

# Feedback form

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Please provide your contact details below.

Name:	John France PhD, DSc, FAACB
If this feedback is on behalf of an organisation, please name the organisation:	
Please provide a brief description of the organisation if applicable:	
Address/email:	
Interest in this topic (eg, user of fertility services, health professional, researcher, member of the public):	Health Professional (Retired)

We will place all feedback on ACART's website, except where we are asked that feedback be withheld in full or part for reasons of confidentiality. We will remove contact information from all feedback.

☐ I **request** that my feedback be withheld in full or part from publication on ACART's website (if you wish a part to be withheld, please clearly indicate which part).

Please note that all feedback may be requested by any member of the public under the Official Information Act 1982 (the Act). If there is any part of your feedback that you consider should be properly withheld under the Act, please make this clear in your feedback, noting the reasons.

If information from your feedback is requested under the Act, the Ministry of Health (the Ministry) will release your feedback to the person who requested it. The Ministry will remove your name and/or contact details from the feedback if you check one or both of the following boxes. Where feedback is on behalf of an organisation, the Ministry will not remove the name of the organisation.

☐ I **do not** give permission for my name to be released to persons under the Official Information Act 1982.

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We will acknowledge all feedback.

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# Questions about the issues discussed in the paper

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Before addressing the questions, I wish to make a general statement expressing my views on the ethical issues raised. My views have not changed since the related consultation in 2007 and the statement here is mostly what I included in my response then.

the language used in the questions highlights a specific problem particularly when it relates to human embryos. To speak about a human embryo as an item that can be imported or exported treats the embryo as nothing more than a tradeable commodity. It is of concern that ACART even unwittingly, is contributing to the commodification of human life in using this language. It reflects, perhaps, a familiarity with embryos arising from their creation and manipulation in the laboratory setting over the past 30 years that has gradually resulted in diminished respect and value for the life of the human individual at his or her very beginning. Public policy in New Zealand would not condone a price on a new-born child available for adoption, let alone involving importing or exporting and neither should it for embryos. Rather There should be a campaign to encourage couples to donate surplus embryos stored here in New Zealand for “adoption” and to encourage prospective New Zealand parents with infertility problems to seek such adoptions.

I believe that the only embryos that should be allowed to be brought into New Zealand are those of a couple who are now residing in New Zealand and have embryos in storage in another country where they previously resided and underwent IVF treatment for infertility. The transfer of the embryos should be at the instigation of the couple assisted by the local New Zealand infertility service provider and approved by ECART. For the transfer of embryos from New Zealand to another country, the same circumstances, process and approval would apply. The principles of the HART Act would need to be met.

With regard to gametes, I personally see no serious ethical concerns with, for example, a man who when earlier living in another country developed say testicular cancer and prior to treatment had sperm collected and put into storage for possible future reproductive purposes. Now living in New Zealand, this man may have established a relationship and the couple desired children. The stored sperm could be brought back to New Zealand at his request. Similarly, for a man who moved out of New Zealand and wished to have his stored sperm transferred to the country where he now resided. Sustaining the viability of eggs and ovarian tissue through the processes of freezing, storage and thawing remains still thwart with difficulties. When these difficulties are overcome and I expect advances have been made since 2007, obviously my view would be the same as for sperm. Again, the transfer should be arranged through the infertility service provider with approval from an appropriate authority and the principles of the HART Act would need to be met.

I am otherwise opposed to bringing into or taking out of New Zealand donated gametes for reproductive purposes. Already, from a number of European countries as well as the USA and India, there are well documented reports of exploitation of women to obtain eggs for so called “donation”. To allow for donated embryos and gametes to be brought into New Zealand from other countries would open the gate to commercialism of supply. It

would be difficult/impossible to confirm if the obtaining of the embryos and gametes from other countries met the ethical criteria contained in the HART Act. Further, there could be an associated risk to biosecurity.

Two statements in the Discussion Document are pertinent to my responses in this consultation and I wish to endorse them here:

- New Zealand should not support or be seen to support, policies and practices in other countries that would be regarded as unethical in this country.
- Allowing the use of commercially sourced gametes and embryos would be an exception to general public policy in New Zealand. Altruistic gamete and embryo donation (and surrogacy) is consistent with blood and organ donation. A sense of mutuality and community is fostered by exchanges that do not involve money.

