

**THE NEW ZEALAND EXPERIENCE: OPERATING THE SPS NOTIFICATION
AUTHORITY AND SPS ENQUIRY POINT**

Presentation made by New Zealand at the Special Meeting
of the SPS Committee on Transparency Provisions
held on 9 November 1999

BACKGROUND

1. This paper presents the nearly five years of experience that New Zealand has had with fulfilling the transparency obligations of the SPS agreement. It is based on a presentation given by New Zealand at the special SPS Committee meeting on transparency provisions held on 9 November 1999.

NEW ZEALAND SPS NOTIFICATION AUTHORITY

Choosing a notification authority

2. New Zealand has only one level of central government so there was no question about choosing a central agency when selecting an SPS notification authority. The first question was what sort of agency the authority should be. For New Zealand it was logical to have the notification authority in the agency where the majority of SPS measures were drawn up. The Ministry of Agriculture and Fisheries (MAF), which is now the Ministry of Agriculture and Forestry (MAF) was chosen because it generates almost all phytosanitary and zoosanitary measures. A number of other agencies such as the Ministry of Health and the Australia New Zealand Food Authority (ANZFA) produce SPS measures relating to food safety.

Staff

3. In 1995 MAF did not appoint additional staff to operate the New Zealand SPS notification authority; the duties were assigned initially to a single person who liaised at a senior level with other standard-setting agencies. The personal assistant of another senior manager carried out the administrative functions of the authority. Later three new staff were appointed to work in the area of SPS policy, especially to ensure that New Zealand's SPS measures and those of other WTO members affecting our exports were consistent with SPS obligations, and one of these took over management of the notification authority.

4. Currently two officials from the International Agreements group of the Biosecurity Authority within MAF staff the New Zealand SPS notification authority. (These officials are also responsible for the New Zealand SPS enquiry point.) The group manager acts as the coordinator for both the notification authority and enquiry point. He is responsible for developing policies and procedures, staff training and management, as well as liaison with other national and international agencies. A technical adviser in the group is responsible for the day-to-day running of both the notification authority and enquiry point, routine liaison with other national and international agencies, responding to requests and locating information.

5. From New Zealand's experience it is estimated that the total time taken to operate the routine functions of the notification authority and enquiry point amounts to about 10 per cent of two staff members' time, or around half a day per week for each person. That encompasses the time taken to download notifications from the world wide web or process the copies sent by e-mail from the WTO Secretariat, copy and distribute them to key stakeholders and partners, as well as making follow-up enquiries to obtain documents notified by other WTO members. Additional time is taken in developing policies and procedures, and liaising with other agencies.

6. We suggest that staff handling SPS notifications should have a number of skills to ensure that the WTO member gains maximum benefits from the transparency system operated under the SPS agreement. Staff should be:

- *organised and thorough* – it is important that the person is methodical and well-organised; capable of doing good administrative work;
- *have an understanding of the SPS Agreement* – it is also important that they are exposed to the policy side of SPS issues and understand the SPS Agreement, so they know the environment they are working in; and
- *have an eye for detail* – they also have to be alert for detail; making links between notifications, remembering things, and picking up on fine detail.

Operating the notification authority

7. *Administrative role:* A large part of the job of running the notification authority is just handling paper; being a good administrator. The authority receives a draft SPS notification from another department or group within its own department, checks it for style and content against the notification requirements, and then forwards it to the WTO in Geneva. If another WTO member asks for the regulation notified, the notification authority then either sends it or ask the responsible department to do this and then checks to see this is done.

8. *Basic office facilities:* WTO members do not need to build a new office or create a separate agency or group to run a notification authority; an existing agency or group can be used. The authority only really needs basic office facilities such as a photocopier, a filing cabinet, a telephone, and hopefully a fax. However, it is really useful to be able to use the world wide web to get documents from the WTO in Geneva. Having e-mail to be able to communicate with other WTO members' notification authorities and the WTO Secretariat is also very useful.

