Ministry for Primary Industries
Manatū Ahu Matua

Review of New Zealand Horticulture Export Authority Fees and Levies

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Growing and Protecting New Zealand

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Publications Logistics Officer
Ministry for Primary Industries
PO Box 2526
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Email: info@mpi.govt.nz
Telephone: 0800 00 83 33
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1 Introduction

This paper seeks submissions on proposed exporter[1] licence fees and recognised product group[2] levies to be paid to the New Zealand Horticulture Export Authority (**the HEA**)[3].

1.1 WHY IS MPI REVIEWING THE HEA'S FEES AND LEVIES?

The Ministry for Primary Industries (**MPI**) is reviewing the fees and levies charged by the HEA for three reasons:

- **The Act provides new funding tools –** the 2016 amendments to the New Zealand Horticulture Export Authority Act 1987 (the Act) provides for the HEA to collect levies from recognised product groups, enabling the HEA to replace its contractual fees with a product group levy. Given the statutory nature of the HEA and the services it delivers to the recognised product groups, it is more appropriate that the charges it makes on recognised product groups be set out in regulations rather than through private contracts.
- **The HEA has new functions –** the 2016 amendments to the Act enable product groups to target grade standards to specific markets, and to create up to five tiers of licences with varying access to specific markets. The fees in the New Zealand Horticulture Export Authority (Fees) Regulations 2002 (the Fees Regulations) do not envisage different tiers of licence.
- **Income is not covering the HEA's expenditure –** the current exporter licence fees in the Fees Regulations were set 15 years ago and need updating (see appendix 2 for the different fees in the current Fees Regulations). The HEA's expenditure has exceeded its revenue since 2009. That shortfall is being financed from the HEA's dwindling reserves. This is not sustainable, and limits the HEA's ability to promote the structure and assist the development of the sectors consistent with its functions in its Act.

1.2 SUMMARY OF FEES AND LEVIES OPTIONS

In summary, the three **exporter licence fee** options in this discussion paper are:

- Option 1: Maximum fees in the regulations for each of the services, for up to five tiers of markets, with the HEA Board setting fees for each of those services within the prescribed maximum (see section 3.1.2 for details).
- Option 2: This builds on option 1 above, but provides for a discounted licensing fee for experienced exporters, to reflect that it costs less for the HEA to licence exporters who have some exporting experience, particularly exporting horticultural products (see section 3.1.3 for details).

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1 These include potential exporters applying for an export licence or applying for an exemption under the Act, and exporters already licensed under the Act. See appendix 2 for various categories of exporter licence fees currently under the New Zealand Horticulture Export Authority (Fees) Regulations 2002.

2 Under the Act, a recognised product group means a product or industry group, representing producers and exporters of a prescribed product, recognised for a prescribed product by an Order in Council made under the Act, and recognised as suitable to carry out the functions of a recognised product group in relation to a prescribed product. See appendix 1 for a list of prescribed products and recognised product groups currently under the Act.

3 Proposals in this discussion paper do not cover fees or levies collected by the recognised product groups from their growers and exporters.

- Option 3 (MPI's preferred option): This builds on option 2 above, but provides for a flat fee for all applications for licence exemption, regardless of the tier of market (see section 3.1.4 for details).

In summary, the two options for **recognised product group levy** in this discussion paper are:

- Option 1: This has one levy rate applied to all recognised product groups regardless of their size, and is largely based on the current HEA product group fees (see section 4.1.3 for details).
- Option 2 (MPI's preferred option): This has variable levy rates, with declining rates for bigger exporting industries to reflect reducing HEA costs from economies of scale (see section 4.1.4 for details).

It is also proposed that the updated fees and levies regulations be reviewed within four years of the new regulations coming into force. This will give some time to assess the impact of multi-tier export marketing with targeted grade standards on the HEA's costs, and ensure that the fees remain up to date.

MPI emphasises that the views and recommendations outlined in this document are preliminary and are provided as a basis for consultation with stakeholders.

1.3 QUERIES AND MAKING A SUBMISSION

For any queries relating to the contents of this paper, please contact:

Jason Frick
Policy Analyst, Sector Policy Directorate
Email: Jason.Frick@mpi.govt.nz
Telephone: 04 894 0658

MPI welcomes written submissions on the proposed fees and levies options contained in this document**. All submissions must be received by MPI no later than 15 May 2017**. Please indicate clearly the following in your submission:

- the title of this consultation document; and
- your name, title, organisation's name, and contact details.

Submissions should be sent directly to:

Jason Frick
Policy Analyst, Sector Policy Directorate
Jason.Frick@mpi.govt.nz

While electronic submissions are preferred, postal submissions can be made to:

Jason Frick
Sector Policy Directorate
Ministry for Primary Industries
PO Box 2526
Wellington 6140.

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What happens next?

After the submission period has closed, MPI will analyse the submissions and make recommendations to the Minister for Primary Industries and Cabinet. New fees and levies regulations will be drafted once Cabinet has approved the proposals.

