

AUSTRALIA'S IMPORT RESTRICTIONS ON DURIAN

Statement by Thailand at the Meeting of 8-9 November 2000

1. Our delegation would like to bring to the attention of this Committee our concerns on the access of Thai fresh durian to the Australian market due to its stringent phytosanitary measures.
2. Let me take a few minutes to give the Committee the background of the 10-year long history of our endeavour to export durians to Australia. It was 1991 when Thailand requested Australia to open its market for importation of our durians. All the requested information including the list of durian pests was submitted to the Australian authority. However, there was a considerable delay in the risk assessment process due to Australia's constant requests for additional and new data. This process was prolonged for 8 years before Australia finally notified the Draft Import Risk Analysis to the Committee in February 1999. Thailand has filed her complaints to the Australian authority through both diplomatic channels and bilateral meetings in various occasions on the Draft Import Risk Analysis and has proposed modifications to many restrictive measures contained in the draft. In August 2000, Australia informed us that it would allow importation of durian fruits from Thailand under certain conditions, which are unreasonable and unnecessary as well as trade restrictive.
3. Thailand fully respects the concerns of Australia for the protection of its durian plants and its pest-free continent of which Australia has repeatedly informed the Committee. Also we commend Australia for permitting the importation of durians for the first time, but the requirements imposed are unjustified and make the actual importation not commercially viable. In this regard, we would like to cite some of these requirements and seek clarification from the Australian delegation:
 1. **Under the pre-export inspection for durian seed borer (DSB), AQIS requires that for a shipment of less than 1,000 fruits, samples of 450 fruits would be randomly selected and cut open and for a shipment of more than 1,000 fruits, samples of 600 fruits.** As air cargo is the best way of delivering fresh durian to Australia, the normal individual consignment would have about 500-1,000 fruits. Therefore, pre-export volume of 2 fruits is needed for actually exporting 1 fruit to the Australian market. That would double the cost of durian in each shipment. We do not understand the rationale of the random sampling method that requires samples of up to 60 per cent out of the total amount. Is it reasonable and necessary? Does Australia consider it commercially viable? Are there any other methods which could be used to detect pests instead of the proposed primitive method of cutting the fruits open? In this regard, we wish to recall Article 5.4 and Annex C.1(e) of the SPS Agreement, which stipulate that "*Members should, when determining the appropriate level of sanitary or phytosanitary protection, take into account the objective of minimizing negative trade effects*" and "*Members shall ensure ... that: any requirements for control, inspection and approval of individual specimens of a product are limited to what is reasonable and necessary.*"

2. **AQIS will only accept consignments that arrive in Australia during the period from 1 April to 30 September of the same year.** Taking into account the restrictive measures required by AQIS, which include intensive Integrated Pest Management (IPM), a monitoring programme, and pre-export inspection, we question the reason why Australia has to limit the importation period. As a matter of fact, we consider that the measure is not consistent with Article 4.2 of the Agreement on Agriculture and Article XI of GATT 1947 and that it is an import restriction measure. We would be interested to hear the views of Australia on the issue.
 3. **Australia allows for the importation of durians only from the eastern region of Thailand.** As a major durian exporter, Thailand has never been reported to have pest outbreaks at economic levels in most recent years. At present, durian growers in Thailand have actively taken up pest preventive measures, which would reduce the risk to a certain level. Therefore, we would like to request Australia to consider importing durians from Thailand on the basis of whether or not the fruits are free from pests or diseases but not on the basis of whether they come from a pest-free area or not. This principle has been internationally accepted. Besides, we would be interested to hear from the Australian delegation on the concept of "like product" especially when the durians are treated under the same condition.
 4. **The cost of all AQIS audits and inspections of durians exported to Australia are to be borne by Thailand.** We are especially concerned that these expenses would add to the already high costs of production and exportation for our small-scale growers who would not be able to afford them.
4. To this end, we would like to assure the Australian delegation that all the points we raised are not meant to undermine Australia's plant health and quarantine policy but rather to suggest alternatives of less trade distorting measures. We would very much appreciate it if Australia kindly gives us a reply in writing.
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