

## KEYNOTE ADDRESS

*Hon Dr Lockwood Smith, Minister for International Trade  
Wellington, 19 March 1999*

New Zealand's apiary industry is a small but successful export earner, with approximately 2,000 employees and under \$12 million in foreign exchange earnings last year. Our honey is enjoyed by consumers in economies as diverse as Japan, Saudi Arabia and Germany.

One of the reasons New Zealand honey is meant to be so good, so I'm told, is because our bees are so good.

The industry wants to export honey bees to the wealthiest and most powerful economy in the world, the United States. New Zealand has been seeking access since approximately 1978 and so far, I can't report success.

Firstly, it wasn't clear how to go about making an application, or how an application would be processed. After years of discussing a suitable process, in 1990, the US published a draft rule. Objections were received, and in 1995, a final rule was published.

But this still only allowed transit of honey bees and honey bee semen travelling to other markets - it did not provide access.

In 1997, the US Department of Agriculture said it was working on a risk analysis for the mainland, but this does not appear to have been completed. In March 1998, APHIS advised MAF that market access was "still a long way off".

We asked for an explanation. We got many, including: a lack of information; a need for further research and surveys; lack of internal priority in the US; the need to do a survey of bee diseases in Hawaii; to prepare a 'regulatory work plan'; publish an advance notice of the proposed rule; and so on. There was no clear picture of the process that USDA intended to follow.

I don't need to point out that the US is more powerful than New Zealand. Gunboat diplomacy was not a realistic option, nor would an economy as small as New Zealand be likely to win a trade war with an economy as big as the US.

Basically, our honey bees have been locked out of the US, and we don't know why.

But recently, we've started to make progress because the SPS agreement provides agreed standards against which the US response can be measured.

If we aren't satisfied with the US response, we have the option to raise the issue publicly at a meeting of the WTO's SPS Committee. Under the SPS Agreement, the US response must be based upon an adequate scientific justification.

If we aren't satisfied at this stage, we have the option to enter formal consultations, and if that failed, we'd have the option of taking the honey bee case to the trade equivalent of the World

Court - a WTO Disputes Panel. If we were to win that case, and the US still wouldn't accept our honey bees, we'd be entitled to slap trade sanctions on the US.

And its not only honey bees. We're faced with similar cases over salmon, poultry and fruit with Australia, Korea, and other countries.

Honey bees may be an unusual example. But it well illustrates how the WTO and its SPS agreement can directly benefit even our smallest exporters and producers.

I'm pretty confident we'll find a solution with the US, because the very fact that we have options puts a discipline on even the most powerful WTO member.

It's a different world we live in as a result of the WTO and the SPS agreement. A little guy like New Zealand can take on a big guy like the United States, have some leverage on an issue like honey bees and, if we're on the right side of the science and the law, we can win. As SPS experts, you're some of the most important players in New Zealand's battle to get better access for our products.

I commend MAF for organising this seminar and each one of you for your participation. The new insights you gain from it will benefit our exporters from the smallest beekeeper through to the New Zealand Dairy Board.

The origins of the WTO and its SPS agreement will be well known to you, but I will run through it briefly.

The WTO, of course, arose out of the Uruguay Round. The Uruguay Round established clear rules for trade, including for agriculture, and a judicial mechanism to enforce them.

Relatively early in the round, the SPS agreement was concluded to improve human, animal and plant health in all WTO member countries. At the same time, it stopped countries using phoney science to establish fake SPS barriers. These developments were overwhelmingly positive for New Zealand.

The SPS agreement fundamentally changed the way countries were to think about trade in products with potential SPS implications. Instead of the ideal being self-sufficiency with countries importing only the extra products they needed, the ideal now is to allow trade in primary products unless there are good, scientific reasons not to.

That's a major change in thinking. It's changed the mind-set upside down.

There are four principles of the agreement worth mentioning quickly.

National sovereignty means all WTO members have an inalienable right to protect their biosecurity, but SPS measures have to be based on science, science, science.

Harmonisation of standards means everyone has a much clearer idea of where they stand, and we're working in the Codex Alimentarius Commission, the OIE and the International Plant Protection Convention to achieve harmonisation where this is possible.

The principle of equivalence has reduced compliance costs for exporters, and will continue to do so. The NZ-EU Veterinary Agreement and last year's recognition by the US of our microbiology standards are good examples.

And the fourth important principle is transparency so that we get to comment on and influence our trading partners' proposals for new SPS measures before they are implemented. Last year the process led to the EU altering its new maximum residue limit on aflatoxins after we and other countries raised our concerns, backed up by science.

Underpinning all this are committee, consultation and judicial processes if we believe others are breaking the rules.