2 Background

2.1 THE HEA FRAMEWORK

The Act promotes the effective export marketing of horticultural products. It does this by providing horticultural product groups (representing all growers and exporters of a particular horticultural product) with a regulatory structure within which they can coordinate their export marketing, and market and sector development.

If a product group wishes to establish compulsory export standards they can apply to the Minister for Primary Industries to come under the authority of the HEA. If approved, the HEA is empowered to consider and approve the recognised product group's marketing strategy, to license exporters, to monitor exports for compliance with the relevant marketing strategy, and to refer cases for prosecution where an offence has been committed. The HEA framework enables exporters, growers and the recognised product groups to cohesively develop new markets, collaborate in the markets, and meet the market access standards expected by the consumers and regulators in those markets.

The HEA is also statutorily obliged to engage in a wider range of activities to support effective export marketing of horticultural products, including:

- to act as a forum for the exchange of information and for the discussion of matters of common concern between horticultural organisations;
- to encourage and undertake market analysis and research into the export marketing of horticultural products; and
- to work with horticultural organisations and government in relation to trade barriers and their removal.

The Act was amended in 2016. This amendment has made it possible for product groups to create up to five different export requirements that apply to specific markets or groups of markets. Targeting grade standards to high value or emerging markets promotes effective market development. It also promotes efficient marketing by eliminating unnecessary compliance costs for exporters to markets with minimal market access requirements.

Currently, ten product groups have chosen to come under the HEA framework (see appendix 1), with nine of those currently actively exporting their products under the HEA's licensing framework. On average, the HEA Board would consider some revisions of export marketing strategies from about five recognised product groups each year.

In the year ending 30 September 2016, the HEA monitored the 77 issued export licences, held by 52 different entities across nine product groups. On average, the HEA would be considering new export licence applications or renewals from around 10 entities each year, and 20 applications for licence exemptions.

The HEA employs a full-time chief executive and a part-time Administrator / Industry Advisor. The HEA is governed by a five member board, including an independent Chair.

While the HEA oversees the exporting licensing function, including monitoring exporters' compliance with the Act, the recognised product groups also have important roles within this export framework, like market development, developing grade standards for their products, and operating food safety and pest management programmes to maintain their market access. The funding proposals (exporter licence fees and product group levies) in this discussion paper are for HEA's funding only, not for funding product group activities.

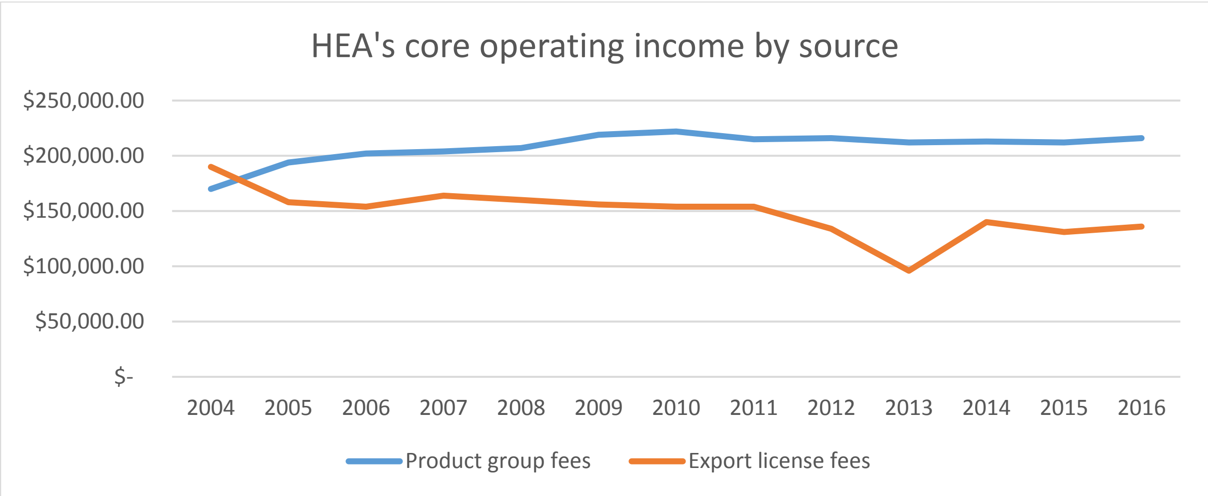
2.2 ADEQUACY OF THE HEA'S CURRENT FUNDING

The HEA funds the services it is statutorily required to deliver through charging the users of these services. It does not receive funding from Government.

Currently, the HEA's operating income is composed of:

- fees it charges exporters under the New Zealand Horticulture Export Authority (Fees) Regulations 2002; and
- fees it charges recognised product groups through contractual arrangements.

The HEA's core operating income[4] has largely been static since 2004. The HEA had a core operating income of $360,000 in 2004, down to $346,000 in 2016.



