

MAF's Precautionary Approach to Managing Food Safety Risks

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Background

1. A precautionary approach to food safety simply means that governments should act with caution in situations where there is scientific or technical uncertainty about the effects of taking a particular course of action.
2. No concrete definition of precaution has been adopted by governments at the international level, with discussion largely focussed on the availability of scientific information, conditions and constraints under which precautionary measures may be applied.
3. Reference to the concept of a precautionary approach is incorporated into political statements such as the Rio Declaration on Environment and Development. The Rio Declaration states that "In order to protect the environment, the precautionary approach shall be applied widely by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation".
4. In addition, the World Trade Organization (WTO) Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) reflects a precautionary approach, while not explicitly referring to precaution by name. The SPS Agreement is a legally binding instrument that sets out the basic rules that countries must follow when establishing food safety and animal health standards (sanitary standards), and plant health standards (phytosanitary standards).
5. The SPS Agreement recognises the Codex Alimentarius Commission (Codex) as the international food standards setting body responsible for establishing standards and guidelines to protect consumer health. Codex has developed guidance to national governments for risk assessment, risk management and risk communication with regard to food related risks to human health. These guidelines explicitly refer to precaution as an inherent element of risk analysis.

The SPS Agreement and the Precautionary Approach

6. Sanitary and phytosanitary measures, by their very nature, may result in restrictions to trade. Under the SPS Agreement, governments have the right to take measures necessary for the protection of human, animal or plant life or health where the risk associated with unrestricted trade is considered unacceptable (i.e. above a countries' "appropriate level of protection").

7. The right of governments to take action and adopt sanitary and phytosanitary measures is not unrestricted. The SPS Agreement imposes a framework of rules and disciplines to guide the development, adoption and enforcement of SPS measures in order to minimise their negative effects on trade. Those disciplines include that measures:

- be applied only to the extent necessary to protect human, animal or plant life or health;
- must be based on scientific principles;
- may not be maintained without sufficient scientific evidence; and
- be based either on a risk assessment or a relevant international standard, guideline or recommendation.

8. In addition, like all measures affecting international trade, they should be as least trade restrictive as possible, and they must not be arbitrarily or unjustifiably discriminatory in their application, or constitute a disguised restriction on trade.

9. The SPS Agreement recognises that there may be situations where a credible significant risk to human, animal or plant life or health exists, but there is inadequate scientific evidence available to accurately assess the risks. In these situations the SPS Agreement recognises that governments may need to provisionally adopt a precautionary measure, but sets conditions that must be met when invoking such a measure.

10. If a provisional precautionary measure is adopted, the SPS Agreement places an obligation on the government applying the measure to actively pursue any additional information required for a more objective assessment of risk, and to then review their measures in a timely manner.

11. The rules and disciplines of the SPS Agreement do not prevent governments from taking a precautionary approach. On the contrary, they contribute to good policy and decision making processes, and prevent the use of a precautionary approach to create unnecessary and unjustified barriers to trade.

MAF's Precautionary Approach to Food Safety

12. Caution, where appropriate, is inherent in New Zealand's approach to public health, food safety, conservation and biosecurity. In some areas, it has been incorporated into legislation (e.g. the Hazardous Substances and New Organisms Act requires all persons exercising

functions, powers and duties under the Act to take into 'account the need for caution in managing adverse effects where there is scientific and technical uncertainty about those effects').

13. Caution is an integral component of the Ministry of Agriculture & Forestry's (MAF's) approach to managing food safety risks. MAF routinely uses caution, where relevant, in its standard development processes, such as establishing acceptable levels of risk and safety margins, and in its non-regulatory interventions, such as providing advice to at -risk groups.

14. The application of a precautionary approach, where appropriate, is utilised by MAF where available science identifies a credible risk of significant harm to public health, but there is insufficient scientific evidence to complete a risk assessment. A precautionary approach may include provisionally adopting a precautionary food safety measure.

15. When MAF adopts a precautionary measure, additional scientific information is actively sought to allow a more objective assessment of risk and the measure is reviewed against that information in a timely manner.

Summary

16. Caution is an integral part of MAF's approach to managing food safety risks.

17. MAF believes that the SPS Agreement provides ample scope for the application of precaution based on a scientific approach in relation to public health protection.

18. Internationally there is concern that some countries may use a precautionary approach to create unnecessary and unjustified trade barriers that are otherwise banned under international law. As such, the SPS Agreement imposes rules and disciplines, including that such measures be conditional upon the identification of actual potential harm and can only be used in a transparent, disciplined and non-trade discriminatory manner.