

# **Government Response to: *Strategic Review of Regulatory Arrangements Controlling the Importation of Foods and Food-Related Products into New Zealand***

## **Purpose**

This paper considers the recommendations made by the external review team and notes agreement or otherwise with those recommendations, reasons for the responses and some of the issues associated with the recommendations.

It does not give detail as to how accepted recommendations or alternatives will be implemented as a more detailed implementation report will be provided with appropriate technical advice.

## **Background**

The New Zealand Food Safety Authority commissioned review was released in December 2004 following submissions received from an earlier discussion document. The recommendations are numbered below as per the subject numbering of the December 2004 review and are abbreviated .

New Zealand imports about 19 percent of food by value and that proportion is increasing. It is important to ensure that all food, imported and domestic, meets expectations for safety and suitability. The review of regulations regarding imported food and food-related products is complementary to the Domestic Food Review.

The review was to recommend cost effective ways to improve the regime that regulates the importation of food into New Zealand with the focus on reducing illness, deaths and the other costs associated with unsafe food.

This is the first such review since 1997 and during that time the responsibility for food safety has shifted from the split MAF, Ministry of Health model to residing within a new organisation, the New Zealand Food Safety Authority.

## Summary

The purpose of a regulatory regime for imported food is to manage food safety risks and ensure compliance with New Zealand standards. The framework for the regime covers the following areas: programme design (standards, systems, monitoring, review and information management); application all countries other than Australia; application to Australia (including labelling; application at the New Zealand border, and; administrative arrangements including stakeholder relationships).

The External Review Team has identified a number of issues around the regulation of imported food and food-related products that will require further investigation. Some issues raised by the team are already under review and some of the measures recommended have been or are in the process of being implemented.

It is proposed that further work be done on: broadening the risk management framework to take account of assurances and systems in the exporting country, improving information collection and management, developing a communication strategy for imported foods, reviewing tariff codes with Customs, investigating options for rationalising border inspection services, developing a watch list for high risk foods, conducting a risk profiling programme, increasing NZFSA monitoring for chemical residues and contaminants through targeted surveillance, increasing resources for labelling compliance, reviewing the joint standard for labelling and reviewing the effectiveness of multiple release permits.

Work is already underway on: moving to a web-based system and integrating information systems, a review of institutional arrangements through the Domestic Food Review, harmonising the prescribed foods list with Australia, , a review of NZFSA's cost recovery across the spectrum of activities and including imported food and amending the ACVM Act to include public health outcomes.

The following activities are considered core NZFSA business and are routinely reviewed: provision of information to industry and consumers, developing and maintaining relationships with stakeholders, other Government departments and relevant

international authorities, the support and promotion of a risk management framework and research into risk factors to inform surveillance activities. The New Zealand Food Safety Authority participates in the interagency group, the National Response Centre, which was established to manage emergency responses including bio-terrorism and tampering threats.

## **Recommendations and response**

### **Information Gathering: Recommendation 4.1**

A reassessment of the strategies for imported food surveillance is recommended. This should systematically identify the types of data required, mechanisms for the collection, collation, analysis and dissemination of data, and the staff capabilities and competencies required. This surveillance should focus data collection on the areas of greatest benefit, and improve outcomes through improved analysis and dissemination of data.

The Review Team recommends that NZFSA upgrade FoodNet or adopt an alternative method for administering the regulation of imported foods, with the goal of making information readily available to improve timely targeting and other adjustments to the imported food regime

### **Government response**

*It is agreed that an assessment is needed of what information is required and how it is utilised by NZFSA to more effectively manage risks associated with imported food and monitor the performance of the imported food programme. Such an assessment would include reviewing what information is currently collected by NZFSA and could be utilised for this purpose, options for filling information gaps, and the best approach for synthesising and effectively utilising and disseminating the information .*

*It is agreed that a key factor that needs to be considered in this assessment is linkages between foodborne illness surveillance information and management of risks associated with imported food. This is also an issue for domestically produced food, and would be*