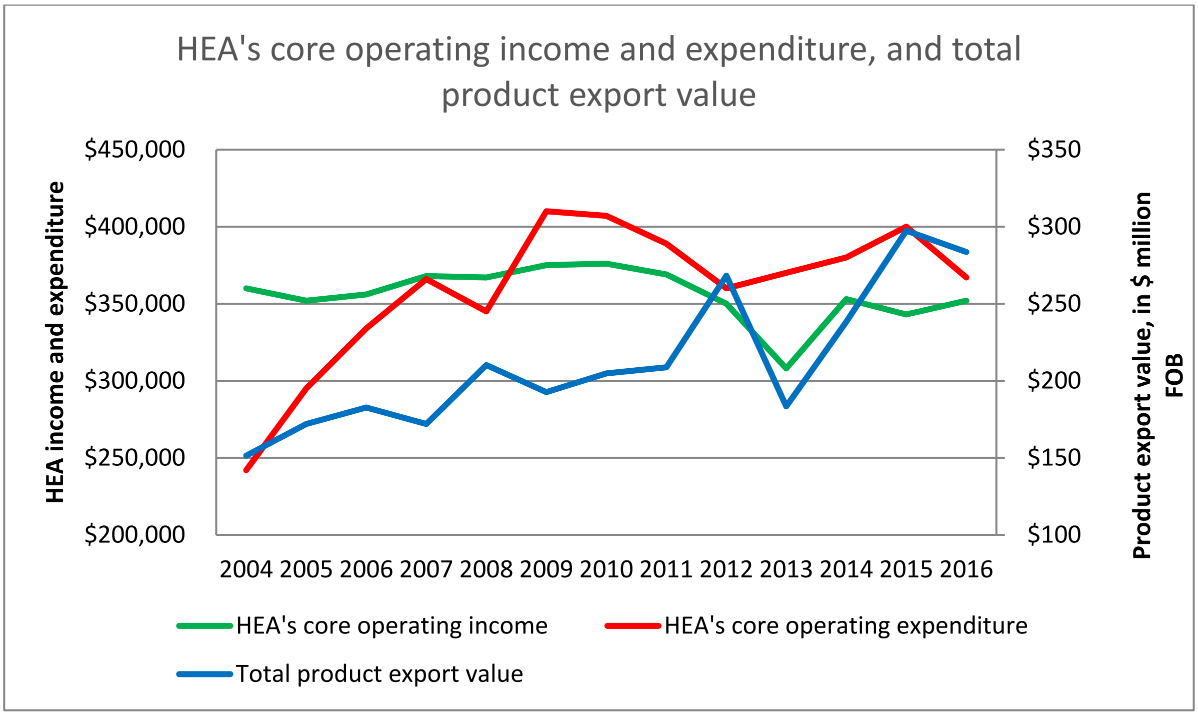
The current Fees Regulations prescribe the maximum fees that the HEA can charge exporters for operating the licensing and monitoring system. While the income from licence fees has eroded as the number of exporters has consolidated, the costs of operating this service have increased.

Recognised product groups exported $151 million worth of produce in 2004. This nearly doubled to $297 million by 2015. With the extraordinary growth in both the value and volume of exports, the HEA has to commit more resources to monitoring exports. The HEA's core operational income has not kept up with growing demand for its services or with increases in input costs.

The HEA's expenditure has exceeded income since 2009. The difference has been met from the HEA's dwindling reserves[5]. This is not sustainable. It is interfering with the HEA's ability to deliver a number of additional functions prescribed in the Act,

[4] Core operating income includes product group fees and exporter licence fees. It excludes other sources of income such as interest payments (which are immaterial) and one-off/special payments that the government occasionally provides for specified projects.
[5] The HEA's total income was $355,907 over the twelve months to 30 September 2015, and total expenditure was $399,381. The $43,474 deficit was funded from its declining reserve.

such as acting as a forum for the discussion of matters of common concern across the product groups in respect of export marketing. In addition, the HEA is required to fund (from its reserves) an independent statutory review of its performance every five years.



The current Fees Regulations need to be updated to account for increases in the cost of delivering services.

2.3 NEED FOR A ROBUST COST RECOVERY SYSTEM

At this stage, it is not clear how the recognised product groups are going to take up the multi-tier licensing. This makes it difficult for the HEA to determine how this system is going to affect its costs. For example, a product group may establish a tier of licence for markets that may not require the same level of exporter assessment as for high-value markets, and place no additional quality standards on the produce other than those required by law. The costs to the HEA of licensing exporters and monitoring such a system would be lower than for a tier of licence with complex standards, which requires more extensive investigation of the fitness of the exporter.

At this point in time it also is difficult to ensure that the revenue generated from fees and levies will closely match the costs associated with HEA's functions. As a result some cross-subsidisation may occur between HEA's functions and the different HEA industries.

