

# Review of Biosecurity Border Clearance Charges 2009

Introduction of Ruminant Protein Facility Audit Charge

## Submissions Analysis

MAF Biosecurity New Zealand Information Paper No: 2010/01

978-0-478-36306-7 (print)  
978-0-478-36307-4 (online)

ISSN 1179-5875 (print)  
ISSN 1179-5883 (online)

March 2010





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## Introduction

In November 2009, The Ministry of Agriculture and Forestry (MAF) completed a review of the Biosecurity (Costs) Regulations 2006 and three related levy orders - the Biosecurity Risk Screening Levy Order 2006, the Biosecurity Shipping Container Levy Order 2006 and the Biosecurity Gypsy Moth Levy Order 2004 (“Biosecurity Costs Regulations and Levies”).

In December 2009 MAF released a discussion paper *Review of Biosecurity Border Clearance Charges 2009* on the proposed changes to the biosecurity border clearance charging regime comprising the biosecurity costs regulations and three levies.

The discussion paper also outlined possible implications of the proposed Joint Border Management System (JBMS) which would affect border clearance fees following its implementation.

MAF developed two options for charging under the revised biosecurity costs regulations:

- **Option 1:** Modify the existing structure of fees and charges by amending the existing costs regulations and revising the rates for the risk screening and shipping container levies.
- **Option 2:** Simplify the charging regime by recovering a greater share of the costs via a single biosecurity system entry levy on all imported goods crossing the border and removing the shipping container and gypsy moth levies.

MAF invited feedback from all interested parties on the changes proposed in the discussion paper and allowed eight weeks for submissions.

This analysis provides a summary of the issues raised in the submissions on the discussion paper and MAF’s response to them. The number in square brackets [ ] indicates the assigned submission number of the submission where the issue was raised.

## INDUSTRY/STAKEHOLDER RESPONSE

Notification on the proposed amendments to the Biosecurity costs regulations and levies was made through the following channels:

- e-mail alerts to more than 7,500 subscribers to the importers/exporters pages of the Biosecurity New Zealand website [www.biosecurity.govt.nz](http://www.biosecurity.govt.nz);
- over 100 individual e-mails to the main stakeholder groups including major import industry associations, import/export supply chain associations, primary and processing industry associations;
- a MAF press release on the 11 December 2009 and the 2009 biosecurity costs regulations review project newsletter (November issue) on the Biosecurity New Zealand website;
- the New Zealand Customs Service News and Information newsletter (18 December issue) distributed too about 800 industry stakeholder;
- the Customs Brokers and Freight Forwarders Federation and the Importers Institute electronic circulation lists.

MAF conducted three workshops for industry and the public in Auckland, Wellington and Christchurch (15-17 December 2009) to present proposed changes, answer questions and clarify issues. MAF also met with import industry groups at their request to discuss their concerns and provide further clarification. The meetings took place during the consultation period (January 2010) and after submissions had been received (February and early March 2010).

After an eight-week consultation period MAF received fifteen submissions on the proposed changes to the biosecurity border clearance charges.

The majority of submitters made comments on specific proposed changes and relevant sections and subsections of the discussion paper. Three of the ten submitters directly affected by the new regulations responded to the questions asked in the discussion paper on the impact of the proposed changes on their business.

Six submissions contained comments on the proposed future joint border management system and the recovery of the costs of this system once implemented.

## PROFILE OF SUBMITTERS

Feedback on the changes proposed in the discussion paper was received from ten stakeholder groups. These groups represent all sectors with interests in the biosecurity border clearance of imported goods as well as primary industry associations with interest in management of biosecurity risks on the border.

Of the fifteen submissions received by MAF:

- seven were from import industry and their supply chain associations;
- three were from primary industry associations;
- two were from processing industry associations;
- one was from the air freight industry group;
- one was from the shipping industry association; and
- one was from a research organisation that regularly uses MAF's biosecurity clearance services.

All main import industry and their supply chain associations, including customs brokers and freight forwarders, express freight, airlines, shipping, air cargo and freight moving companies made submissions on the proposed changes to biosecurity border clearances charges.

# 1 Submitters' General Comments

This section reflects general comments made by submitters in their feedback on the changes in biosecurity border clearances charges proposed in the discussion paper. Submitters' comments on specific proposed changes are reflected in the relevant sections and subsections of this document.

General comments included:

- support for more efficient and easier ways of collecting border clearance charges for both MAF and industry;
- objections to any increases in charges and concerns about the level of increase in some charges and fees;
- concerns about variations in the inspection time and hourly charges for inspections performed by inexperienced versus experienced personnel;
- the need to eliminate variations in MAF charges for the same type of service provided at different locations;
- a statement that compliance costs are increasing for infrequent importers of low risk goods;
- a statement that MAF Biosecurity New Zealand need to have sufficient funding to ensure that border controls are effective and efficient;
- a statement that any “write off” of MAF’s deficit in cost recovery or any “transfer of funds” from other forms of funding is subsidisation, which contravenes Treasury guidelines of fair treatment.

