AQIS SUBMISSION TO THE PRODUCTIVITY COMMISSION REVIEW OF THE TTMRA.

This submission to the Productivity Commission's Review of the Trans Tasman Mutual Recognition Arrangement (TTMRA) addresses the specific matter of continued inspection of food traded across the Tasman for compliance with food safety and fair trading standards. The issues raised relate to the Terms of Reference of the *Review of the Mutual Recognition Agreement and the Trans Tasman Mutual Recognition Arrangement,* particularly 5 b.(i) and (ii).

BACKGROUND.

Implementation of the TTMRA

Part 8 of the TTMRA covers Permanent Exemptions, where … *"The Parties have identified an number of areas of Goods regulations that are potentially covered by the mutual recognition principle, but for which the Parties have determined that mutual recognition should not apply….."*

At the commencement of the Arrangement Australia and New Zealand agreed to continue inspections of risk categorised food, with Australia using the exemption mechanism in the TTMRA. Under Part B (laws relating to Goods – Specific) of Schedule 2 of the Arrangement, Australia permanently exempted the Imported Food Control Act 1992 (IFCA), but only for risk catergorised food commodities. The current list of Australian risk foods appears as Annex 1 to this submission

Australia did not support total exemption of NZ foods from the IFCA requirements because of ongoing food safety concerns, and because Australia and New Zealand had different food standards and food inspection systems.

New Zealand made no changes to its inspection processes, as only risk foods are inspected, regardless of the country from which the food is imported. Consequently there was no need for a reciprocal special exemption within the TTMRA.

New Zealand's interpretation of risk foods differs from that of Australia. Annex 2 list the New Zealand risk categorised foods.

OPERATION OF THE TTMRA IN RESPECT OF THE EXEMPTION

The purpose of the inspection of food traded trans Tasman is to protect the health of consumers from risks associated with consumption of food. However, while Australia and NZ continue to inspect risk foods, there is little, if any added health outcomes from this costly exercise.

This section can be divided into trade from

- NZ to Australia
- Australia to NZ; and,
- third countries into either jurisdiction.

1. New Zealand to Australia

Upon implementation of the TTMRA, Australia ceased inspection of low risk food from NZ, maintaining only inspection of high risk food, as per the exemption in the TTMRA. Trade figures at the time indicated that this meant a reduction in inspection of NZ food consignments of around 2500 per year.

AQIS inspects high-risk food imports from New Zealand, (and all other countries) at a rate of 100%, reduced according to the compliance rate. Where AQIS has a government to government certification agreement with the exporting country, then the certification is accepted and there is only minimal (no more than 5%) inspection of the product upon entry to Australia. In these circumstances AQIS pays for the inspection and analysis that is conducted.

NZ Ministry of Agriculture and Forestry (MAF) operates an export inspection and certification program that covers the majority of products exported from NZ. AQIS and MAF have reached agreement for the certification of risk products that are exported to Australia. This means that the majority of NZ shipments are released directly to market, and only audit sampling (at AQIS expense) is conducted. When audit sampling is conducted the food is not held pending analysis. If non-compliance is detected, the Australian State health authorities are notified and take action as they deem appropriate.

The NZ authorities have not altered their export legislation to allow export of risk foods to Australia from NZ domestic plants. All must be sourced from New Zealand plants that are specifically approved to export.

2. Australia to New Zealand

Upon the implementation of the TTMRA, the New Zealand imported food inspection program continued to treat Australian product as product from any other country. Only high risk food is inspected, regardless of the source country.

The Export Control Act (1982) requires all Australian exporters of "prescribed food" to be registered for export and to comply with AQIS inspection programs. AQIS is also able to provide certification of "non-prescribed" goods if certain conditions are met, which may include compliance with State based inspection programs, or the results of laboratory analysis of foods.