The Fees and Levies Regulations that are ultimately promulgated will need to be sufficiently flexible to deal with this uncertainty and ensure the HEA is able to cover costs as the system develops. Given this, Fees and Levies Regulations will also require careful monitoring to ensure that they remain fit for purpose as the system develops. As such, all options proposed by MPI in this discussion paper require the Fees and Levies Regulations to be reviewed within four years of coming into effect. If any cross-subsidisation is occurring between exporter licence fee and product group levy, they will also be considered as part of that review.

2.4 CRITERIA FOR ASSESSING HEA'S FEES AND LEVIES OPTIONS

MPI has identified the following cost recovery principles as criteria to assess any fees and levies options for the HEA:

(a)	Adequacy:	The funding for the HEA must be adequate and certain to enable it to undertake its full range of regulatory functions effectively, and to the standard expected of a regulator overseeing a multi-million dollar industry.
(b)	Equity:	Funds are sourced to the extent practicable from direct beneficiaries of the outputs produced from HEA functions, while acknowledging that other beneficiaries benefit from the outcomes of HEA functions.
(c)	Efficiency:	Costs are generally allocated and recovered to ensure maximum benefits are delivered at minimum cost, encouraging efficient resource use.
(d)	Justifiability:	Funds collected only to meet the actual and reasonable costs for the provision or exercise of the relevant functions.
(e)	Transparency:	Costs are identified and allocated as closely as practicable in relation to tangible service provision.

Question for feedback

1. In (a) to (e) above, have we identified the correct set of criteria for assessing HEA's funding options? Is there any criteria that should be removed or added to the above list? Please explain why.

3 Options for exporter licence fees

We invite comment and feedback on the three options for exporter licence fees outlined below. **MPI's preferred option is option 3**: five fee categories by markets, with discounts for exporter experience, and one exemption fees for all market tiers.

3.1.1 Status quo

The status quo is no longer an option for HEA's funding for two reasons:

- the current Fees Regulations do not enable the HEA to set different fees for different tiers of markets that the product groups can now choose as a result of the 2016 amendments to the Act; and
- the fees set in 2002 no longer meet the HEA's current funding needs (see appendix 2 for current fees set in 2002). The HEA has been funding its shortfalls in recent years using its dwindling reserves. This is not sustainable.

3.1.2 Option 1: Five fee categories, no discount for exporter experience

As set out in table 1 below, the proposed Fees and Levies Regulations will have five fee categories to enable the implementation of the five-tiered marketing provision as provided in the Act. Where a product group has opted to have more than one tier of licence in the export marketing strategy, the HEA will determine the relevant category of fee to apply to the proposed tiers. Category A will always apply to the highest tier of licence, and this will include exports to all markets. If there is more than one tier, Categories B, C, D, or E (as determined by the HEA, based on specified criteria – see next page) will apply to those tiers. The fees in the table below are maximum fees for each category. The HEA may set a lower fees for each category (across all products), based on what is required to meet the costs of the service.

Table 1: Maximum fees for five market tiers

New licence application fees	Fee Category	% of Category A	Maximum fee
	Category A	100	$4,000 (max)
	Category B	75	$3,000 (max)
	Category C	50	$2,000 (max)
	Category D	25	$1,000 (max)
	Category E	15	$600 (max)
Licence renewal fees or 2nd and subsequent licence fees	Category A	100	$800 (max)
	Category B	75	$600 (max)
	Category C	50	$400 (max)
	Category D	25	$200 (max)
	Category E	15	$120 (max)
Annual monitoring and compliance fees	Category A	100	$2,400 (max)
	Category B	75	$1,800 (max)
	Category C	50	$1,200 (max)
	Category D	25	$600 (max)
	Category E	15	$360 (max)
Exemption fees (from licence or EMS)	Category A	100	$400 (max)
	Category B	75	$300 (max)
	Category C	50	$200 (max)
	Category D	25	$100 (max)
	Category E	15	$60 (max)

The two key considerations in determining the maximum fees in table 1 above were:

- the rates will deliver approximately 40 percent of the HEA's revenue each year, as has been the exporter licensing share of the HEA's funding in recent years; and
- the lower fees for lower category markets reflect the lower anticipated costs for the HEA as those markets will most likely have fewer or lower grade standards for the HEA to determine and monitor. The holder of a lower tier licence will only be able to access the markets listed in that tier and this would be reflected in the fee category.

Section 36 of the Act sets out the requirements the HEA is required to consider when assessing an application for an export licence to a market. When assessing which fee category should apply to a market tier for a product, the HEA Board would take into consideration:

- the cost of assessing licence applications for that market tier (noting that assessing higher-valued markets may require more in-depth validation of the applicants, such as detailed analysis of an applicant's knowledge of the product and the supply chain, access to logistical services, and in-market awareness); and
- the unit value and market access conditions that a market region/tier provides for exporters of a particular product. Even though the product groups for two or more products may have assigned the same tier to that market region, the value and conditions of accessing that market region may differ among the products.

