

TERMS OF REFERENCE

for

INDEPENDENT REVIEW PANEL

IMPORT HEALTH STANDARD for the IMPORTATION into NEW ZEALAND of PIG MEAT AND PIG MEAT PRODUCTS FROM EU, CANADA & USA AND SONORA STATE OF MEXICO

Background

1. Section 22A of the Biosecurity Act 1993 (“the Act”) provides for the appointment of independent review panels to review whether, in developing an import health standard, there has been sufficient regard to the scientific evidence.
2. The process by which an independent panel is to be established is set out in Gazette notice no. 4582: Biosecurity (Process for Establishing Independent Review Panel) Notice 2008 (“the Notice”).
3. In April 2009, the Ministry of Agriculture and Forestry (“MAF”) issued provisional Import Health Standards for the Importation into New Zealand of Pig Meat and Pig Meat Products from the European Union, Canada and USA, and Sonora State of Mexico (“the provisional IHSs”).
4. In May 2009 the New Zealand Pork Industry Board (“the Board”) requested an independent review of the provisional IHSs.
5. The request was made in accordance with section 22A of the Act and clause 6 of the Notice, by virtue of the Board being a person consulted under the Act.
6. The Director-General has granted the Board’s request for an independent review panel (“the Panel”).
7. These terms of reference have been set in accordance with clause 12 of the Notice.

Context for biosecurity decision making

8. Import health standards may be issued by the Director-General of MAF. These standards specify the requirements to be met for the effective management of risks associated with the importation of risk goods. Import health standards are issued under section 22 of the Act.
9. The purpose of Part III of the Act is to provide for the effective management of risks associated with the importation of risk goods. Section 22(5) sets out the matters to which regard must be had when MAF is developing an import health standard:
 - a) the likelihood that the goods specified in the import health standard may bring organisms into New Zealand
 - b) the nature and possible effect on people, the New Zealand environment, and the New Zealand economy of any such organisms

- c) New Zealand's international obligations.
- d) such other matters as the chief technical officer considers relevant to the purpose of Part III of the Act.

10. In developing an import health standard, MAF lists in a risk analysis the organisms that it considers are potential hazards that may be introduced by importing risk goods. It then considers the likelihood of these organisms entering and establishing in New Zealand, and the consequent effects on people, the economy or environment. Measures to manage the risks are proposed if the organism is likely to establish and the consequences are deemed significant.
11. New Zealand is a signatory to the Agreement on the Application of Sanitary and Phytosanitary Measures ("the SPS Agreement"). Section 22(5)(c) of the Act requires MAF to consider New Zealand's international obligations under the SPS Agreement when assessing the risk posed by goods imported into New Zealand and also the measures (if any) to put in place to manage the risk.
12. Under the SPS Agreement a key question for MAF is whether scientific evidence is sufficient in quantity and quality to complete a justifiable risk analysis. Almost all risk analyses are conducted in situations where the scientific evidence is incomplete and a balance must be sought between trying to acquire complete knowledge and making predictions with a reasonable level of confidence.
13. There is rarely a single interpretation of any scientific issue. Differences in interpretation are normal and a vital part of testing how robust is the evidence supporting any particular conclusion. The key issue is to consider the weight of evidence and whether there is a coherent relationship between the evidence and the conclusions drawn from it.
14. Science can never prove a complete absence of risk, but it is the basis for an assessment of risk and supporting measures to manage risk. Decisions on import health standards must be made on the basis of the best information available at the time. When issuing import health standards, or declining to issue them, the Director-General must be satisfied that there is sufficient information to support the assessment of risk and the measures identified to effectively manage that risk.

Purpose of the Review

15. The Panel is appointed to consider whether MAF, in developing the provisional import health standards, had sufficient regard to the scientific evidence about which the Board has raised a significant concern. The Panel should assess whether MAF's treatment of the issues, given all the evidence, was reasonably open to it, and whether there is a reasonable chain of logic linking the science to the provisional import health standards.

Issues outside scope of Review

16. It is not the role of the Panel to:
 - Determine what is an appropriate level of protection against which the import health standard should be assessed; or
 - Comment on New Zealand's compliance with the SPS Agreement, beyond evaluating whether the use of scientific evidence in developing the import health standards meets its international obligations as a signatory to the SPS Agreement; or

- Comment on or recommend changes to the Biosecurity Act 1993, or related legislation.

17. The Board requested that MAF consider a range of issues relating to compliance with the Biosecurity (Meat and Food Waste for Pigs) Regulations 2005 (referred to as “Material Issue 9 in the Board’s submission). The Director-General has determined that that is not material to the measures proposed in the provisional Import Health Standards and, therefore, excluded Material Issue 9 from this review.

