is a requirement for the initial media conference to occur simultaneously with market disclosure announcements for listed companies affected by the threat and if a trading halt is not considered a viable solution for these companies to accommodate the desire to hold media briefings at a more attractive (from a media point of view) time than 9:00 am when markets open. 9(2)(g)(i)

Key elements

- The initial public announcement will be made at a media conference commencing at 11:00 am, convened and led by Police and MPI.
- A media "lock up" will occur immediately before the initial media conference – to allow media the opportunity to consider embargoed announcement and background material to facilitate a more informed initial reporting.
- [redacted] 6(a)

- A "technical briefing session" for media will also be held after the initial media conference with key subject matter experts to provide more detailed information about the infant formula supply chain, public health implications of the threat and policy behind 1080 use.
- A media conference with the Ministers for Primary Industries, Food Safety and Police will occur at 1:00pm on the day of the announcement.

Principles

Principles considered when developing this plan are:

1. Consumer safety is paramount.
2. If detail of the threat is made public then full transparency is the best method of maintaining trust and confidence – subject to not compromising the police investigation.

Announcement timings

	Activity prior to day of announcement					
	Engagement	Owner	Mechanism	Objective	Inputs	Time
6(a)	1	[redacted]				
9(2)(g)i)	2	[redacted]dentified affected manufacturers advised of face-to-face meeting with MPI in Wellington in two days time.	MPI	Phone		T – 2 to 3 weeks
	3	Formal meeting with [redacted]ffected manufacturers	MPI	Face-to-face meeting		T – 2 to 3 weeks
	4	[redacted] key global infant formula companies.	MPI			T – 2 to 3 weeks
6(a)	5	[redacted]				

6(a)	[redacted]					[redacted]
6	Key public health agencies (Plunket, Medical Officers of Health, Healthline and others TBC)	MPI and MoH	Face-to-face	Preparation Information sharing Cooperation and alignment (of messaging) No surprises	Talking points for conversation Talking points for them to provide to their frontline medical and call centre staff.	T - 48 hours
7	Briefing to key Ministers Press Secretaries					T - 48 hours
8	Key stakeholders (dairy industry, other food sector, key conservation groups, [redacted] trade NGOs) advised of a conference call briefing the following day	MPI	Conference call	Information sharing Cooperation and alignment (of messaging) Transparency	Talking points for conversation Talking points for them to provide to their members	T – 20 hours

6(a)

Day of announcement (date TBC)

	Engagement	Owner	Mechanism	Objective	Inputs	Time
9	Announcement of media conference	Police comms	Media advisory	Preparation	Media advisory Media list	0830hrs
10	Trading halt imposed by manufacturers who are listed companies if required	Manufacturers				0900hrs
11	[redacted]					
12	Key industry stakeholder conference call	MPI and Police	Conference call	Information sharing Cooperation and alignment (of messaging) Transparency No surprises	Talking points for conversation Talking points for them to provide to their members	0900 to 0930hrs

6(a)

13	Final pre-media conference briefing session - Spokes people briefing and preparation	MPI and Police Comms	Face to face	Preparation	Q & A	0930hrs
14	**Media lock up**	**MPI and Police**		Better prepared media	**Media release** **Public Q&A** **Back ground materials (supply chain, public health, fact sheets)**	**1000 to 1100hrs**
15	**Media Conference 1** **Spokespeople:** Police Commissioner and MPI Director-General – supported by appropriate senior staff	**MPI and Police**	**Media conference** **Web** **Social media**	**Transparency** **Openness** **Advice** **Reassurance**	**Media release** **Public Q&A** **Back ground materials (supply chain, public health, fact sheets)** **Web & social media content**	**1100 to 1130hrs**
9(2)(f)(iv) 16						
17	Market disclosure by manufacturers who are listed companies					1100hrs
18	Follow up information pack sent to key industry stakeholders which participated in earlier conference call	MPI	Conference call	Information sharing Cooperation and alignment (of messaging) Transparency No surprises	Media release Public Q&As Fact sheets etc	1100hrs
19	Notify the *International Food Safety Authorities Network (INFOSAN)*[1]	MPI – Biosecurity Science, Food	Formal notification	Obligation under International Health		1100hrs

[1] INFOSAN *is a global network of national food safety authorities, managed jointly by the Food and Agriculture Organization of the United Nations (FAO) and the World Health Organization (WHO) with the secretariat in WHO. INFOSAN facilitates rapid exchange of information during food safety related events and operates under the umbrella of the International Health Regulations (which outlines country obligations to report events of*