9. *Documented procedures:* To have a successful notification authority it is important for it to be properly organised. There should be standard operating procedures written down, in case of staff changes and to ensure consistency between staff. It is very important to be methodical and have a consistent routine.

10. *Access to technical expertise:* Staff will be dealing with issues that they have little or no knowledge of. However, while they might not know anything about food safety (for example), they will need to make decisions about who a notification should be sent to, or whether a particular draft notification is technically sound. They do not need to know the answer, but must know who does.

11. *Relationship with other agencies:* A significant part of the work of a notification authority involves coordination with other agencies. It is important that the authority has someone who can see that all of the administrative functions that must be done by different agencies in fact get done. The notification authority will be dealing with officials that the authority's staff have no line control over. It is important for staff involved to be good at managing and building relationships with officials from other agencies.

12. *Links with SPS policy knowledge:* There is an important benefit in having links between the notification authority and people working on SPS policy. Knowing what is going in this committee helps the authority develop and maintain a useful oversight function over notifications. Scrutinising SPS notifications will help WTO Members provide input to SPS policy formation, whether it is the revision of the notification procedures, or the trade issues that get brought before the SPS Committee. New Zealand has found from operating a notification authority for nearly five years that having the authority operated by the people involved in implementing and applying SPS policy is helpful.

Making notifications

13. *Other agencies must generate:* Under the New Zealand system the notification authority generally does not decide which SPS measures are notified, or write the actual notifications. The notification authority is responsible for developing procedures for other agencies and ensuring that notifications are drafted, but that does not mean that the authority has to draft the notifications itself. In fact, because the officials operating the New Zealand SPS notification authority are not the technical experts on food safety, animal health, and so on, but rather are policy people, they can not write the notifications. Their role is to scrutinise the draft notification, and to go back to check if there is doubt or add more information as required. So how do they make sure the notification work is done?

(i) *Awareness of importance:* The notification authority staff need to talk to standard writers as well as managers. It is important to get management within all agencies developing SPS measures to show commitment to meeting SPS notification obligations.

(ii) *Interagency agreement on policy:* This agreement should be supported by, and summarised in, a formal written policy statement on SPS notifications that is agreed to by all agencies. New Zealand's policy statement on SPS transparency in fact just summarises, in plain English, the key relevant provisions of the SPS agreement and the recommended notification procedures of the SPS Committee.

(iii) *Training for standard writers:* Simply having a number of policies and procedures documented is not enough, as they might just sit on the shelf and gather dust. As well as raising awareness and having an agreement on policy, the notification authority has to do more. It needs to train the people who actually develop SPS measures (or standards), and provide guidance for standard-writers on how to write an SPS notification. Standard-writers need to know what has to be notified under the SPS agreement (what an "SPS measure" is), when to notify, and how to go about drafting a notification.

Receiving notifications

14. The other principal function of the notification authority relates to handling notifications made by other WTO members.

(i) *Process frequently:* Do not let them build up. One purpose of obtaining notifications is so that WTO Members know what changes are being made, so a country's trade is not impeded. However, notifications are also a form of consultation. WTO members are being given the chance to comment on proposed regulations, and have the chance to influence which measures actually come into force.

Officials operating a notification authority are not doing their country much good if they find out about other Members' SPS measures months after they come into force. Therefore it is important to process the incoming notifications regularly: New Zealand has found that at least once per week is the minimum, but preferably more often is desirable.

(ii) *Distribution*: Part of the job of the notification authority is to distribute summaries of, or the actual notifications to where it can be of use. This can include people exporting certain commodities or officials developing New Zealand's import regulations for those products.

(iii) *Deciding on the subject*: Officials will not always be able to tell where to send notifications only by which box is ticked. Notifications are not always completed properly; and sometimes the notification will be of interest to others. Officials will need to have some technical knowledge, and should always read the whole notification (not the document) before they can decide what it is really about.

(iv) *Are they going to the right people?*: The notifications need to go to the people who are really doing the work and not bosses who might leave notifications in the in-tray.