Issues to be considered by the Panel

18. The Panel is requested to consider whether MAF has had sufficient regard to the scientific evidence in the following areas:

Scope of Standards

(a) The identification and analysis of potential hazards associated with the importation of pig meat and pig meat products (Board material issue 1)

- Did MAF take the relevant science on this issue into account and, if not, would any available science not considered by MAF have made a material difference to the measures?
- Was MAF’s treatment of this issue reasonable given the evidence and, in particular, was there a reasonable chain of logic linking the science to the proposed measures?

Virus levels in imported meat

(b) The likelihood that meat from slaughter weight pigs will contain infectious PRRS virus (Board material issue 2)

- Did MAF take the relevant science on this issue into account and, if not, would any available science not considered by MAF have made a material difference to the measures?
- Was MAF’s treatment of this issue reasonable given the evidence and, in particular, was there a reasonable chain of logic linking the science to the proposed measures?

Impact of changes in volume of trade

(c) The impact of changes to volumes of trade in pig meat as a result of the proposed changes in the IHSs. (Board material issue 3)

- Did MAF take the relevant science on this issue into account and, if not, would any available science not considered by MAF have made a material difference to the measures?
- Was MAF’s treatment of this issue reasonable given the evidence and, in particular, was there a reasonable chain of logic linking the science to the proposed measures?

- Would likely variations in the volume of trade in pig meat have material implications for the measures proposed in the IHSs?

(d) The impact of changes to the volume and distribution of the waste stream as a result of the proposed changes in the IHSs. (Board material issue 8)

- Did MAF take the relevant science on this issue into account and, if not, would any available science not considered by MAF have made a material difference to the measures?
- Was MAF's treatment of this issue reasonable given the evidence and, in particular, was there a reasonable chain of logic linking the science to the proposed measures?

Likelihood of infection

(e) The likelihood that PRRS-infected imported pig meat will be fed to NZ pigs and cause infection (Board material issue 4)

- Did MAF take the relevant science on this issue into account and, if not, would any available science not considered by MAF have made a material difference to the measures?
- Was MAF's treatment of this issue reasonable given the evidence and, in particular, was there a reasonable chain of logic linking the science to the proposed measures?

Knowledge of NZ industry, and consequent spread risk

(f) The structure and inter-relatedness of the New Zealand commercial and non-commercial pig industries, and consequent exposure and spread risks (Board material issue 5)

- Did MAF take the relevant science on this issue into account and, if not, would any available science not considered by MAF have made a material difference to the measures?
- Was MAF's treatment of this issue reasonable given the evidence and, in particular, was there a reasonable chain of logic linking the science to the proposed measures?
- Where there was uncertainty and MAF relied on inferences, were they reasonable?

(g) Importance and likelihood of aerosol and 'area' spread of PRRS virus between herds (Board material issue 6)

- Did MAF take the relevant science on this issue into account and, if not, would any available science not considered by MAF have made a material difference to the measures?

- Was MAF's treatment of this issue reasonable given the evidence and, in particular, was there a reasonable chain of logic linking the science to the proposed measures?

Relevance of quantitative models

(h) Quantitative modelling of the risk of PRRS virus exposure and consequence, using model developed during the IRA/IHS process (Board material issue 7)

- Did MAF take the relevant science on this issue into account and, if not, would any available science not considered by MAF have made a material difference to the measures?
- Was MAF's treatment of this issue reasonable given the evidence and, in particular, was there a reasonable chain of logic linking the science to the proposed measures?
- Was the quantitative model referred to in the NZPIB submission sufficiently robust to require MAF to modify the measures in the provisional Import Health Standards?

Overall Assessment of Risk

(i) Each of the above issues sits within the context of the overall assessment of risk. The Panel should consider whether MAF's overall treatment of the issues was reasonably open on all the evidence.

- Taking collectively all of your findings, are there any deficiencies in the regard MAF has given to the science that should cause MAF to reconsider the provisional import health standards.
- If there are any deficiencies, what steps does MAF need to take to give sufficient regard to the science?

Procedures to be followed by the Panel

19. The Panel will be provided with a copy of the Board's submission and supporting documentation and information from MAF relating to the issues raised by this submission, and any other relevant information provided by the Director-General. MAF will undertake the task of compiling the documents. The information provided by MAF to the Panel will also be provided to the Board.
20. The Panel will not conduct any hearings except with the prior approval of the Director-General of MAF, in consultation with the Board.
21. The Panel may carry out its review by meeting together, or by communicating with each other by whatever means promotes the efficient completion of the Panel's function.
22. Remuneration for the Panel members, and other terms and conditions such as reimbursement of expenses, will be set out in each member's letter of appointment.

23. The Panel may, if necessary, seek additional relevant information from whomever it sees fit in meeting the terms of reference.
24. Following the provision of documents from MAF and the Board, neither MAF nor the New Board may communicate with the Panel on matters of substance in relation to its review, except as requested by the Panel. If the Panel requests any material from either party, a copy of the material will also be supplied to the other party. MAF may contact the Board on matters of administration, as required.
25. The Panel must provide a report in writing, setting out its findings, no later than 90 days after receipt of these terms of reference, or such later date as is agreed to by the Director-General.