Two submitters [9, 14] raised the issue of a \$5.1 million revenue deficit in biosecurity border cargo clearance operations in the 2008/09 financial year. One of the two submitters [15] opposed the reduction in cost recovery fees and reducing costs to importers, especially in view of the mentioned deficit.

## *MAF Response*

MAF emphasises that the proposed changes to the biosecurity costs regulations and levies have been developed according to:

- cost recovery provisions of the Biosecurity Act 1993; and
- the Office of the Auditor-General<sup>1</sup> and the Treasury<sup>2</sup> guidelines for setting charges in the public sector.

Under the Biosecurity Act, MAF can only recover the actual costs of performing a biosecurity function or duty that MAF is required to perform under the Act, and which are not provided for by money appropriated by Parliament for this purpose.

The government guidelines for setting charges in the public sector direct MAF to avoid under- or over-recovery of costs of providing biosecurity services to third parties. In line with the Treasury Instructions 2007, MAF must use memorandum accounts to record the accumulated balance of surpluses or deficits incurred in providing fully cost-recovered services. Under memorandum accounting:

- the surpluses and deficits must be captured and reported through the Annual Report to provide transparency to fee-payers; and

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<sup>1</sup> *Charging Fees for Public Sector Goods and Services*. Good practice guide. Office of the Auditor-General, June 2008. - <http://www.oag.govt.nz/2008/charging-fees/docs/charging-fees.pdf>

<sup>2</sup> *Guidelines for Setting Charges in the Public Sector*. The Treasury, December 2002. - <http://www.treasury.govt.nz/publications/guidance/finmgmt-reporting/charges>

- any over-recovery of costs should be returned to users via lower charges in subsequent years or alternately any under-recovery should result increased charges.

MAF cannot legally set charges for importers at a level higher than the actual cost recovery of the provided service and then to use the surplus revenue generated to fund other biosecurity activities.

MAF is currently addressing the issue of a \$5.1m deficit in cargo revenue over the last two financial years with the Treasury and Minister for Biosecurity. We will separately advise the submitters and all stakeholders on the outcome of these discussions.

## 2 Main findings of the 2009 review and proposed changes

### 2.1 PROPOSED OPTIONS

Seven submitters clearly indicated their preference for Option 2 - Simplify the charging regime by introducing a single biosecurity system entry levy. Two of the submitters commented on this option's simplicity and the potential savings to regular users. Two other submitters commented that Option 2 is simpler, cheaper to administer and more equitable as it places costs and charges where they fall.

However, one of the seven submitters noted that this option will significantly increase the cost of imports as the majority of this submitter's consignments are individual, small and frequent.

Three of the seven submitters that prefer Option 2 expressed their concerns that this option:

- may have an adverse effect on volumes of in-bound air cargo and may result in a loss of trade;
- will have a negative effect on importers of low value goods who do not currently pay a biosecurity risk screening levy.

One of these submitters commented that Option 2 "will also make the low value importers think twice about the economies of overseas purchase versus New Zealand purchase especially via the internet".

One submitter disagreed with both proposed options and stated that the majority of importers would be worse off under Option 2. Another submitter stated that an urgent review of the two proposed options needs to be completed. These two submitters were also concerned that both charging options result in a substantial increase in the risk screening levy and a substantial revenue gain to MAF.

Three submitters opposed any reduction in the shipping container levy as proposed in Option 1 and the removal of shipping container and gypsy moth levies under Option 2. These submitters suggested that instead of reducing charges to importers of sea containers and reducing MAF border inspection capacity, the charges should be increased.

Two submitters did not comment on the proposed options.

#### *MAF response*

Under Option 2, MAF proposes to revoke the current three levies and introduce a single biosecurity system entry levy. The activities to be funded by the single biosecurity levy would not be equal to the sum of the activities currently funded by three biosecurity levies. These activities, detailed in the discussion paper, include surveillance around ports and airports for gypsy moth and other exotic pests.

The charging structure in the two proposed options is different in principle. In Option 1 the biosecurity risk screening and shipping container levies are comprised of fixed and variable components. In Option 2 all fixed costs, which are similar to all biosecurity border clearance activities, are proposed to be recovered via a single biosecurity system levy. Variable costs that are specific for biosecurity inspection activities will be recovered via hourly charges.

Inspection of sea containers, and any further actions to be undertaken by MAF on issuing biosecurity clearance for sea containers containing biosecurity risk goods, will be charged at an hourly rate.

In respect to submitters' concerns over increased costs to importers not currently charged a risk screening levy, MAF emphasises that the proposed new single levy will be collected on electronic customs interface reports, but not on each consignment. MAF believes that screening of all manifests (that is not currently cost recovered) for biosecurity risk goods is a fair and equitable method of spreading the costs of this activity across goods imported through different pathways.

Option 2 will allow savings in the biosecurity system due to disestablishing the administration of data collection, verification and invoicing systems for the shipping container and gypsy moth levies. Instead, the new single biosecurity system entry levy will be collected at a single entry point in the New Zealand Customs Service electronic system.

