New Zealand Government’s Experience with: International Approval and Inspection Requirements as an Exporter

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Growing and Protecting New Zealand
New Zealand’s Experiences: Article 8 / An C

- Some good, however……

- Most metrics suggest the application of **duplicate control, inspection and approval procedures** is getting more prevalent and complex
  - **Non-Tariff Measures (NTMs)** replacing Tariffs

- Associated with **greater costs** (direct & indirect) and **longer times** to get products into markets
New Zealand’s Experiences: Article 8 / An C

• Members tend to forget Article 8 and Annex C are subject to all of the same disciplines and obligations contained within the core Articles of 2, 3, and 5

• There is a need for greater Member understanding and discipline in how Article 8 and Annex C work with these other SPS Articles

• More discipline required on charges / costs
Members have right to:

- Do their own pre-market assessments within their own territories of for example:
  - New food or feed additives
  - Formulations of vet drugs or pesticides
  - Novel food or food ingredients
  - Formulations of foods critical to the healthy growth of infants

- However, resulting standards applied to imports should generally be consistent with Codex
  - Except where a higher ALOP is justified by a RA
Members have a right to:

- Request **official assurances / certification** from other members, and or
- To do premarket assessments, **at their own cost**, of other Member Export Assurance Systems
  - E.g. where the risks can not otherwise be **managed** through directly inspecting the product or by placing supplier due diligence requirements on importers such as for bivalve molluscan shellfish biotoxin controls
Obligations

• Such requirements and assessments should always be:
  – Risk justified
  – System and outcome focussed
  – In accordance with transparent processes, standards and criteria, and
  – Take into account and or be based on relevant international standards or assessments (exceptions)
Key Exporting Country Issues

• Members applying zero residue tolerances
  – if compound and/or use type not assessed or registered within their territory, regardless of risk

• Members not recognising international standards, alternative credible assessments or the controls already applied in the exporting country

• Members applying different methodologies, “other factors”, or subjective interpretations
Key Issues

- Requirement for pre-market approval / inspection of products or individual establishments
  - Requirement to repeat approvals every few years
  - Rather than Member system focused assessments

- Failure to recognise or take into account regulatory controls already applied in the country of origin

- Transboundary application of process prescriptive standards (PPS) as a condition of approval
Key Issues

• Requirements for overly detailed questionnaires, not taking account of relevant international standards or existing experience, knowledge and confidence

• Members administering these questionnaires and in-country inspections too often independent of the National Competent Authority

• Lack of capacity to administer, timeliness & costs – Countries wanting to charge for the above processes
Key Issues

- Overly **high frequency of re-inspection**, especially of Officially Certified product
  - not recognising product has already been through a control and assurance system
  - regardless of risk or export member performance
  - in excess of that applied domestically
  - greater consequence where issues found
  - lack of right of review

- Lack of commitment to the WTO Trade Facilitation Agreement (TFA)
Summary Conclusions:

• The authorisation provided by Article 8 and Annex C is not a “Blank Cheque”

• Article 8 and Annex C subject to the same obligations laid out in the other Articles

• Charges must not exceed the cost of the service

• Charges should not be levied transboundary or on other Members
Summary Conclusions:

• Control, inspection and approval procedures (measures) need to be:
  • based on risk,
  • appropriate to the bilateral circumstance,
  • take into account controls already applied
  • be non-discriminatory (national treatment)
  • applied only to the extent necessary, and
  • be applied in the least trade restrictive way to achieve the objective
• Any charge applied must be proportionate to the cost of the service (not applied transboundary)
Summary Conclusions:

• There is a need for:
  – Greater focus on risk and rationalisation of current processes
  – Greater cooperation between members
  – Less duplication of effort
  – Greater acceptance of international standards
  – Increased use of mutual recognition and equivalence
  – More coordinated and faster implementation of the WTO Trade Facilitation Agreement
THANK YOU