		Science and Risk Assessment Directorate [redacted]		Regulations to report events of public health concern to the World Health Organization (WHO)		
21	Announcement of Ministerial media conference	Lead Minister's office	Media Advisory	Preparation	Media advisory	1130hrs
22	[redacted]					
23	**Media conference 3** Technical session for media with subject matter experts (supply chain, public health, 1080)	MPI, EPA, MfE, MoH / Plunket	Media conference Web Social media	Education	Presentations and back ground materials (supply chain, public health, fact sheets)	1145 to 1230 hrs
24	**Media Conference 4** Ministers	**Minister of Police** **Minister for Primary Industries** **Minister for Food Safety**	**Media conference** **Web** **Social media**	**Transparency** **Openness** **Advice** **Reassurance**	**Media release** **Web & social media content**	**1300 to 1330hrs**

On-going communications plan activated (note – separate plan being developed considering a range of matters including public health messaging, frequency of daily media briefings, stakeholder updates etc. This will also consider managing various issues that are likely to develop post announcement [redacted]

This plan is one element of a master communications plan considering a range of other scenarios for Operation Concord, including detailed planning for a uncontrolled announcement.

6(a)

9(2)(g)(i)

public health concern to WHO). MPI can use INFOSAN during events to reduce other country concerns about food safety events, including implicated products, and can facilitate the sharing of information to importing countries (including risk assessment, distribution and product details).

Key Talking points

- A threat targeting New Zealand interests has been received, relating to opposition to 1080 use in New Zealand.
- The threat involves a stated intention to release 1080 contaminated infant and other formula [redacted] 6(c), 9(2)(d)
- [redacted]
- These are abhorrent threats which Government views with utmost seriousness. Police immediately launched a criminal investigation and MPI, with the support of multiple government agencies, and industry, has been focused on putting additional measures in place to further protect the infant formula supply chain.
- [redacted]
- There is significant resource being brought to the investigation and operational response and the full force of the law will be applied. 6(c),9(2)(d), 6(a)
- We are asking anybody that might have any information relevant to this criminal investigation to call Police on [tbc]. As a country we need to come together to overcome this threat – regardless of our personal views on 1080.
- [redacted] 6(c)
- Our first priority in responding to this threat has been and will continue to be the safety of consumers.
- [redacted] 6(a)
- New Zealand infant formula processing factories maintain high levels of security as a normal routine and there has been no evidence found to date that normal supply chain assurances or factory security has been compromised.
- The situation reflects deeply held opposition in some sectors of the community about 1080 use in New Zealand, despite independent and rigorous reviews that have endorsed its use within tightly regulated pest control operations.
- 1080 is a critical tool for pest control and protecting New Zealand's native flora and fauna – which are a vital part of what makes New Zealand New Zealand. It is also a vital tool for controlling bovine tuberculosis and as such is very important to our agricultural industries.

- As always, our advice to consumers is that if product appears to have been tampered with – for example seals broken or punctured – then it should not be consumed and it should be reported to the appropriate authorities. In New Zealand this is the Ministry for Primary Industries on 0800 69 37 21 or info@mpi.govt.nz

AM14-334

Ministry for Primary Industries
Manatū Ahu Matua

Aide-memoire:

From: Scott Gallacher
Deputy Director-General, Regulation and Assurance
for Director-General

Contact: Scott Gallacher [redacted] 9(2)(a)

To: Hon Nathan Guy
Minister for Primary Industries

Hon Jo Goodhew
Minister for Food Safety

Date: **4 February 2015**

Operation Concord – MPI response activities and staged release of information

Purpose

1. This aide memoire updates Ministers on progress in the Operation Concord response to the threat to contaminate New Zealand infant formula [redacted] 6(c), 9(2)(d)

Staged release of information about the threat

2. MPI is now proceeding with the staged release of information to the affected parties. The current focus is on informing the "Group A" parties comprising:
   - [redacted] 6(a)
   - Affected manufacturers;
   - Key global companies trade in infant formula; and
   - Regulatory authorities in export markets (as and when required).

3. [redacted] 6(a)

4. [redacted] 6(c)

Enhanced MPI Operation Concord response set up

5. MPI has now substantially enhanced its response capability with additional facilities and people to support the additional operational activities now under way.

6. An expanded MPI Governance Group has also been established with MFAT, MOH, MfE and DPMC representation. The Governance Group will oversee the response and contribute to the coordination between Ministries, overseen by DPMC through the ODESC and Watch Group processes.

7. Dedicated response rooms have been set at Pastoral House up for the Incident Controller and representatives from the different work streams. Representatives from MFAT are included, along with those from other agencies as needed. Response activity will expand as we get closer to the public announcement.