## 2.2 IMPLICATIONS OF FUNDING PRINCIPLES FOR THIRD PARTY CHARGES AND KEY CHANGES

### 2.4.2 Travel costs for MAF inspectors/Travel zones

Five submitters [1, 3, 6, 7, and 11] commented on travel zone fees or travel zone charges for MAF inspectors (see *Review of Biosecurity Border Clearance Charges 2009*, page 12).

One submitter considered that MAF has a responsibility to provide border services at the approved ports of entry [11]. This submitter suggested that ports of entry and MAF Biosecurity office locations be recognised and treated as MAF bases for the purpose of travel zones. The submitter also suggested that travel costs should not apply to Zone 1.

One submitter [1] queried the application of different travel/zone charges depending on the distance a MAF inspector needs to travel when called out for a biosecurity inspection. The submitter viewed that MAF should have the same call-out rate to everyone to simplify the system.

Four submitters [3, 6, 7, and 11] expressed their concerns about the proposed increase in travel zone fees, queried the justification of the proposed level of increases and requested further information on the costs included in the calculation of zone fees.

One submitter [6] requested a clear statement on how travel zone fees and mileage are charged when more than one facility is visited as part of a "round trip". This submitter suggested apportioning of travel costs among the facilities inspected and providing details of the apportioned time and mileage for each facility when more than one facility is visited as part of a "round trip".

A typographical error in Table 1 of Appendix B of the discussion paper showing the figure for total revenue collected (GST excl) for Zone 1 as \$1,1157,800 instead of the correct figure of \$1,157,800, was also noted.

## MAF Response

Travel costs are payable for any activity that requires a MAF inspector to leave his/her base or, in the case of a call-out, any other place (e.g. home). The charge applies to the time spent away from the base including a return trip. The inspector's base is the usual place of employment, that is a designated MAF office.

There is no legislative requirement that MAF offices should be located at ports of entry. If no MAF office is located in or immediately adjacent to a port of entry, the port cannot be treated as a MAF base for the purpose of travel zone charges.

The Biosecurity Act provides for the making of regulations for the recovery of costs for services provided by MAF including travel costs to a place of inspection.

MAF has not charged for travel costs when inspections have been undertaken within the port in conjunction with Crown-funded operations, e.g. vessel clearance visits. In cases when within-the- port inspections have been requested by importers or their agents, travel charges have been applied where a special trip to a port was required.

Charging for biosecurity inspection activities carried out at different locations depending on the actual (travel and inspection) time involved but using the same rate, corresponds to the principles of cost recovery for the services provided by MAF to third parties under the Biosecurity Act 1993 and government guidelines for setting charges in the public sector.

MAF will always endeavour to use inspectors from the closest MAF office, where possible, for inspections undertaken at locations distanced from main centres.

Zone fees for three zones (up to 50 km radius) were calculated based on the average time spent by a MAF inspector on a round trip within a particular travel zone to undertake a biosecurity activity requested by an importer or an importer agent. Details of calculations are provided below.

The proposed zone fees are based on the estimated cost of \$2 million per annum with the following breakdown of the cost:

Vehicle operating costs (50% of the total cost only)	\$0.500 m
Computer lease cost	\$0.050 m
Inspectors cost (required 25 FTEs @ \$58,000/FTE)	\$1.450 m

The estimate of the required FTEs is based on the activity consumption model that takes account of the average volumes and time standard for zone travel. Below is an extract from the model:

Zones	Volume	Time standard	Hours	Required FTEs
Zone 1 (10km)	24,340	44 min	17,850	19.71
Zone 2 (25km)	3,750	60 min	3,750	4.14
Zone 3 (50km)	880	100 min	1,467	1.62

Note: Available hours per FTE are 1,688 hrs. In this activity area approximately 54% of available hours are chargeable. Non-chargeable hours include activities such as training and development, office administration, team meetings, etc.

For a travel distance over 50 kilometres from a MAF base, the proposed charge is \$100 per hour and other actual and reasonable costs associated with the travel (e.g., \$0.69c per kilometre for vehicle use).

MAF apologises for a typographical error in Table 1 of Appendix B. Total revenue collected (GST excl) for Zone 1 is \$1.578 million. Therefore, the typed figure of \$1,1157,800 should be replaced with the correct figure of \$1,557,800.

### 2.4.3 Call-out and additional hours costs for MAF Inspectors

Two submitters [6, 11] commented on call-out-costs. One submitter [11] agreed to the implementation of call-out-costs for MAF inspectors as this should be a user pays service.

Another submitter [6] requested clarification with regard to notification and invoicing mechanisms to be used by MAF in the instances when call-out-costs or additional hour costs (e.g. inspections undertaken on a statutory holiday) are incurred. For this submitter, the proposal to reinstate differential payments outside of normal working hours seems to be administratively more complex. The submitter considers that the proposed charge will not provide importing companies with accurate cost estimations as importing companies will not have prior knowledge if inspectors are working at 1.5 times rate or 2-times rate.