The second statement is quite relevant, for donation of kidneys and blood in particular are both concerned with the life saving of recipients, reproductive technologies are not, so we could well ask would we in New Zealand contemplate or accept the import and export of these organs on a commercial basis. I doubt there would be much public support for such a proposal. Why then should we be even considering the import and export of gametes and embryos.

Finally, I have two further concerns to raise. First, over the years the consultations ACART has carried out are mostly in the context of situation ethics (or ethical relativism), see the examples in the Discussion Document. The flaw is in having the situation with its focus on the individual not on principles define the ethical response. As fresh issues arise the 'Goal Posts' keep getting moved, the so called "slippery slope". Ethical standards are continuously eroded.

Secondly, it appears to me that the trends in the treatment of infertility using assisted reproductive technologies (witness the current Consultation) is becoming more of a commercial enterprise rather than a health service. This is a disturbing progression.

## Question 1: Altruistic donation v. commercial supply

Should it be possible to use commercially sourced gametes and embryos from other countries in New Zealand?

- |                          |   |                             |
|--------------------------|---|-----------------------------|
| • In all circumstances?  | Yes <input type="checkbox"/>            | No <input type="checkbox"/> |
| • In no circumstances?   | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| • In some circumstances? | Yes <input type="checkbox"/>            | No <input type="checkbox"/> |

If so, what circumstances might be acceptable, and what circumstances would not be acceptable?

Would a higher level of donor expenses increase the supply of locally sourced gametes?

Yes ☒ No ☐

Please give reasons for your views.

It is reasonable to expect that a realistic reimbursement of the expenses incurred by the donor on an individual basis would increase the supply of locally sourced gametes but the increase is likely to be small. A realistic reimbursement is more relevant to egg donation rather than sperm donation because the collection procedure is invasive and may result in loss of income through time off work. I would support a review of reimbursement payments currently made to donors of gametes in New Zealand aimed at making these reimbursements more realistic, nevertheless, altruism should remain the underlying basis for donation.

Members of ACART may well be familiar with the Nuffield Council on Bioethics October 2011 Report on "Donation – Humanbodies donation for medicine and research" ([www.nuffieldbioethics.org/donation](http://www.nuffieldbioethics.org/donation)) which emphasizes that altruism should continue to play a central role in ethical thinking about donation. The following is taken from the Report's section on "Our Ethical Framework".

"Altruism should continue to play a central role in ethical thinking about donation. The idea of altruistic donation - giving bodily material because another person needs it - underpins a communal and collective approach where generosity and compassion are valued.

However, an altruistic basis for donation does not necessarily exclude other approaches. Systems based on altruism and systems involving some form of payment are not mutually exclusive. We distinguish between two different kinds of action to promote donation: – altruist-focused interventions that remove disincentives from, or provide a spur to, those already inclined to donate; and – non-altruist-focused interventions, where the reward offered to the potential donor is intended alone to be sufficient to prompt them to donate.

Non-altruist-focused interventions are not necessarily unethical but may need to be subject to closer scrutiny because of the threat they may pose to wider communal values.

We take seriously concerns that, in some circumstances, payment for bodily material may lead to people's body parts being seen as 'things' that can simply be bought or sold. We do not take the view that every form of payment for donation implies this. However, we reject the concept of the sale and purchase of bodily material, where money exchanges hands in direct return for body parts (rather than to reward or recompense donors for their act of donation)."

## Question 2: Right of access to identifying information about donors v. no right of access to identifying information about donors

Should it be possible to use gametes and embryos in New Zealand where donor offspring do not have access as of right to identifying information about donors?

- In all circumstances? Yes ☐ No ☐
- In no circumstances? Yes ☒ No ☐
- In some circumstances? Yes ☐ No ☐

If so, what circumstances might be acceptable, and what circumstances would not be acceptable?

Please give reasons for your views.