But the SPS agreement, must further evolve, remaining solely focused on science, and it certainly mustn't be undermined. It faces challenges.

The first is not directly about the SPS agreement, but it is overwhelmingly important for the future value of the SPS agreement. It's the issue of compliance, and it's been in the media a lot with the EU-US banana dispute.

Theoretically, a rules-based system, backed up by a judiciary, stops trade wars. A ruling made should be the end of the matter. But if a WTO member refuses to comply it can't be forced to. All that can happen is that the disputes settlement system can authorise compensation or retaliatory action. But an authorised trade war is hardly a good outcome, and it still doesn't force compliance if the offending party is willing to bear the costs.

It is vital to New Zealand that WTO members accept the rules: that refusing to comply is seen as a grave international offence. If WTO members get away with refusing to comply, the system will break down and we will be back to pre-WTO days.

The EU/US banana issue may be getting the most media coverage, but another dispute between the same parties, involving the SPS agreement, is the case of beef produced using growth promotants.

The EU's ban on growth promotant beef has been found to be in breach of WTO rules since it was not based on a proper risk assessment. It's about exploiting consumer concerns to protect the local industry from competitive trade.

In this case, the WTO panel ruled the ban was an arbitrary and discriminatory restriction on trade. The EU has accepted the ruling but has hinted it may not lift its ban on growth promotant beef by the WTO's 13 May deadline. That would be a serious challenge to the system. Following on from the banana dispute, it would shake confidence in the rules-based system and the judicial process.

The EU and the US and the rest of the WTO membership have to sort these issues out. For the whole multilateral trading system to almost literally slip on a banana skin would be a comedy were it not a potential tragedy. In the growth promotants case, we look to the two biggest trading powers in the world to be able to agree on a solution that respects the science based approach and WTO law generally.

This brings us to the other possible challenges to the WTO rules.

There are real fears some WTO members may attempt to use the next round to water-down the SPS agreement. They are responding to political pressure to move away from a strictly scientific approach. New Zealand will strongly resist that. We believe that the SPS agreement must remain firmly focused on what science tells us.

Proponents of the so-called precautionary approach argue that science cannot assess the risk of new products far into the future. At the extreme, they wouldn't just argue for a labelling solution for all genetically modified foods. They'd ban them altogether, or at least accept that some countries should be able to ban them. I don't accept that.

The current focus on GMFs is just part of a much wider issue - improving quality of life through biotechnology. People are inclined to forget that science has vastly improved the quality of life for humans over the centuries. We shouldn't forget, for instance, that the medieval practice of 'bloodletting' was grimly pursued by general practitioners until the 19th century. Bloodletting, or drawing blood, was seen as a cure for illnesses caused by too much blood, such as fevers, coughs, headaches, rheumatism and epilepsy.

It was science that moved us beyond these naive solutions to human ailments, and biotechnology offers even greater rewards. It is the logical progression of scientific knowledge.

And biotechnology is much more than foods and increased productivity. Through manipulating gene expression, biotechnology may improve the lives of hundreds of thousands of people with genetic disorders, such as muscle wasting disease.

We cannot allow extremism and ignorance to set the direction or agenda of the development of biotechnology. Our ability to hypothesise, experiment and develop scientific knowledge has driven a massive improvement in our well being, and will ensure ongoing development in the future. We can't return to the dark ages by banning production and trade in products, or worse, restricting research because of the latest headlines in the tabloid press.

Far better, as the Prime Minister has suggested with GMFs, is for governments to look for sensible, cost-effective ways to provide more information about biotechnology so that consumers can make the decisions themselves. We must encourage scientific developments without undermining people's right to make informed choices.

Potentially then, the principles of the SPS Agreement offer us a way forward. Let us accept the primacy of science. But let us accept that people are different in terms of their willingness to accept risk. Let's not start banning things because there is a one in 100 million chance of some possible downside.

Let's use the principles of the SPS agreement, and our international standards-setting bodies, to provide consumers with more information, and more scientifically rigorous information than that obtainable through the tabloid press. We must inform public debate with good information that is accessible to consumers. In that way, we'd be taking silly politics out of domestic food safety issues, in the same way we're seeking to take silly politics out of SPS issues in international trade. We must inform those politics, and political debate, with good information that is accessible to consumers. By no means is this a statement of government policy. It is another issue for you to reflect upon at this seminar.

I want to conclude where I began, with the apiary industry. I can give that industry two guarantees. If the United States can show us that New Zealand honey bees represent a significant risk to human, animal or plant health then, I'm sorry, my trade officials and I can't use the SPS agreement to help you. But if the US can't show us any real risk, then we'll use our best diplomatic efforts to insist the SPS agreement be honoured.

Best wishes for the seminar.