#### *MAF Response*

Some importers request MAF Biosecurity New Zealand to work outside of the normal hours of operation. Establishing call-out costs in the revised regulations will allow importers to estimate the likely costs prior to requesting the out-of-hours inspection. It will also allow MAF Biosecurity New Zealand managers to plan for the resources required to undertake the work. Both parties will be aware of the scale of costs and the scale of the work required. MAF will also have assurance that these costs will be recovered as a true cost of providing the service.

The invoicing mechanisms for call-out or additional hour costs will be the same as those currently used for invoicing for the inspections performed by MAF inspectors under the 2006 costs regulations.

Prior to booking an inspection for a certain time on a particular date, importers will know what hourly rates they will pay when they request inspection outside of normal working hours.

Call-out and additional hours worked in excess of an inspector's normal hours will be charged at a corresponding overtime rate, i.e. at a 1.5-time and 2-times the hourly rate for normal working hours as follows:

- \$114.00 per hour for each inspector or a biosecurity adviser working at a 1.5-times rate that is likely to be applied if inspection is requested on Saturdays or outside an inspector's normal working hours on week days;
- \$128.00 per hour for each inspector or a biosecurity adviser working at a 2-times rate, which depends on the specific operation of a particular MAF site;
- \$224.00 per hour for each inspector or a biosecurity adviser working on a statutory holiday. The charge for inspection on a statutory holiday would be a 2-times rate plus a day-off cost. The day-off cost applies even if the job takes only an hour on a statutory holiday, again reflecting the true cost to MAF of meeting its obligations under the Holidays Act.

An importer/importer agent will be advised on the applicable rate for a call out or additional hours for MAF inspectors at the time of booking the inspection with MAF. The importers will know in advance the chargeable hourly rate and will be able to estimate their costs based on the expected volume of the inspection activity involved or reschedule the inspection to within normal business hours.

#### 2.4.5 Inspection of used vehicles and machinery

Two submitters [7, 11] commented on the proposed method of charging for inspection and re-inspection of used vehicles and machinery.

One submitter [7] opposed charging for this service at an hourly rate instead of charging a per unit fee, if a vehicle is to be inspected at other than an approved place of first arrival. This submitter considers that it is inequitable to have two different charging mechanisms for vehicles.

Another submitter [11] stated that the re-inspection was previously charged at a higher rate than the initial inspection and signalled a “penalty” for non-compliance. The proposal to charge the same rate for inspections and re-inspections does not provide the same “signal” or offer any incentive for importer/overseas supplier to “get it right” first time.

The same submitter [11] expressed a concern that the recent change in the import health standard for the importation of motor vehicles allows MAF inspections more discretion in determining non-compliance. Inspections may be prone to subjective judgment by individual inspectors, albeit without added financial penalty, if a re-inspection is required.

##### *MAF Response*

The activity and time measured for vehicle clearances at ports were significantly different from those at transitional facilities. Most of the difference was in the inspection set-up time, which was quicker for larger importers/companies at the ports of arrival. MAF’s experience with importers of used vehicles at their transitional facilities shows that the charges at an hourly rate for the actual inspection performed are significantly lower if an importer prepares the vehicles in an “efficient way”, as compared to the charges on a per unit basis.

The hourly rate charge for inspections performed at a transitional facility will encourage the facility operator to prepare better for inspection and subsequently pay less. Over half of all New Zealand inspections at transitional facilities are those of used motor cycles.

MAF considers that it is fairer and more equitable to apply different charging methods at ports and transitional facilities.

MAF proposes no changes in charges for inspection and re-inspection of used vehicles under the revised regulation as compared to the current (2006) costs regulations. It is not correct that the re-inspection was at a higher rate than the initial inspection.

It is also not correct that non-compliant vehicles will not have “added financial penalty”, as any vehicle or machinery that do not meet the requirements of the import health standard will not be given biosecurity clearance and will be directed for further action, which will attract actual and reasonable costs of the required treatment. Deliberate non-compliance with the requirements of the standard, or negligence leading to non-compliance, may lead to increased intervention or prosecution of liable parties under the Biosecurity Act 1993.

#### 2.4.6 Inspection of unaccompanied personal baggage and effects

One submitter [7] objected to MAF’s proposal to re-instate hourly rate charges and discontinue the waiver granted in 2006 to charge inspection fees on a per item basis. This submitter noted that the waiver was granted in 2006 following detailed submission of the reasons for the request and subsequent discussions of the reasons for using unit charges. The

submitter believes that reverting to hourly rate charging will cause serious administrative and cost issues for their industry. The submitter requested a meeting to explain in detail the concerns their industry has with applying the hourly rate charges and to provide any required details.

*MAF Response*

MAF met with the submitter to discuss the problems currently faced by the industry and MAF and work through the options available. MAF has subsequently revised the proposal in the discussion paper, which was to re-instate hourly rate charges. Under a recent initiative to develop a partnership agreement between MAF and the personal effects moving industry, the industry would undertake certain activities on behalf of MAF that would reduce downtime for MAF and drive greater efficiency for both parties.