*most usefully considered in this wider context. Close co-operation between NZFSA and the Ministry of Health will be required to achieve this, and work has begun in this area.*

*Early consideration will need to be given to rules around information collection and ensuring NZFSA has legal access all the necessary information.*

*Work on information management for imported food needs to be coordinated with the work currently being undertaken in the Domestic Food Review and should be designed to fit within the risk management framework. The upgrade or replacement of Food Net will be subject to capacity and consideration of the applicability of cost recovery. Cost recovery issues will be subject to review (see the response to recommendation 4.10).*

*Many of the issues raised in this recommendation have been identified by the New Zealand Food Safety Authority and are being addressed. The work programme identified by NZFSA includes improving information integration and information sharing, collaboration with stakeholders, other Government departments and international entities etc.*

#### **Administrative systems and communications: Recommendation 4.2:**

The Review Team recommends that within three years paper-based systems be replaced with electronic filing certification and clearance of imports. Associated costs should be recovered from the importers using these systems.

The Review Team recommends that NZFSA adopt a comprehensive communication strategy for imported foods.

#### **Government Response**

*It is agreed that the paper system will need to move to an electronic system but accessibility will depend on whether the content is public information or commercial.*

*It is also agreed that further integration with other agencies such as MAFQS and the New Zealand Customs Service needs to be done with a view to providing a 'one-stop-shop' for inspection and clearance processes.*

*It is agreed that a comprehensive communication strategy needs to be developed for imported foods including the key elements outlined by the Review Team.*

*Options on how to best provide importers and their agents with simple, consistent information are currently being explored.*

*Mechanisms are in place to provide web-based access to information on import rules and the form and content of this information can be reviewed as required.*

*Work on a web-based system will also need to interface wherever possible with that of our trading partners and meet our international obligations.*

### **Refinement of Tariff codes: Recommendation 4.3**

Tariff codes for imported foods should be reviewed and revised to ensure that prescribed foods are accurately distinguished from foods that do not need to be inspected at the border.

### **Government Response**

*It is agreed that the tariff codes should be enhanced to ensure that foods identified as high risk are captured and the number of inadvertent captures of low risk foods is kept to a minimum. Customs and NZFSA will work together to ensure the tariff codes are as useful as possible. All the options and issues around the tariff codes and the foods that are required to be targeted need to be fully considered when developing the scope of risk assessments and reconsidered once a decision has been made to monitor a particular food or foods.*

### **Institutional arrangements: Recommendation 4.4**

The Review Team believes that there needs to be greater rationalisation of responsibilities between MAFQS and the PHUs.

The Review Team considers that HPOs are overqualified for their current role in inspection and sampling of imported foods at the border. Using Food Officers for these duties is likely to reduce costs.

The Review Team recommends that NZFSA foster closer links with other stakeholders, importers, the Ministry of Health, customs agents and Customs.

### **Government Response**

*Since establishment in 2002, the New Zealand Food Safety Authority has developed significant relationships with stakeholders such as consumers, industry, the Ministry of Health, Biosecurity New Zealand, Customs, MAFQS and other departments. It is agreed that these links are important and the Authority will continue to actively develop these relationships.*

*The New Zealand Food Safety Authority is currently undertaking a comprehensive review of the domestic food regulatory programme. This is a substantial piece of work that will consider, amongst other things, the institutional arrangements, relationships and roles of PHUs. Food Officers have been used for imported food inspection for the past 12 years. There is inconsistency, however, in the roles and functions of Food Officers and Health Protection Officers*

*It is agreed that sampling and inspection of selected imported products by two agencies is neither cost effective, nor efficient and can create confusion. All the options for achieving greater rationalisation of MAFQS and PHUs roles need to be explored when considering inspection and sampling of imported foods including the option of having one agency to provide this inspection service.*

*The use of regulatory tools will be assessed to avoid duplication within NZFSA and between other departments.*

## **Identification of high risk foods: Recommendation 4.5**

The Review Team supports the implementation of a generic risk management approach to imported foods that includes a full set of risk profiles, decision criteria and documented procedures.

