



22 May 2020

Dear Stakeholder

Import Health Standard for Phase 3 Mushroom Growing Medium - Decision on Independent Panel Review Request

We wrote to you on 22 January 2020 informing you of the Director-General's decision-making process for accepting or refusing the request for an independent review of the Import Health Standard (IHS) for Phase 3 Mushroom Growing Medium.

Section 24(1) of the Biosecurity Act allows a person who was consulted about the draft IHS to raise with the Director-General the question of whether scientific evidence about which the person raised a significant concern received sufficient regard in the development of the standard. The Biosecurity (Process for Establishing Independent Review Panel) Notice 2015 (Notice) outlines the process for setting up an independent panel to review this question.

The request for review

The request, from Meadow Mushrooms Ltd, concerned two aspects of the provisional IHS, both of which relate to the heat treatment requirements in Part 2.1 of the standard.

- i. The IHS should "*explicitly state heat treatment at a minimum temperature and time combination 65°C for at least 8 continuous hours during phase 1 composting, as measured in the coldest part of the compost pile*" [to ensure compliance with the heat treatment required in the IHS.]
- ii. "*Heat treatment and hygiene practices must occur simultaneously, otherwise treated compost will become contaminated and unwanted organisms can proliferate rapidly due to minimal competition*".

The Director-General's decision

I have considered these matters and have decided to refuse the request.

In making this decision I am required to take into account (Notice cl 9(1)):

- (a) the extent to which the scientific evidence is or may be material to the measures in the proposed IHS;
- (b) the extent to which the request for review appears to be based on credible scientific evidence;
- (c) whether the evidence has been the subject of an earlier review; and
- (d) any other relevant matter.

Additionally, I requested MPI's Chief Departmental Science Adviser, Dr John Roche, to consider whether, in his view, the scientific evidence was adequately considered in the development of the proposed IHS. The resulting report was considered by me in informing my decision.

Reasons for refusal

- i. The IHS should "*explicitly state heat treatment at a minimum temperature and time combination 65°C for at least 8 continuous hours during phase 1 composting, as measured in the coldest part of the compost pile*" [to ensure compliance with the heat treatment required in the IHS.]

My reasons for refusing the request in relation to i. (above) are as follows:

This matter was raised in Part 1.1 of the Meadow Mushrooms submission on the draft IHS, and addressed in Parts 3.1.2.4 and 3.2.6 of the MPI review of submissions. No changes were made to the IHS in response to matters raised in Part 1.1 of the Meadow Mushrooms submission. However the guidance document was amended to include more information on how MPI would assess production temperatures.

As currently proposed, the IHS requires heat treatment of **all raw ingredients** of phase 1 compost at 65°C for 8 hours (or 60°C for 12 hours). The requirement to treat all raw ingredients to this treatment is all encompassing so Meadow Mushrooms' request in relation to measuring in "*the coldest part of the compost pile*" appears to be redundant, or at least a repetition of what is already necessary.

I am informed by my staff that the scientific evidence relied on suggests treating the compost in this way will minimise the biosecurity risk of Mushroom virus X disease and *Trichoderma aggressivum*. I note that Meadow Mushrooms does not disagree with this proposed heat treatment measure.

I also agree with Dr Roche that this concern conflates the separate purposes of the IHS and the process of verification that the required standards are met. The IHS provides the requirements that commodities must meet before a biosecurity clearance for importation can be given. It does not stipulate how the performance against the IHS will be measured. The latter is the function of verification.

I expect that the amendments to the guidance document to include more information on how MPI would assess production temperatures will assist with this aspect of Meadow Mushrooms' concern.

Taking these matters into account I am satisfied that sufficient regard was had to this concern raised by Meadow Mushrooms.