MAF has decided to continue the *status quo* of the current waiver allowing moving companies to use the itemised charges provided in Table 9 of the discussion paper. The policy proposal for the amended biosecurity costs regulations will contain the item-based charges for the biosecurity inspection of personal effects and household goods. The proposed charges are:

Items inspected	Charge
Single item only	\$25.00 (15 minutes)
Up to 4 items	\$50.00 (30 minutes)
5-12 items	\$100.00 (1 hour)
13- 20 items	\$130.00
21-28 items	\$155.00
29-36 items	\$180.00
Each additional 8 items or part	\$25.00

MAF and representatives of the moving industry will produce a fact sheet including information on cost recovery for the biosecurity border clearance of personal effects moved to New Zealand. The fact sheet will be distributed to the members of the New Zealand Overseas Movers Association and their overseas partners, and to the Customs Brokers and Freight Forwarders Federation. It will be also available from the link on the New Zealand Customs Service website. The fact sheet will contain an explanation of the biosecurity clearance requirements and possible charges involved in shipping personal effects to New Zealand.

**2.4.7 Inspection of Animals or Animal Material**

One submitter [11] commented that under the current charging regime there has been a frequent problem of incurring MAF charges for the clearance of animal material not subject to inspection.

This submitter is also concerned that the veterinary inspection rate under the Agreement with the European Community has been unchanged since 1996 and may have lead to New Zealand’s subsidisation of animal product imports from the European Community.

*MAF Response*

MAF advises that inspection of animals and animal material will be charged at an hourly rate of \$100.00 based on the time involved in providing the service. This charge will apply to all animals and consignments of animal material imported from any country, except those directly imported from the European Community.

The fees for inspecting consignments of live animals and animal material directly imported from the European Community will remain as defined in Annex VIII of the Agreement between the European Community and New Zealand on Sanitary Measures Applicable to

Trade in Live Animals and Animal Products 1996. This is because the Biosecurity cost regulations need to comply with New Zealand's international obligations/ agreements.

MAF emphasises that in making the regulations we are legally obliged to adhere to international obligations. The European Community does the same in regards to animal products imported from New Zealand. In fact, New Zealand exports of animal products to the European Community countries exceed New Zealand imports of similar products from the European Community.

#### 2.4.9 Permits issued under Import Health Standards

One submitter [9] was concerned over the percentage (56%) increase in costs of issuing and amending permits under import health standards that seems to be above the expected rate of inflation.

This submitter requested MAF to re-consider the value of re-issuing permits for multiple use that would save end users time and money, especially in the case of frequent imports of live animals for laboratory use.

##### *MAF Response*

MAF notes that the proposed fee for issuing and re-issuing permits under import health standards reflects the actual costs incurred within the Border Standards Directorate providing this service. Table 10 of Appendix B of the discussion paper provides details of the fee calculation.

The import health standard determines whether or not a single or multiple entry permit may be issued for a specific commodity. The import health standard for laboratory animals specifies that permits will be issued for a single entry. This applies to all live animals entering New Zealand. Where appropriate, multiple use permits are issued, but this currently only applies to animal products and biologicals.

MAF Biosecurity New Zealand is aware that certain institutions import laboratory animals on a regular basis. We understand that a multiple entry permit would be a more cost effective option for these institutions. However, MAF Biosecurity New Zealand is committed to providing a consistent and transparent process for all permit holders. To issue a multiple import permits for laboratory animals will not be possible until the related import health standards are reviewed and the risk associated with such changes are analysed.

#### 2.4.10 Transitional and containment facility fee

Six submitters [4, 6, 7, 8, 10, and 11] made comments on the introduction of an Annual Transitional and Containment Facility Fee and its impact on their business.

One submitter [10] was not concerned about the proposed new fee.

Five submitters [4, 6, 7, 8, and 11] considered that the Annual Transitional and Containment Facility Fee should not be introduced. They believe that the fee should be covered by the audit costs. The submitters view the proposed fee to be excessive and having a significant impact on their business.

One submitter [6] commented that the proposed fee would create an extra \$800k of income for an activity that is a simple administrative paper production process.

### *MAF Response*

The proposed fee will fund the proportion of fixed costs of biosecurity activities that are specific only for this activity area and will be not recovered through the new single levy. The under-recovery of costs in this area contributed over \$0.5 million to the total MAF's deficit of \$5.1 million in the 2008/09 financial year.

The proposed transitional and containment facility fee will be payable once a year, although some facilities are audited twice a year and are charged on an hourly rate basis.

The annual facility fee will fund the following activities:

- supporting the administrative systems and processes for approvals;
- maintenance of registers, suspension and removal of approvals;
- dealing with enquiries and providing requested information;
- evaluation and review of requirements and standard operating procedures for facility operations;
- training in facility approval and audit procedures; and
- reviewing import health standards and border clearance procedures related to transitional and containment facilities.