While this is a complex issue which involves the interests of three parties, the offspring, the parents and the donor, I agree with the arguments in the Discussion Document supporting right of access to identifying information about donors. We all have a right to know our genetic, family and cultural heritage. Such knowledge is important not only in identifying who we are as a person but also to our health and wellbeing. No child should be deprived from accessing this knowledge.

### Question 3: Family size limitations

Should it be possible to use donated gametes or embryos in import/export where the use may exceed New Zealand limits on the number of families assisted?

- |                          |   |                             |
|--------------------------|---|-----------------------------|
| • In all circumstances?  | Yes <input type="checkbox"/>            | No <input type="checkbox"/> |
| • In no circumstances?   | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| • In some circumstances? | Yes <input type="checkbox"/>            | No <input type="checkbox"/> |

If so, what circumstances might be acceptable, and what circumstances would not be acceptable?

Please give reasons for your views.

See my introductory statement re import/export of gametes and embryos.

## Question 4: Prohibitions on the use of sex selection

Should it be possible to use imported embryos subject to sex selection for reasons prohibited in New Zealand?

- |                          |   |                             |
|--------------------------|---|-----------------------------|
| • In all circumstances?  | Yes <input type="checkbox"/>            | No <input type="checkbox"/> |
| • In no circumstances?   | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| • In some circumstances? | Yes <input type="checkbox"/>            | No <input type="checkbox"/> |

If so, what circumstances might be acceptable, and what circumstances would not be acceptable?

Please give reasons for your views.

See my introductory statement regarding import of embryos. Sex selection of embryos for family social reasons is not permitted in New Zealand nor should it be in the future. Children should be valued for themselves not because of their sex.



## Question 5: Scope of informed consent

Should explicit consent to export gametes and embryos to and from New Zealand:

- |                                      |     |  |    |                          |
|--------------------------------------|-----|--|----|--------------------------|
| • Be required in all circumstances?  | Yes | <input checked="checked" type="checkbox"/> | No | <input type="checkbox"/> |
| • Not be required?                   | Yes | <input type="checkbox"/>                   | No | <input type="checkbox"/> |
| • Be required in some circumstances? | Yes | <input type="checkbox"/>                   | No | <input type="checkbox"/> |

What are those circumstances?

Please give reasons for your views.

See my introductory statement for the very limited family circumstances in which I consider gametes and embryos may be sent to or from New Zealand. Approval on an individual basis would need first to be granted by an appropriate authority, eg, ECART.

## Question 6: Use of gametes and embryos overseas in procedures or research prohibited or precluded in New Zealand

Should people be able to export gametes and embryos for uses prohibited or precluded in New Zealand?

- |                          |   |                             |
|--------------------------|---|-----------------------------|
| • In all circumstances?  | Yes <input type="checkbox"/>            | No <input type="checkbox"/> |
| • In no circumstances?   | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| • In some circumstances? | Yes <input type="checkbox"/>            | No <input type="checkbox"/> |

If so, what circumstances might be acceptable, and what circumstances would not be acceptable?

Please give reasons for your views.

To quote from the Discussion Document, New Zealand should not support or be seen to support, policies and practices in other countries that would be regarded as unethical in this country.

## Question 7: Other areas where there may be a mismatch between New Zealand and overseas requirements

Are there other areas of potential mismatch that should be considered? Please describe.

## Question 8: Ranking issues in importance

Please put in order the importance you give to each of the following issues in regard to import and export of gametes and embryos with 1 being the most important.

Altruistic donation

Right of donor offspring to access identifying information about donors

New Zealand requirements for family size limitations

Explicit informed consent to export to another country

New Zealand prohibitions on the use of sex selection [box]

Use of gametes and embryos overseas in procedures or research prohibited or precluded in New Zealand

Another issue or issues (please describe)

I believe this is a question that should not have been asked. There are three ethical issues that needed to be discussed in this Consultation, Altruistic donation, right of donor offspring to access identifying information about donation and, circumstances in which gametes and embryos can be transported to or from New Zealand. These are all equally important issues. I don't believe you can rank important ethical issues. The other issues involve resolutions contrary to general public policy and or involve policies and practices in other countries that would be regarded as unethical in New Zealand and as such don't warrant consideration.

## Question 9

Do you have any other comments or suggestions about the issues discussed in this background paper?