(v) *Procedures*: A notification authority must have good documented procedures for making follow-up enquiries. If someone asks for the document notified it is the job of the notification authority to ask for it from the other Member's notification authority, and ask again if the document is not supplied. After two non-responses New Zealand asks its embassy or high commission to help make enquiries.

Comments – not part of the job of the notification authority

15. Under the New Zealand system the notification authority does not handle sending comments to other countries on their notifications. This is to reduce double handling, and make the process more efficient. Making comments is the responsibility of the government agency with the relevant technical expertise and legislative responsibilities. If they do not get an answer they can come to the notification authority for help, and with the Ministry of Foreign Affairs and Trade the authority would make enquiries with the other WTO Member about why they had not responded.

NEW ZEALAND SPS ENQUIRY POINT

Choosing the enquiry point

16. For New Zealand selecting the organisation to operate the SPS enquiry point was easy. There were three main factors.

(i) Agricultural exports are very important to New Zealand, so the enquiry point should also be where the majority of market access work is done (trying to negotiate less restrictive import conditions in other countries). So for this reason it made sense to have the enquiry point in the Ministry of Agriculture and Forestry (MAF).

(ii) The second reason for MAF being the enquiry point is the same as one of the reasons outlined for choosing the notification authority: MAF is where the majority of SPS measures are developed. So it is easy if enquiring countries are talking directly to the source of most of the SPS measures.

(iii) It is easy to have the notification authority and enquiry point in the same organisation.

Operating the enquiry point

17. The enquiry point has different functions from those of the notification authority. This difference does not matter much to New Zealand, as the same officials operate both functions. However, it might be important to other WTO Members where this is not the case. Under the SPS Agreement, the enquiry point does not send out a WTO member's notified documents that other countries might ask to see and make comments on. That is the job of the notification authority. The enquiry point is responsible for answering "all reasonable questions", and for providing documents relevant to those questions, about a whole range of SPS related issues. Such questions could include:

- *Broad queries:* "Send us all your country's phytosanitary regulations" (This was the first question made to New Zealand's enquiry point, but we asked the enquirer to be more specific).
- *Specific queries:* "What are your country's regulations for the import of water buffalo?"
- *Bilateral enquiries:* "What SPS agreement does your country have with country X, and what is its text?"

18. In fact the New Zealand SPS enquiry point has received only about three enquiries in the past three years. Why? The relevant SPS agencies in New Zealand have good relations with their technical counterparts overseas, and continue to receive enquiries directly. New Zealand policy is that responsible agencies should answer such questions themselves; there seems to be no sense in insisting that enquiries are redirected through the enquiry point.

WHAT NEW ZEALAND COULD DO BETTER

19. The New Zealand SPS notification authority and enquiry point operate fairly efficiently and effectively, but we can see areas for possible improvement.

20. *More awareness in other standard-setting agencies:* Most SPS standards are developed within MAF (the Ministry of Agriculture and Forestry, where the notification authority and enquiry point are located). New Zealand needs to do more with making the standard-writers in other agencies aware of the importance of SPS notifications. There is also still a lot of work to do within MAF in raising the awareness of the need for notification. MAF Biosecurity has developed a handbook for standard writers. One thing we will be doing next year is to run some more seminars and training sessions on SPS notifications, for standard-writers within MAF and in other agencies.

21. *Develop better links to industries:* New Zealand relies mainly on government officials working in market access to be alert to the importance of specific notifications, to discuss these with industries and take appropriate action. New Zealand could do more in communicating more directly with industries. Currently this is only achieved with those in the animal industries, through publishing summaries of relevant notifications in the MAF publication *Biosecurity*, which goes out every six weeks. Plans are under discussion to extend this to other industries.

22. *Get smarter with electronic media (e-mail and world wide web):* New Zealand would like to be sending notifications out directly to industries, by e-mail, with a keyword database of interested people to automatically do this. Putting all the notifications on the web is not good enough. They are there for people to go and find, but the notifications have to be brought to their attention regularly, in print or by e-mail.