If the number of facilities drops, the amount of auditing associated with transitional activities will decrease. The activity resource model will allow the calculation of the necessary resources that would match the activity level. Memorandum accounting will enable to adjust the fees in the next financial review accordingly.

## **2.7 RUMINANT PROTEIN FACILITY AUDIT CHARGE**

Two submitters [9, 13] that commented on this charge supported the introduction of the proposed new charge under the revised biosecurity costs regulations.

One of these submitters [13] requested clarification of the wording that would reflect that the intention of the proposed change is to provide an alternative auditor for ruminant protein control programmes.

### *MAF Response*

The proposal to include a ruminant protein facility audit charge into the revised biosecurity costs regulations followed Cabinet's approval (Cabinet EGI Min (09) 8/3) of amendments to the Biosecurity (Ruminant Protein) Regulations 1999.

The Biosecurity (Ruminant Protein) Regulations 1999 will be amended to allow for audits to be conducted by either Government employees or private individuals who are appointed as Inspectors or Authorised Persons under section 103 of the Biosecurity Act 1993.

Where an audit is undertaken by a Government employee, that audit will be charged at a rate set out in the Biosecurity Costs Regulations.

The proposed hourly rate charge for ruminant protein facility audits is \$133.00 excluding GST or \$149.60 including GST.

## 3 Biosecurity risk screening and shipping container levies and the proposed single biosecurity system entry levy

### 3.1 BIOSECURITY RISK SCREENING LEVY (TO REMAIN UNDER OPTION 1)

Two submitters [4, 5] expressed their concern with a substantial increase in the risk screening levy collection by MAF. They feel extremely reluctant to accept any additional costs to their business and their customers, given the New Zealand Customs Service announcement to impose a broader spectrum for collecting an import entry transaction fee and because the biosecurity risk screening levy is collected concurrently with the Customs fee.

One of the two submitters [4] supported the proposal to apply the risk screening levy to personal effects and simplified/ private entries, temporary entries and electronic customs interface reports.

#### *MAF Response*

MAF believes that imposing a biosecurity risk screening levy to a broader base of import entries is fair as all imported goods need to be assessed for a biosecurity risk. The imported goods identified as a biosecurity risk are further assessed by MAF. The goods that are clearly not a biosecurity risk are given a biosecurity clearance.

All import entries contribute to the costs of the biosecurity activities associated with risk screening.

Collection of the biosecurity risk screening levy concurrently with the Customs fee at a single import entry in CusMod reduces the administration costs for MAF and importers.

### 3.2 SHIPPING CONTAINER LEVY (TO REMAIN UNDER OPTION 1)

Five submitters [1, 4, 10, 11, 14, and 15] commented on the proposed changes to the shipping container levy.

One submitter [10] considered it would not be equitable to levy the same costs on importers of air cargo and sea cargo. This submitter believes that the biosecurity levies on air cargo should be set below those for sea cargo.

Two submitters [11, 13] noted that they find the recovery of the shipping container levy from importers an administrative burden.

Three submitters [1, 14, and 15] strongly opposed a reduction in the shipping container levy rate under Option 1 and a removal of this levy under Option 2. These submitters also objected to any reduction in the charges and costs to importers of high risk items. They believe that the charges to importers of shipping containers and other high risk items should be increased and any surplus funds be used to cover readiness or response costs associated with imported goods.

#### *MAF Response*

Under the Shipping Container Levy Order 2006, MAF is legally obliged to ensure that the fees collected from importers of shipping containers are used for the purpose for which they are collected.

The proposed reduction in the shipping container levy rate under Option 1 is based on the actual costs incurred by MAF in providing biosecurity services related to implementing and administrating the import health standard for shipping containers. The levy rate is calculated by dividing the estimated annual costs of relevant activities by the estimated number of shipping containers imported annually to New Zealand.

MAF cannot legally set charges for importers of sea containers at a level higher than the amount necessary to recover costs and then to use surplus revenue to fund other biosecurity activities.

High risk items are subject to further actions by MAF and biosecurity inspections, which are charged at an hourly rate for the time it takes to give biosecurity clearance for these items. No cross- subsidisation of these activities can occur, as importers of these items pay the true costs of the service provided by MAF.

In the last year the shipping container levy revenue exceeded the cost of the biosecurity activities performed in this area, and the fees collected from the importers of shipping containers were cross-subsidising the work on express freight risk screening. The shipping container levy rate under Option 1 has been adjusted to reflect the costs incurred by MAF in performing the related activities.

### **3.3 SINGLE BIOSECURITY SYSTEM ENTRY LEVY**

Seven submitters [2, 6, 7, 8, 10, 11, and 13] supported the introduction of a single biosecurity system entry levy under Option 2. The submitters believe that the single levy will simplify the biosecurity border clearance charging system and reduce administration costs. Two of these submitters [11, 13] consider the current method of collecting a shipping container levy from importers on behalf of MAF is an administrative burden.

One submitter [2] view the proposed single levy as the most cost-effective means to recover all costs associated with border clearance. This submitter believes that the single levy will provide certainty to all parties about the charges for border clearance with no surprises as to costs.