The Review Team recommends that NZFSA investigate adopting a 'watch list' of foods that are relatively high risk but that are not on the prescribed foods list. The existing list of prescribed high risk imported foods (including tableware) should be reviewed within this risk management framework.

The Review Team believes that the current regime over-emphasises the risks associated with tableware and that MRPs can be used more widely until a full risk profile is completed. The Team also recommends that rejection of tableware on the basis of porosity be discontinued, given the lack of an associated food safety issue.

Harmonisation with Australia of the approach to high risk imported foods (including tableware) is likely to result in more consistent processes for managing the risks associated with these foods.

The Review Team believes that the establishment and maintenance of the prescribed foods list is in the nature of a public good that benefits all consumers in New Zealand. The Crown should therefore fund it.

### ***Government Response***

*The implementation of a generic risk management approach is supported and is currently promoted under NZFSA's risk management framework.*

*Harmonisation with Australia on the prescribed food list is a matter currently being pursued in the context of the Trans-Tasman Mutual Recognition Arrangement review.*

*Risk profiling, or assessing food for the risk it poses, is undertaken within NZFSA's core business activities and the application of risk profiling to imported food will be done on this basis. Reviewing the existing list of prescribed foods and identifying emerging risk*

*areas will be included under the risk profiling programme of work. Mechanisms will be put in place to actively maintain and review the prescribed food list in co-ordination with Australia.*

*It is agreed in principle that a 'watch list' of foods that are relatively high risk, but are not on the prescribed food list should be investigated. This would need to be subject to assessing the practicability and effectiveness of a watch list system within the overall imported food regime.*

*It is agreed that the current imported food regime over-emphasises the risks associated with tableware. It is considered that rather than establishing more MRPs for tableware, it would be more efficient to conduct a risk profile of tableware in the first instance to determine what, if any risks require management. This would include consideration of rejection or otherwise of tableware on the grounds of porosity.*

*The establishment and maintenance of the prescribed food list is currently funded by the Crown and there is no plan to change this approach.*

## **Regulation of chemical residues and contaminants: Recommendation 4.6**

The Review Team believes that the best way of managing chemical risks in imported food would be through Quality Assurance risk management systems. Importers taking responsibility for managing food safety in this way require minimal additional scrutiny beyond regulatory approval and verification of those systems.

The Review Team believes there is a need for increased NZFSA oversight of chemical residues and contaminants. The Review Team proposes a risk-based programme of proactive auditing and testing, and improved reactive surveillance and information gathering and information management.

The Review Team suggests that NZFSA start this work on a small scale in order to determine the appropriate scale of any continuing activity.

In addition to domestic information management, there should be a systematic analysis of international developments and improved information sharing arrangements with overseas regulators.

### **Government Response**

*The recommendation for increased NZFSA oversight is supported in the context of a shift in emphasis away from relying primarily on controls at the border to manage the safety of imported food, to a system that recognises controls in place overseas. These controls could include “Quality Assurance” systems in place in producing countries as well as official regulatory programmes.*

*NZFSA will also investigate opportunities for targeted surveillance of imported foods in New Zealand.*

*There are possibilities to increase New Zealand’s participation in international surveillance that are being explored at present both to inform on emerging issues and in order to allow for timely reactions to events as they occur..*

### **Alternative approaches to achieving food safety requirements for imported foods: Recommendation 4.7**

The Review Team’s view is that there could be net benefits such as reduced compliance costs, improved food quality and increased consumer choice from recognising alternative approaches to managing the risks associated with prescribed foods through greater reliance on competent official certification and assurances accepted by our trading partners.