To implement the spirit of the TTMRA, Australia (AQIS) de-prescribed the majority of goods covered by the Export Control Act, if the destination was NZ. This enabled domestic suppliers to access the NZ market without the requirement for export registration and AQIS inspection.

However, where foods are considered by NZ authorities to be high risk[1], Australian products are subject to expensive inspection and testing, unless accompanied by an AQIS certificate. Until recently, NZ accepted both the standard export certification (issued to export registered premises) and the "non-prescribed" foods certification, facilitating importation without further inspection. A recent policy shift in NZ (approximately mid 2002) resulted in the import clearance procedures refusing to acknowledge AQIS certification of non-prescribed goods, in effect creating a barrier for Australian domestic food producers wishing to supply the NZ market. While Australia has made several requests that the NZ authorities return to the practice of accepting both certificates, relaxation of the certification demanded has not yet been achieved.

[1] The risk categorised foods differ between Australia (see Annex 1) and New Zealand (see Annex 2)

The compliance of Australian products into New Zealand is excellent regardless of the food inspection system from which the product was sourced (i.e. domestic or export).

Continuing the current arrangement creates a trade impediment that seems to have little justification or benefit. The compliance rate of Australian products that are checked at the NZ border suggests that the Australia food supply complies with the NZ requirements.

3. Third country issues

The current inspection arrangements have the effect of creating some "third country" issues.

New Zealand's inspection of food imports from all countries is limited to their list of high-risk commodities. Imports of all other food items are not routinely inspected. This means that the perceived easy access to the NZ market from 3rd countries is also an easy (and unregulated) route to the Australian market, as Australia inspects only high risk food exported from NZ. The implications of this are that the import controls Australia has implemented for low risk food from other countries can be bypassed.

Transitional arrangements in place as the two countries move towards harmonised food standards along with the implementation of the TTMRA allowed the legal importation into Australia, via NZ, of goods that would not be legal if imported directly. Some importers have exploited this loophole. While there are differences in standards, together with an overriding requirement to accept products legally available in one jurisdiction as legal in the other, this issue will remain. This is a matter for FSANZ and the implementation of the joint food standards code should assist in minimising problems.

OPTIONS FOR REFORM OF THE EXEMPTIONS

A). Delete the exemption.

1. NZ to Australia

Risk foods traded from NZ to Australia would be subject to surveillance and monitoring activities by the responsible State authorities. This is consistent with monitoring of food that is traded interstate within Australia. NZ exporters will remain subject to any export requirements that are imposed by the NZ authorities.

The existing Quarantine (as opposed to food safety issues) and other relevant exemptions would not be affected.

2. Australia to NZ

Risk foods traded from Australia to NZ would no longer require AQIS (nor any other jurisdiction) certification. While the trade is currently not restricted to export registered premises, the certification demands placed on Australian producers of risk food traded into NZ are unnecessarily restrictive, discouraging domestic suppliers from trading.

It should be noted that the current arrangements applied in New Zealand to Australian goods afford no preferential treatment. Hence there has been no requirement for legislative changes to legally provide the ability to no longer inspect goods from Australia.
Australia would be reluctant to remove inspection of NZ products without reciprocal treatment.

3. Third country issues

The issues that have been identified with the trade into either country from a third country would not be affected by removal of the exemption. The third country issues need to be addressed, however this exemption does not assist in identifying non-compliant consignments of food, where the food type has been deemed low risk. The current arrangements could be seen as creating a loophole for access to Australia of food that would fail if subject to border inspection.

Mechanism to achieve option A.
Australia (AQIS) and New Zealand (MAF) have created a working group to examine options and mechanisms that will achieve this outcome. The draft terms of reference of that group include developing recommendations for an implementation strategy by mid 2003.

B. Increase the scope of the exemption to cover all food.

1. NZ to Australia

Risk foods traded from NZ to Australia would be subject to the full scope of the Imported Food Control Act, thus covering all food traded in this direction. Figures from 1997 indicate that this would increase border inspections by 2500 shipments per year.