Two submitters [2, 7] consider it equitable to charge the levy on all import consignments, as in this case, the costs of surveillance for biosecurity risk organisms are spread across all import industry sectors.

One of the seven submitters [7] is concerned about a risk that, following the introduction of the single levy, the shipping companies (which currently collect container and gypsy moth levies and rarely itemise charges in their invoices) will continue charging the same costs. The submitter has asked about steps that can be undertaken between MAF and the shipping companies to avoid importers paying twice.

The same submitter has requested further information on and explanation of the costs and overhead components included in the single levy as compared to those included in the \$100 hourly rate charge.

#### *MAF Response*

MAF proposes to revoke three levies and introduce a single biosecurity system entry levy (under Option 2). The new levy will fund the intelligence and risk screening activities associated with assessment of all imported goods for biosecurity risk. The levy will also fund

the biosecurity risk mitigation activities associated with establishment of exotic pests around ports and airports including surveillance for gypsy moth and other unwanted organisms.

There was some under-recovery of MAF's costs under the existing risk screening levy in the area of express freight risk screening and over-recovery of fees from the importers of shipping containers.

The biosecurity system entry levy will be applied to a broader range of import entries as compared to the current three levies. As indicated in the discussion paper, the levy will be imposed on full and simplified import entries, temporary import entries, electronic customs interface reports and private import declarations.

The biosecurity system entry levy will be collected on the same types of cargo documentation, on which the New Zealand Customs Service will be charging an import transaction processing fee. The levy will be collected in the Customs electronic system (CusMod or the proposed future JBMS) at the time when an import entry is lodged and concurrently with Customs' collection of their import transaction fee.

The shipping companies will no longer be collecting any biosecurity levies, as the levies currently collected by these companies will be revoked.

As part of the communication plan for the implementation phase of the amended regulations and the new levy, MAF will publish widely the cessation of the Shipping Container Levy and the Gypsy Moth Levy. Communication messages will target the lawful application and representation of MAF related charges.

The single biosecurity system entry levy is made up of fixed costs of MAF's activities, which are similar to all biosecurity border clearance activities. The levy does not cover MAF's variable costs specific for biosecurity inspection activities. This levy does not also include fixed costs that are specific to a certain biosecurity activity area, e.g. issuing of import permits or audits of transitional and containment facilities.

Most fixed costs of cargo border clearance are related to clearance activities common for all consignments of goods irrespective of the way (air or sea) they arrive in New Zealand. These activities include:

- primary risk screening to identify consignments of interest;
- secondary assessment of consignments of interest to determine risk status; and
- developing intelligence profiles and placing alerts.

The single biosecurity system levy rate will be reviewed every year to ensure that any movement in volumes of imported goods and the number of import entries is accounted for and the levy rate is adjusted accordingly. If import numbers increase, the levy rate in the next levy (financial) year will go down. The levy rate for each subsequent year will be adjusted through memorandum accounting.

## 4 Other issues raised

One submitter [6] raised the issue of compensation provisions, i.e. in cases where MAF inspectors make errors of judgement during the biosecurity clearance process that may have major impacts on commercial operations of importers.

Four submitters [1, 9, 14, and 15] expressed their concerns about MAF's border inspection capacity, the level of sea container auditing and surveillance programmes.

One submitter [6] suggested that the review should include provisions for the offshore pre-shipment inspections and programme-specific cost recovery mechanisms for different export-import pathways.

This submitter sought assurances that the proposed new biosecurity border clearance costs, and associated legislative process, will not prevent or preclude the establishment of MAF-industry contractual agreements.

### *MAF Response*

Compensation provisions are not subject to the Biosecurity Costs Regulations. This issue has been referred to the project team working on the amendments to the Biosecurity Act 1993 that includes compensation provisions.

MAF would like to assure all those concerned about MAF's inspection capacity and management of biosecurity risks on the border that:

- MAF has the right staff resources to match the amount of activity to be undertaken on the border including cargo biosecurity clearance;
- the numbers of sea containers inspected will not decrease - on the contrary, the numbers of inspected containers is increasing with a more targeted approach to containers arriving from areas of higher biosecurity risk; and
- the gypsy moth and other surveillance programmes on managing biosecurity risks will continue.

The submitters that raised issues of the cargo clearance operations, other than those related to border clearance charges, were invited to discuss their concerns with the MAF Biosecurity New Zealand operational staff.

In respect to offshore pre-shipment programmes MAF notes that most of offshore biosecurity clearance activities are already subject to MAF-industry contractual agreements and are out of scope of the current review.

## CONSULTATION

One submitter [1] expressed a concern that the consulted industry "have just been the shipping companies".

### *MAF Response*

The above concern has no grounds. MAF widely publicised the review and progress on it during the whole review period:

- The review project team regularly published the project progress newsletters on the Biosecurity New Zealand website. This site is accessible to all industry groups and the general public.

