

JAPAN – OFFICIAL CONTROL

Statement by New Zealand at the Meeting of 7-8 November 2002

1. This issue has been the subject of on-going discussions between New Zealand and Japan for a number of years. New Zealand has continually raised concerns about Japan's fumigation policy since 1983. More recently New Zealand again raised its concerns with Japan's overall approach through the Office of the Trade and Investment Ombudsmen, in Japan, in 1999, and every year since. We have discussed these issues in bilateral meetings between New Zealand and Japanese plant quarantine officials in May 2000 and July 2001; in correspondence in January 2001; at the high level Joint Economic Consultations in November 2001; and again in numerous bilateral meetings this year, including in a bilateral with the Japanese delegation to this Committee meeting yesterday.

2. This issue has also been discussed by this Committee under three different agenda items:

- "the implementation of the Agreement – consideration of specific notifications received" agenda item (November 1998 SPS Committee meeting). At that time the United States raised concerns relating to Japan's non-quarantine pest list;
- "the monitoring of the use of international standards" agenda item, where the lack of a definition for official control was further identified (at least three SPS Committee meetings in 2000 and 2001);
- finally, and most recently, the issue of "official control" was raised as a "specific trade concern" by the United States at our last meeting in June this year.

3. New Zealand has often spoken in support of the concerns voiced by other Members in this Committee and in numerous bilateral discussions. Despite our efforts to date, this issue with Japan remains unresolved. After careful consideration, we have decided to bring this matter before the Committee today, a decision that has not been taken lightly.

4. This is a very significant issue. Japan's phytosanitary measures are not consistent with the relevant international standard definitions in International Standards for Phytosanitary Measures 5 and the Guidelines in ISPM 5 Supplement No. 1. It is obvious from the number of times other Members have raised this issue that this is a significant issue for the Committee.

5. New Zealand is concerned that Japan fumigates consignments of New Zealand fresh produce following the interception of organisms that are not quarantine pests as defined under the International Plant Protection Convention (IPPC):

"A pest of potential economic importance to the area endangered thereby and not yet present there, or present but not widely distributed and [is] being officially controlled".

Official control, as defined under the IPPC's ISPM 5 Supplement No. 1, is:

"The active enforcement of mandatory phytosanitary regulations and the application of mandatory phytosanitary procedures with the objective of eradication or containment of quarantine pests or for the management of regulated non-quarantine pests."

All of New Zealand's horticultural products exported to Japan are affected by this unjustified fumigation including kiwifruit, cut-flowers, stonefruit, asparagus, mikan and squash. Fumigation causes increased costs and reduced shelf life and quality of the produce. The value of exports of these products to Japan, in the year to June 2002, was over NZ\$250 million.

6. Fundamental to this issue is the difference in the definition of a "quarantine pest" in Japan's Plant Protection Law (1997) and in the Plant Protection Law Enforcement Regulations (MAFF Ordinance No. 67 of 26 September 1997). While the Law defines "quarantine pests as injurious animals or plants not confirmed to exist in Japan or already present ... for which control measures are being undertaken by the State", the Ordinance says: "quarantine pests ... shall mean **any** injurious animal or plant."

7. This latter definition is not consistent with the IPPC's definition. We understand that only 63 listed "non-quarantine pests" are explicitly recognized by Japan as not justifying quarantine treatment. The net effect is that pests already in Japan, such as the Fuller's rose weevil, when found on imported products are, by default, treated as "quarantine pests". This is then used by Japan to justify fumigation.

8. We were optimistic that the IPPC's development of a definition for official control would resolve this issue with Japan. During its trade policy review in 2000, Japan informed us that it would, "fully take account of the new definition of 'official control' when it is clearly established in the IPPC". The IPPC's definition and guidelines for official control were adopted in April 2001. However, in the intervening 18 months Japan has not brought its phytosanitary systems into line with the new guidelines, in accordance with its obligations under the SPS Agreement.

9. We, therefore, request a policy statement from Japan to be circulated to the Members of this Committee by 1 January 2003, to confirm that Japan will not take any action (e.g. fumigation) on any pest intercepted at the border on imported produce if that pest is already present in Japan and not under official control as defined by the IPPC.