Question for feedback

2. What criteria do you think the HEA should be required to take into account when assessing which fee category should apply to a market tier for a product?

Table 2 below sets out, as an example only, how the fees system will work in practice. In particular, how the different fee categories will apply to different tiers of licence for a given product group:

Table 2: Example of how the exporter licence fee system will work

Service	**Fee Category**	**Maximum fee prescribed in regulations**	**Fee set by the Board for the 2020 year (Example only)**
New licence application fee	Category A	$4,000 (max)	$3,600
	Category B	$3,000 (max)	$2,700
	Category C	$2,000 (max)	$1,800
	Category D	$1,000 (max)	$900
	Category E	$600 (max)	$540
Licence renewal fee or 2nd and subsequent licence fee	Category A	$800 (max)	$800
	Category B	$600 (max)	$600
	Category C	$400 (max)	$400
	Category D	$200 (max)	$200
	Category E	$120 (max)	$120

Annual monitoring and compliance fee	Category A	$2,400 (max)	$2,000
	Category B	$1,800 (max)	$1,500
	Category C	$1,200 (max)	$1,000
	Category D	$600 (max)	$500
	Category E	$360 (max)	$300

Product A has only one tier of market.
Product B has two tiers of markets. Tier 1 for all markets and tier 2 for Pacific Islands only.
Product C has three tiers of markets. Tier 1 for all markets, tier 2 for Australia and Pacific Islands, and tier 3 for Pacific Islands only.

After taking into account the prescribed criteria for determining the relevant fee category, the HEA may determine the following fee categories apply:

- **Product A:**
    - Tier 1 – Fee Category A. This is because Category A will always apply to the highest tier of licence.
- **Product B**:
    - Tier 1 – Fee Category A. This is because Category A will always apply to the highest tier of licence.
    - Tier 2 – Fee Category E. This is a Pacific Islands only tier of licence. For this particular licence, the processing and monitoring costs incurred by the HEA are minimal and the markets to which this licence gives access may require products to meet no more than the market access requirements. The processing and monitoring costs for the HEA are minimal because Product B established no additional grade standards for Pacific Island markets beyond those required by law to ensure the product is fit for consumption.
- **Product C:**
    - Tier 1 – Fee Category A. This is because Category A will always apply to the highest tier of licence.
    - Tier 2 – Fee Category B. This licence provides access to both Australia and Pacific Islands. The processing and monitoring costs incurred by the HEA are moderate. Product C has established some spray residue standards for the product entering these markets. Consequently the HEA has to assess an exporter's capability to comply with this requirement prior to issuing a licence. Further, the markets to which this licence gives access are moderately valuable, and there are some complex market access requirements.
    - Tier 3 – Fee Category C. While this is a Pacific Islands only tier of licence, it only differs from tier 2 in that it has less complex market access requirements – the processing and monitoring costs incurred by the HEA are moderate, and the value of the Pacific Island markets for Product C are moderate.

Note that, in this example, both Product B and Product C have a tier of licence that gives access only to Pacific Island markets, and that different fee categories are applied to these licences. This is because, despite giving access to the same markets, the HEA's costs of implementing and monitoring the product groups' export marketing strategies, the value of the market for the products, and market access requirements differ between the two products.

Table 3: Analysis of option 1 (five fee categories, no discount for experience)

Criteria	Score (0-5)	Analysis
Adequacy	5	The HEA can adjust the rates within the maximum to fully cover its costs, and provide the HEA certainty of funding.
Equity	3	The HEA is unable to vary the fees for experienced versus inexperienced exporters when its costs will vary.
Efficiency	5	Fee collection method and the process for setting the different fees, within the maximum, are all well set out and efficient.
Justifiability	2	Little justification for why exemption fees has to vary considerably between different market tiers when the HEA's costs to assess and issue exemptions are unlikely to vary between different market tiers.
Transparency	3	Fee maximums are set in Regulations, and these apply to all licence holders to a market at the same rate. The HEA will have to assess a product group's EMS before exporters are able to know the fee rates.
Total score	18 / 25	

Questions for feedback

3. Do you agree with MPI's analysis in table 3 above? Why, or why not? Does the analysis capture all the relevant matters? If not, what additional matters should be considered?
4. What impact will the proposed fee levels have on your ability to continue to export? Please explain why.

3.1.3 Option 2: Five fee categories, with discounts for exporter experience

This option will have two components, as follows:

a. five fee categories (as in table 1 above, with the same maximum rates) with the HEA determining the relevant fees for the different tiers where a product group has chosen to have more than one tier of licence; and

b. the HEA will be able to set different licence application fees, within a prescribed maximum, in consideration of the tier of licence applied for and applicant's level of exporting experience, as follows:

- 15 percent reduction in fees if the applicant has previously exported the specific product under HEA licence within the last 3 years;
- 10 percent reduction in fees if the applicant is exporting a horticultural product that is outside the HEA licensing framework; and
- 5 percent reduction in fees if the applicant is an exporter of a non-horticultural primary produce (e.g. an exporter of wine).