2. Australia to NZ

The status quo would be maintained. NZ inspects only risk foods.

3. Third country issues

NZ would have no special treatment, hence third country issues would be resolved. In effect the perceived loophole for access to Australia would be closed.

Mechanism to achieve option B.

The amendment to the IFCA, which exempted low risk food from NZ, would have to be reversed. The number of inspections of food shipments upon arrival in Australia would increase by approximately 2500 annually. Allocation of necessary resources would need to be justified by any anticipated benefit.

The Schedule in the TTMRA would require amendment, expanding its scope to all food.

C. Maintain existing exemption.

This is the status quo option – see section "Operation of TTMRA in respect of the exemption"

RECOMMENDATION

AQIS recommends that the existing exemption of risk food inspection be removed from the TTMRA, providing that

- there is reciprocal treatment of Australian food imported into New Zealand; and,
- the existing and projected third country issues are recognised and dealt with effectively.

ANNEX 1

AUSTRALIAN HIGH RISK FOODS

Australia	
PRODUCT	**CONTAMINANT**
Beef and beef product	BSE certification check
Cheeses Soft	*L monocytogenes*
Chicken meat cooked	*E.coli, Salmonella*, SPC, Coag +ive staph*, Lm*
Coconut	*Salmonella*
Crustacean (cooked)	*E.coli, Salmonella*, SPC, SET
Fish (selected)	Hg
Marinara mix	E.coli, Salmonella, SPC,PSP, domoic acid
Meat cooked manufact	E.coli, Salmonella, SPC, Coag +ive staph, Lm
Meat uncooked manu	E.coli, Salmonella, SPC, Coag +ive staph, Lm
Molluscs ready to eat	E.coli, SPC V cholerae PSP, domoic acid
Mussels ready to eat	E.coli, SPC V cholerae PSP, domoic acid Lm
Mushrooms	Staphylococcal Enterotoxin and commercial sterility. Can quality and integrity
Peanuts and peanut products	Aflatoxins
Pepper, paprika, cinnamon	*Salmonella*
Pig meat	E.coli, Salmonella, SPC, Coag +ive staph
Smoked vacuum pack fish	*L. monocytogenes*
Soy / oyster sauce	3-MCPD
Tahini (3 mths only)	Salmonella
Tuna (etc)	Histamine

ANNEX 2

NZ HIGH RISK FOODS

New Zealand	
PRODUCT	CONTAMINANT
Beef and beef product	BSE cert check
Soft cheese Grated / powdered cheese	*L monocytogenes*
Coconut	*Salmonella*
Crustaceans – Shrimp and prawns – raw, cooked, chilled or frozen; products – canned or otherwise	Heavy metals Pathogens (uncanned product)
Dried dates	Foreign matter, filth, deterioration
Enamelware; tableware	Leachable heavy metal
Fish- selected species for mercury contamination	Hg Spoilage ([N]
Ice cream	*Salmonella* *L monocytogenes*
Manufactured fish products (surimi, marinara mix)	*L monocytogenes*
Meat products	*Salmonella*, , Coag +ive staph*, Lm* *Cl. Perfringens Campylobacter*
Molluscs (snails)	Canned – commercial sterility Uncanned - *Salmonella*
Molluscs (not snails)	*L monocytogenes* Marine biotoxins PSP, domoic acid, NSP, DSP
Molluscs ex Chile	Micro Marine biotoxins
Canned mushrooms	Staphylococcal Enterotoxin and commercial sterility. Can quality and integrity
Nutmeg	Mould Presence of insects
Peanuts, pistachio nuts Peanut butter	Mycotoxins (Aflatoxins); Salmonella in peanut butter
Fish – vacuum packed	*L. monocytogenes* *Clostridium botulinum Type E*
Soy / oyster sauce	3-MCPD
Canned tomatoes	Lead; Can integrity
Fish _ selected species	Histamine contamination