- Invitation to the consultation workshops in three main centres (Auckland, Wellington and Christchurch) was also published on the website and sent to the e-mail addresses of the representatives of main industry associations including primary industries (103 contacts).
- The New Zealand Customs Service facilitated the review publicity by advertising the discussion paper and the workshops through the "Customs Release" weekly electronic newsletter.
- The review was also publicised through the Importers Institute (of New Zealand importing companies) and the Customs Brokers & Freight Forwarders Federation. Both organisations circulated the 2009 review project newsletters, and other information provided to them by MAF, to their members.

All industry associations representing the interests of importers and their supply chain, which are likely to be substantially affected by the biosecurity costs regulations and levies, have provided their feedback on the proposed changes. MAF has also received feedback from other than import industry parties/representatives.

MAF believes that the requirement of section 165 (2) of the Biosecurity Act 1993, to consult with parties likely to be substantially affected by the regulations before recommending the regulations to the Minister, has therefore been met.

## IMPLEMENTATION

One submitter [6] suggested establishing a small focus group to “road test” the proposed changes to the regulations with major players from the produce import sector. This would help to identify and discuss practical implementation issues.

### *MAF Response*

MAF has planned for the pre-implementation training of the frontline staff and managers in the new charging regime, based on real-time scenarios. During the consultation and submission analysis phases, the biosecurity cost regulations review team discussed the impacts, effects and fitness for purpose of the proposed changes with import industry and MAF staff. The implementation phase includes the disestablishment of the biosecurity risk screening, shipping container and gypsy moth levies from 1 July 2010 and implementing the single biosecurity system entry levy, subject to Cabinet’s approval of the preferred MAF and industry option.

The review team will ask for individual issues to be notified and rectified as part of the implementation plan.



## VI: Possible Implications of Joint Border Management System

Six submitters [4, 8, 10, 11, 12, and 14] commented on the future Joint Border Management System and a method for cost recovery of its operating costs.

One submitter [4] considered that the Joint Border Management System should create efficiencies, but not further costs. The submitter noted that additional operating costs of \$18 million could mean becoming less efficient than the current system. This submitter could not see how the new proposed system would improve the clearance of about 10% of import entries that often require a physical rather than electronic intervention.

Another submitter [9] noted that the estimated increase in revenue collection by \$18 million or 36% for clearance services due to JBMS would mean a 47% increase in import/export entry fees for industry.

Five submitters [8, 10, 11, 12, and 14] in general support the proposed Joint Border Management System, provided that the system delivers expected benefits and drives efficiency for government agencies and industry.

One submitter [14] requested to be included into the further consultation on the proposed Joint Border Management System.

One submitter [11] emphasized the importance of demonstrating the business benefits and opportunities of the proposed system to the industry to ensue the industry's buy-in.

One submitter [8] suggested recovering the costs through a monthly service fee based on the number of transactions rather than by billing each consignment. This submitter believes this method of cost recovery would have benefits for both parties, with significant savings on administrative costs.

One submitter [12] considered that the information on costs was insufficient for developing the submitter's point of view. The submitter requested clarification on the proposed 50:50 split of costs between border agencies and industry and more information on certain cost components of the future Joint Border Management System.

The same submitter emphasised the importance of putting in place a modern system that incorporates 'all of Government' requirements and keeps costs to a minimum. The submitter would consider an industry contribution to the proposed joint management system, should a particular feature of the system have major benefits to their industry.

The submitter [12] considered as reasonable the discussion paper proposal to collect the industry share of costs - where recovery of some costs from industry is justified - through an increase in existing charges rather than the introduction of a new charge.

### *Customs and MAF Response*

Customs and MAF understand that industry's support of the Joint Border Management System depends on ongoing consultation and assurance that the new system will deliver expected benefits on time and to expectations, for example the trade single window.

Both agencies will work together to ensure transparency around costs and the valuation of benefits to stakeholders.

Customs and MAF plan to recover some of the costs associated with the Joint Border Management System along with the implementation of new initiatives that will simplify business administration. An example is a “single billing” function of the trade single window. This function will allow importers and exporters to receive one account itemising all Customs and MAF charges.

Once the Joint Border Management System costs and deliverables are refined, Customs and MAF will undertake further targeted consultation with stakeholders to ensure benefits to businesses from the proposed system are maximised.

It should be noted, that current cost recovery regimes exercised by Customs and MAF do not include capital charge and depreciation costs of existing IT systems. For example, the existing Customs electronic system CusMod was fully depreciated before introduction of cost recovery in 2002. A large proportion of the increased operating cost of the Joint Border Management System is due to depreciation and capital charge.

Cost recovery for the proposed new system will not commence until it starts delivering services. Whether the Joint Border Management System is cost recovered through one levy applied to all cargo clearance transactions, or through a number of differentiated levies, is subject to ongoing discussion and final decisions.

Customs and MAF approach to any future cost recovery for cargo clearance through the Joint Border Management System includes:

- recovery of fixed costs of customs and biosecurity risk screening through fixed charges;
- applying fixed charges to all consignments subject to risk screening as far as practicable; and
- simplification of administrative processes through joint billing and collection of fees.