Table 4: Analysis of option 2 (Five tiers with discounts for experience)

Criteria	Score (0-5)	Analysis
Adequacy	5	The HEA can adjust the rates within the maximum to fully cover its costs, and provide the HEA certainty of funding.
Equity	5	The HEA can vary the fees for exporter experience as its costs will vary.
Efficiency	5	Fee collection method and the process for setting the different fees, within the maximum, are all well set out and efficient.
Justifiability	2	Little justification for why exemption fees has to vary considerably between different market tiers when the HEA's costs to assess and issue exemptions are unlikely to vary between different market tiers.
Transparency	3	Fee maximums are set in Regulations, and these apply to all licence holders to a market at the same rate. The HEA will have to assess a product group's EMS before exporters are able to know the fee rates.
Total score	20 / 25	

Question for feedback

5. Do you agree with MPI's analysis in table 4 above? Why, or why not? Does the analysis capture all the relevant matters? If not, what additional matters should be considered?

3.1.4 Option 3: Five fee categories by markets, with discounts for exporter experience, and only one exemption fees (MPI's preferred option)

This option will have all the features of option 2 above, with one modification that there will be only one exemption fee, with a maximum of $400.

Table 5: Analysis of option 3 (Five fee categories by markets, with discounts for exporter experience, and only one exemption fees)

Criteria	Score (0-5)	Analysis
Adequacy	5	The HEA can adjust the rates within the maximum to fully cover its costs, and provide the HEA certainty of funding.
Equity	5	The HEA can vary the fees for exporter experience as its costs will vary.
Efficiency	5	Fee collection method and the process for setting the different fees, within the maximum, are all well set out and efficient.
Justifiability	5	One exemption fee provides a more accurate reflection for the HEA's costs to assess and issue exemptions as they are unlikely to vary between different market tiers.
Transparency	3	Fee maximums are set in Regulations, and these apply to all licence holders to a market at the same rate. The HEA will have to assess a product group's EMS before exporters are able to know the fee rates.
Total score	22 / 25	

Question for feedback

6. Do you agree with MPI's analysis in table 5 above? Why, or why not? Does the analysis capture all the relevant matters? If not, what additional matters should be considered?

Questions for feedback

7. Do you agree with MPI that option 3 is the best option for HEA's funding from exporter licence fees? Please explain why you support or oppose option 3.

8. If you have another option for HEA's funding from exporter licence fees please let us know. Provide sufficient details to demonstrate how it would meet all the criteria listed in section 2.4 above. Also explain why you consider your option to be superior to option 3 above for exporter licence fees.

4 Options for recognised product group levies

We invite comment and feedback on the two options for recognised product group levies outlined and analysed below. **MPI's preferred option is option 2.**

4.1.1 Status quo is not an option

Currently, the HEA charges product groups a fee (based on a 2-year average FOB export earnings formula) though contractual arrangements for the services it delivers. Contractual arrangements are used because the current Fees Regulations do not provide any regulatory mechanism for charging the product groups. As the Fees Regulations are being reviewed, it is timely for MPI to consider whether it is more appropriate for the product groups to be charged through a regulatory mechanism or through contractual arrangements.

Generally, where a service user has no choice but to use the service, and the service provider has no choice but to provide the service, it is most appropriate that the service be charged through a regulated fee or levy, rather than contractual arrangements[6]. This protects both parties to the transaction as neither is free to exercise market choice in relation to the service. The HEA and product groups are in such a relationship. As such, MPI is only considering options where product group charges are set out in regulations.

Now that the Act has an empowering provision for the HEA to impose levies on the recognised product groups by regulations, this mechanism must be used in order to cost recover from product groups. The HEA will not to be able to continue to collect fees through contracts.

4.1.2 Fee or a levy?

The HEA currently determines the charges it imposes on product groups through a formula that is based on a two-year rolling average of export earnings for the relevant product. This formula is a levy because it is a reoccurring annual charge levied on the same payers, to fund a set of services, whereas a fee is usually a one-off charge for a specific service.

The levy method of determining charges for product groups is suited to the nature of the HEA. Much of the HEA's costs are fixed, and incurred in providing services to the same payer year after year.

4.1.3 Option 1 (One universal levy rate with a maximum amount): Enable the HEA to set an annual levy rate, within a prescribed maximum levy rate of 0.12 percent of FOB export earnings of each product from previous two years with a maximum amount of $65,000 a year.

The key consideration in determining the maximum levy rate of 0.12 percent of FOB export earnings of each product over previous two years was that the rate will deliver approximately 60 percent of the HEA's required revenue each year, as has been the recognised product groups' share of the HEA's funding in recent years. A set maximum levy of $65,000 a year reflects the benefits of economies of scale of the larger industries.