NZFSA should investigate considerably expanding its use of Multiple Release Permits to encourage importers to deal with suppliers who implement acceptable QA programmes. Importers of prescribed foods with NZFSA approved programmes could be exempt from the inspection and sampling regime, except for compliance monitoring.

Regardless of whether any of these options are pursued, the regime for auditing of current MRPs should assess both compliance and food safety outcomes.

The Review Team recommends that NZFSA evaluate the risks of importing foods from suppliers without documented QA systems, in terms of its priorities for labelling compliance, ease of recall and avoidance of contaminants in food.

### **Government Response**

*It is agreed that there needs to be shift in emphasis away from relying primarily on controls at the New Zealand border to manage the safety and compliance of imported food to a system that recognises controls in place overseas. Such an approach is consistent with international trends and with the purpose and aims of the WTO SPS Agreement. The international food standards body, Codex Alimentarius, provides a range of standards and guidelines for implementing this approach.*

*This will be a significant change in the focus of the imported food programme and will require detailed assessment of options and methodologies. This will include consideration of how overseas assurances provided will be verified. This assessment will form the basis of the design of the overall regime so any inter-linkages can be considered and the most effective (including in terms of cost) system developed. Further consideration will also need to be given to establishing minimum requirements for importers in terms of documented 'quality systems' to ensure effective management of risks and compliance for lower risk foods.*

*There are issues with the effectiveness of MRPs currently being used, however, it is recognised that there is a need to operate a system that recognises importers that have a system in place to manage the food safety risks associated with high risk foods within the overall context of assessing alternative approaches to controls at the New Zealand border, and that such systems are subject to appropriate verification.*

*Close co-operation with Australia will be required as work progresses in this area to ensure consistency and alignment of approaches wherever possible. It is agreed that it should not be necessary for New Zealand to sample product that has already been tested and cleared for entry into Australia (and vice versa).*

## **Compliance and labelling requirements: Recommendation 4.8**

The Review Team therefore suggests that a relatively cautious approach be taken to labelling compliance issues. It suggests that while NZFSA should devote some additional resources to labelling, it should focus on those requirements that have significant food safety implications. Alternatively (or as well) it could target some of the foods on the prescribed list, because the cost of subjecting such food to additional scrutiny is likely to be relatively low and the benefits relatively high.

The review team suggests that Australia New Zealand foodstandards for labels should be revisited with a view to recognising labels that provide equivalent information, rather than requiring strict compliance for imported foods with the specified formats. Compliance testing, if undertaken, should therefore focus on food safety issues.

### **Government Response**

*It is generally agreed that the primary focus in labelling compliance activities should continue to be on issues with food safety implications. However, a secondary focus on issues with public health implications should also form part of the compliance programme. Resource allocations to labelling issues generally and those relating to imports in particular (above the resources already allocated) are likely to be considered within the context of the Domestic Food Review currently being conducted by NZFSA as well in the annual review of contracts NZFSA has with Public Health Units for food related activities.*

*It is considered that an examination of the costs and benefits of targeting compliance on the labels of some of the foods on the prescribed list would be a worthwhile exercise.*

*It is agreed that there is merit in considering whether those joint labelling standards within the Australia New Zealand Food Standards Code that are particularly prescriptive should be reviewed in relation to 'equivalency of information'. The work currently being carried out by Codex on accepting food safety standards equivalency and the discussions on equivalency for non-food safety labelling in the context of obligations under the Technical Barriers to Trade Agreement, should be investigated and considered before making any decisions on whether it would inform a joint standards*

*labelling review. As well, consumer research supplementary to that already undertaken in relation to public health information on labels could inform the process.*

### **Tampering and bioterrorism issues: Recommendation 4.9**

The Review Team believes that current arrangements for traceability and recall are adequate, although it notes non-compliance with labelling requirements may demand a wider-than-necessary recall.