Police investigation

8. [redacted] 6(c)

9. [redacted]

Preparation for meetings with Group A parties

10. [redacted] 6(a)

11. [redacted]

12. Procedural arrangements for the meetings with other Group A parties have been set up, but the timings are not yet finalised. Extensive briefing and communication materials have been prepared. These meetings, and follow ups, will include:
    - New Zealand infant formula manufacturers;
    - Global infant formula suppliers;

- Half day industry workshop for manufacturer representatives;
- Other New Zealand testing laboratories that may be able to provide or install 1080 testing capacity for milk and formulated products; and
- Daily updates with New Zealand manufacturers.

Preparation for informing Group B parties

13. The focus for Group B parties is to ensure that people are prepared for the public release [redacted] 6(c)
Group B parties include:
    - New Zealand public health agencies;
    - Infant formula and dairy industry stakeholders; 6(a)
    - [redacted] trading partners;
    - Laboratories [redacted] 6(c)
    - Media and public.

14. Briefing and communications materials are being prepared for the different groups, including for the final public release. Some of the stakeholders, such as public health agencies, Plunket and Healthline can usefully assist the MPI response to the threat and will be informed before some other stakeholders in Group B.

15. MPI has developed an extensive list of groups and organisations in Group B and is assessing these against the following criteria:
    - Agencies/organisations that can assist MPI with the response to the threat;
    - Stakeholders that will be affected by the threat;
    - Stakeholders which should be informed for courtesy reasons;
    - Stakeholders which may be asked for comment by the media.

16. With all these groups, the benefits of informing them early will be carefully balanced with the risk of early release of information about the threat.

Testing of milk and milk products for 1080

17. There are two complementary processes for testing of milk and formulated milk products. The first is the regulatory testing being undertaken by MPI. The second is commercial testing. Fonterra is currently undertaking this testing, but this will extend to other infant formula manufacturers when they are informed of the contamination threat.

18. The testing is very sensitive and will report any samples which contain more than one part per billion of 1080 (1ppb). Test results to date from MPI's regulatory testing, and Fonterra's commercial testing, have all been negative.

19. The laboratory capacity to test raw milk is being expanded to test up to [redacted] samples per day. MPI is using some of this capacity to test retained and current samples from 2015. Fonterra, as the largest buyer of raw milk from farmers, is likely to use most of the testing capacity for milk samples from farm suppliers. 6(c)

20. [redacted] This is being used to test [redacted] samples held by MPI and also current and retained samples of formulated milk products by Fonterra. Once the infant formula manufacturers are informed and begin to contribute samples to test, at least one third of the laboratory capacity will be made available to these companies. 9(2)(b)(ii)

Market disclosure requirements for listed companies

21. MPI has met with representatives from the Financial Markets Authority and the New Zealand Stock Exchange to discuss the market disclosure requirements of listed companies. The agencies are satisfied that the triggers for disclosure have not yet been met [redacted] Discussions with these agencies are continuing. 6(c)

Communications activity

22. MPI is working closely with communications staff in MFAT, Police, MfE, EPA and DOC to develop communication materials and information to support all parts of the response.

Next Steps

23. [redacted] 6(a)

24. The table attached as Annex 1 is a summary of the progress made by MPI with the staged release of information about the threat to Group A parties. It will be updated in subsequent aide memoires.

Ministerial updates

25. MPI plans to prepare an aide memoire each week to update you on progress with the Operation Concord response. This will normally be sent to your offices each Thursday. It will report on activities undertaken during the week and identify the key activities planned for the next week. If there are any significant development,s Ministers will be informed directly.

26. As there are a group of Ministers with interests in the Concord response, MPI plans to circulate the weekly aide memoire to officials in the DPMC Watch Group. They are able to use this aide memoire as the basis for reporting to their own Ministers.

Minister / Minister's Office

Seen / Referred

/ /2015

Annex 1 - Summary of progress with the staged release of information about the threat to contaminate infant formula

Agencies informed	Date informed (actual or planned)	Information provided and information sought	Stakeholder response	
Group A				
[redacted]	[redacted]	[redacted]	[redacted]	6(a)
[redacted]	[redacted]	[redacted]		
Affected manufacturers	Indicative date for meeting – Tuesday 10 February	Briefing materials prepared including testing protocols. Information will be sought on supply chain security, customers and markets.		
Global infant formula companies	Indicative date for meeting - Wednesday 11 February, after manufacturers meeting	Briefing materials prepared. [redacted]		6(c)
[redacted]	[redacted]	[redacted]		6(a)