[6] http://www.ldac.org.nz/guidelines/lac-revised-guidelines/chapter-15/

Table 6: Analysis of option 1 (One universal levy rate)

Criteria	Score (0-5)	Analysis
Adequacy	5	The HEA can set the levy at a rate that will give it adequate funding, and give the HEA certainty of funding.
Equity	1	One universal levy rate across all the recognised product groups does not take into account that the HEA does incur some marginal costs per product group, regardless of size. Under this approach, in some years, a very small recognised product group may not have any exports and therefore would not be paying a levy. Yet they will continue to impose some administrative costs on the HEA, which will have to be cross-subsidised by other recognised product groups.
Efficiency	5	Levy rate setting and the levy collection mechanism are fairly efficient.
Justifiability	5	The HEA is a small organisation with low overheads and not carrying or attempting to build large reserves. Its board composition (with grower and exporter representation) will provide sufficient oversight of levy rates.
Transparency	5	The levy setting process will be very transparent as they will be set by the HEA within the prescribed maximum rate and the recognised product groups will be subject to the same rate.
Total score	21 / 25	

Question for feedback

9. Do you agree with MPI's analysis in table 6 above? Why, or why not? Does the analysis capture all the relevant matters? If not, what additional matters should be considered?

4.1.4 Option 2 (MPI's preferred option): Enable the HEA to set annual levy rates, within the three maximum levy rates prescribed in regulations.

This levy option will have two key components:

a. The HEA will calculate a levy for each recognised product group on the basis of average FOB export earnings over previous two years for that product, using the levy rates in table 7 below.

b. There will be caps at both end of the levy spectrum. The regulations will specify:

- a minimum amount of levy of $500 a year for recognised product groups; and
- a maximum amount of levy of $65,000 a year for recognised product groups.

A set minimum levy of $500 a year reflects that regardless of how small an industry is there will always be some administrative costs for the HEA, such as regular communications to all product groups, administering the HEA's database of all the industries, and some monitoring of exports of those smaller industries. A set maximum levy of $65,000 a year reflects the benefits of economies of scale of the larger industries.

In setting both the above minimum and maximum levies, and the rates in table 7 below, consideration was given to the HEA obtaining about 60 percent of its revenue from the recognised product groups, reflecting the recent history of the HEA's funding.

Table 7: Levy rates for option 2

FOB export earnings for a product	Maximum levy rates (percent of FOB earnings)
First $20million	0.12 percent
Next $20million (i.e. $20-40 million)	0.10 percent
Over $40million	0.06 percent

For example, an industry with $55million of annual FOB export earnings will pay a levy of $53,000 a year (i.e. $24,000 for the first $20m + $20,000 for the second $20m + $9,000 for the remaining $15m).

Reducing levy rates for larger industries takes into consideration the HEA's declining costs from economies of scale of the various industries.

Table 8: Analysis of option 2 (MPI's preferred option)

Criteria	Score (0-5)	Analysis
Adequacy	5	The HEA can set the levy at a rate that will give it adequate funding, and give the HEA certainty of funding.
Equity	5	Three different rates will enable the HEA to set rates to take into account marginal product group costs. The minimum amount of levy will remove any potential for larger recognised product groups to cross-subsidise very small product groups.
Efficiency	5	Levy rate setting and the levy collection mechanism are fairly efficient.
Justifiability	5	The HEA is a small organisation with low overheads and not carrying or attempting to build large reserves. Its board composition (with grower and exporter representation) will provide sufficient oversight of levy rates.
Transparency	5	The levy setting process will be very transparent as they will be set by the HEA within the prescribed maximum rates and the recognised product groups will be subject to the same rates.
Total score	25 / 25	

Question for feedback

10. Do you agree with MPI's analysis in table 8 above? Why, or why not? Does the analysis capture all the relevant matters? If not, what additional matters should be considered?

Table 9: Impact of options 1 and 2 on recognised product groups

Recognised Product Group	FOB Earnings 2014/15, $million	FOB Earnings 2015/16, $million	Status Quo Annual Levies, $	Option 1 Annual Levies, $	Option 2 Annual Levies, $
					Preferred
Avocados	115.472	84.550	47,300	65,000	65,000
Blackcurrants	12.884	12.604	24,480	15,293	15,293
Boysenberries	3.988	3.000	Not Active	Not Active	Not Active
Chestnuts	0.002	0.005	250	480	500
Persimmons	7.359	7.930	16,300	9,173	9,173
Buttercup Squash	58.739	58.190	43,100	65,000	55,079
Kiwifruit to Australia	40.648	41.718	41,400	49,420	44,710
Summerfruit	58.319	75.421	43,900	65,000	60,122
Tamarillos	0.074	0.042	305	305	500
Truffles	0.003	0.000	250	240	500
TOTAL	297.49	283.46	217,285	270,386	250,877

Questions for feedback

11. Do you agree with MPI that option 2 is the best option for HEA’s funding from recognised product groups? Please explain why you support or oppose option 2.