The Review Team's view is that the current recall regime works reasonably effectively. It believes, however, that businesses should have pre-planned procedures for dealing with a recall arising from tampering or bioterrorism, and that the development and promotion of NZFSA guidelines for recalls among importers and domestic producers could merit further consideration.

### **Government Response**

*It is agreed that that the current work being done in this area should be strengthened and built upon. It is recognised that there several parts to an effective strategy to deal with tampering and bioterrorism risks. Three key steps are:*

- 1. Risk minimisation through existing regulatory programmes. These programmes include a focus on hazard identification during production and set out steps to minimise any risk posed.*
- 2. Greater integration with other agencies to provide rapid information sharing and risk identification. The Ministry of Agriculture and Forestry has established the interagency National Response Centre to deal with emergency responses. The New Zealand Food Safety Authority participates in this interagency group at a level relevant to the event in question. Information sharing is also discussed in the response to recommendation 4.2.*
- 3. Effective labelling to facilitate emergency recall. Labelling is considered in recommendation 4.8 above.*

## **Cost recovery and Government funding: Recommendation 4.10**

The risk profiling, review and maintenance of the prescribed foods list proposed by the Review Team is a public good that should be funded by the government, although a case for recovering some of the costs from high risk importers can be made in principle. The additional costs to NZFSA in negotiating alternatives to point-of-entry controls should be recovered from the importers that use these options.

The Central Clearing House and DHBs are responsible for inspection and sampling of imported foods, and under our proposals would have additional work auditing compliance with MRPs. These costs are appropriately borne by importers who use this option.

A detailed analysis of the level and nature of charges should be undertaken with a view to updating cost recovery charges and ensuring that the Central Clearing House and DHBs are adequately funded for this work.

### **Government Response**

*It is agreed that a detailed analysis of the level and nature of charges should be undertaken regarding cost recovery associated with imported food regulations.*

*This specific review will occur within a broader review of all NZFSA cost recovery activities with the intention to harmonise across the sectors so that there is compatibility and that industries are treated equitably.*

*NZFSA does not concur that a substantial element of the costs of regulating food imports should be funded through general taxation. While the public generally benefits from the regulation of food imports there are other factors to consider when determining who should pay. Those factors include: consumers of imported food are direct beneficiaries, importers create the risk, and the incentive effects from cost recovery policy on importers to manage risks efficiently.*

## **Control of imported agricultural compounds: Recommendation 4.11**

The Review Team believes a more detailed assessment is warranted. The ACVM Group needs to regularly evaluate its policies to ensure they are internally consistent and are the least intrusive means of achieving the ACVM Act's objectives.

The Review Team believes that there should be a degree of physical inspection of imported agricultural compounds to ensure goods match the associated documentation. The Review Team believes that while border clearance processes by ACVM and Biosecurity NZ officers are parallel, inconsistencies between the powers of enforcement officers under the Biosecurity and ACVM Acts are likely to lead to confusion. It is therefore proposed that ACVM provisions are consistent with those in the Biosecurity Act 1993 with respect to powers of entry and actions that may be taken in respect of uncleared and non-compliant goods.

The Review Team believes that if there are unjustifiable differences between fees collected under the Biosecurity and ACVM regulations, they should be resolved.

### **Government Response**

*The recommendation for a more detailed assessment is agreed with in principle.*

*The identification of risk factors and likely sources of hazards is core NZFSA business. For example, research into pathways for the introduction of exotic strains of salmonella is near completion.*

*The proposed amendment of the ACVM Act includes the proposal that ACVM provisions parallel those in the Biosecurity Act 1993 with respect to powers of entry, actions that may be taken in respect of uncleared and noncompliant goods, and the treatment of any costs associated with these actions. The ACVM Group regularly evaluates its policies and will continue to do so, as recommended by the Review Team, taking into account consultation, new evidence and international activity to inform evaluations.*

*The Cost recovery issue of unjustifiable differences between fees collected under the Biosecurity and ACVM regulations identified above is a result of a technical oversight and it being corrected at present.*