12. If you have another option for HEA’s funding from recognised product groups please let us know. Provide sufficient details to demonstrate how it would meet all the criteria listed in section 2.4 above. Also explain why you consider your option to be superior to option 2 above for recognised product group levy.

Appendix 1: Prescribed products and recognised product groups under the HEA

Prescribed products	**Recognised product groups**
Avocados	Avocado Industry Council
Blackcurrants	Blackcurrants New Zealand Incorporated
Boysenberries	New Zealand Boysenberry Council Limited
Buttercup Squash	New Zealand Buttercup Squash Council Incorporated
Chestnuts	New Zealand Chestnut Council Incorporated
Kiwifruit to Australia	New Zealand Kiwifruit Product Group to Australia Incorporated
Persimmons	Persimmon Industry Council Incorporated
Summerfruit (apricots, nectarines, peaches, plums, sweet cherries)	Summerfruit New Zealand Incorporated
Tamarillos	New Zealand Tamarillo Export Council Limited
Truffles	Southern Truffles New Zealand Limited

Boysenberries has an HEA Export Order enabling it to remain within the HEA, however it has suspended the licensing requirement for exports (i.e. a licence is not currently required to export this product). Chestnuts and Truffles have HEA Export Orders, however export volumes in recent years have been low or non-existent.

Appendix 2: Current HEA exporter licence fees

The New Zealand Horticulture Export Authority (Fees) Regulations 2002, made under the New Zealand Horticulture Export Authority Act 1987, provides for the following fees that the HEA can impose on exporters (applicants and licence holders):

(1) **The matters for which the HEA may charge fees:**	**Maximum fee (GST exclusive)**
(a) Application for an export licence under section 35 of the Act	$2,500
(b) Application for an exemption under section 40 or section 41 of the Act	$250
(c) Application for an export licence under section 35 of the Act to replace a licence that will expire under section 36(6) of the Act	$500
(d) Administering the export licensing of prescribed products in accordance with Part 3 of the Act, including in particular monitoring compliance with requirements and conditions imposed by or under sections 37 and 38.	$1,500

(2) A fee is not payable under (1)(a) above if the applicant already holds a current export licence.

(3) A fee is payable under (1)(c) above only if the export licence applied for is to replace:

(a) a licence for which a fee was paid under (1)(a) above; or

(b) if the applicant no longer holds a licence specified in (a), the next current licence granted to the applicant.

(4) The fee payable under (1)(d) above:

(a) is payable with an application for an export licence whether or not

(i) an applicant already holds a current export licence; or

(ii) a fee is payable under (1)(a) or (c) above, but must be refunded if the application is declined; and

(b) if the export licence is granted, is payable, while the licence is in force, in each of the first to fourth subsequent years by the anniversary of the grant of the licence; and

(c) to avoid doubt, is payable in respect of a current licence granted before the commencement of these regulations.

(5) For the purposes of (3)(a) above, if an applicant holds 2 or more current export licences granted before the commencement of these regulations, the first of those licences is to be treated as if it were a licence for which a fee was paid under (1)(a) above.

Appendix 3: Consolidated questions for consultation

Question 1	Have we identified the correct set of criteria for assessing HEA's funding options in section 2.4? Is there any criteria that should be removed from this list, and are there any other criteria that should be added? Please explain why.
Question 2	What criteria do you think the HEA should be required to take into account when assessing which fee category should apply to a market tier for a product?
Question 3	Do you agree with MPI's analysis in table 3? Why, or why not? Does the analysis capture all the relevant matters? If not, what additional matters should be considered?
Question 4	What impact will the proposed fee levels in table 3 have on your ability to continue to export? Please explain why.
Question 5	Do you agree with MPI's analysis in table 4? Why, or why not? Does the analysis capture all the relevant matters? If not, what additional matters should be considered?
Question 6	Do you agree with MPI's analysis in table 5? Why, or why not? Does the analysis capture all the relevant matters? If not, what additional matters should be considered?
Question 7	Do you agree with MPI that option 3 is the best option for HEA's funding from exporter licence fees? Please explain why you support or oppose option 3.
Question 8	If you have another option for HEA's funding from exporter licence fees please let us know. Provide sufficient details to demonstrate how it would meet all the criteria listed in section 2.4. Also explain why you consider your option to be superior to option 3 for exporter licence fees.
Question 9	Do you agree with MPI's analysis in table 6? Why, or why not? Does the analysis capture all the relevant matters? If not, what additional matters should be considered?
Question 10	Do you agree with MPI's analysis in table 8? Why, or why not? Does the analysis capture all the relevant matters? If not, what additional matters should be considered?
Question 11	Do you agree with MPI that option 2 is the best option for HEA's funding from recognised product groups? Please explain why you support or oppose option 2.
Question 12	If you have another option for HEA's funding from recognised product groups please let us know. Provide sufficient details to demonstrate how it would meet all the criteria listed in section 2.4. Also explain why you consider your option to be superior to option 2 for recognised product group levy.