- ii. *Heat treatment and hygiene practices must occur simultaneously, otherwise treated compost will become contaminated and unwanted organisms can proliferate rapidly due to minimal competition.*

My reasons for refusing the request in relation to ii. (above) are:

This matter was raised in Part 1.5 of the Meadow Mushrooms submission, and was addressed by MPI in Part 3.2.6 of the review of submissions. No changes were made to the IHS in response to matters raised in Part 1.5 of the Meadow Mushrooms submission.

Meadow Mushrooms is concerned that Phase 1 Growing Medium could become contaminated with unwanted organisms after phase 1 heat treatment despite the safeguards that the IHS requires (including using dedicated machinery for different parts of the production process, covered conveyers or enclosed trucks when transporting material, and approved procedures for cleaning between batches). I consider that contamination at this point must be unlikely, and note that Dr

Roche did not see any significant risk. Accordingly I am not convinced that the additional cleaning processes and air filtration systems are necessary or justifiable to achieve the acceptable level of risk reduction.

I conclude that the additional measures required in the IHS e.g. additional testing to assess freedom from or contamination with Mushroom virus X disease and *Trichoderma aggressivum*, are evidence that scientific evidence about which Meadow Mushrooms raised a significant concern did, in fact, receive sufficient regard in the development of the standard.

Any other relevant matter

I have also considered broader issues, such as our World Trade Organization obligations to ensure that we do not impose restrictions of a greater extent than necessary to protect against the risks to biosecurity, and sought clarification about the verification measures that will enable trust in the system.

WTO

I am of the view that the measures proposed in the IHS, and the use of post-clearance requirements, appropriately mitigate the risk of unwanted organisms presenting in the growing medium while at the same time ensuring that New Zealand will be complying with our WTO obligation to comply with the Sanitary and Phytosanitary Agreement (SPS Agreement) rules of the WTO. To include requirements greater than the extent necessary to guard against the risk could be considered a trade restrictive measure.

Verification measures

The proposed verification measures were also outlined to me to provide greater clarity about the process and how the IHS would work in practice. These measures include:

- Pre-import pathway assessment and assurance audit

No imports will be allowed until the activities described in this section have been completed to MPI's satisfaction. MPI's pre-import activities will evaluate the procedures that are used to achieve the biosecurity requirements set out in the standard. This will be done using a combination of desktop assessments of the facility procedures, and an onsite audit of the production site. Given the current travel restrictions from COVID-19, MPI will consider using remote audit procedures to perform the pre-import assurance audit as we are doing for other import pathways. A full onsite audit of the production site would be required as soon as travel restrictions were lifted.

- Development of an agreed Export Plan

If the outcome of the above assurance audit is satisfactory, an Export Plan will be negotiated between MPI and either the National Plant Protection Organisation, or the individual production facility. The Export Plan will describe the agreed phytosanitary procedures that must be followed when producing any mushroom growing medium for export to New Zealand. Imports will not be allowed until an Export Plan is in place, and will also be subject to the issuance of an import permit.

- Certification by the offshore competent authority

Before any product is exported to New Zealand, the offshore National Plant Protection Organisation must verify that all measures listed in the standard have been applied. This will include sampling and visually inspecting each consignment to verify compliance with

the standard. A phytosanitary certificate will be issued by the National Plant Protection Organisation prior to export to provide confirmation that goods are compliant.

- MPI on-arrival verification

When the product arrives in New Zealand, MPI Inspectors will verify each consignment on arrival to ensure that all import requirements have been met, and the goods comply with all aspects of the standard.

- Verification compliance with post clearance conditions

A core post clearance requirement of the standard is that all mushroom growing medium must only be used for the purpose of growing mushrooms, and must be used at a transitional facility that is approved by MPI in accordance with the MPI facility standard for Transitional Facilities for General Uncleared Risk Goods (MPI-STD-TFGEN). As a final risk management measure, all growing medium must be heat treated at a minimum temperature of 65°C for eight hours prior to disposal. MPI will conduct regular verification inspections of all facilities holding mushroom growing medium to ensure ongoing compliance with both the facility standard and all post clearance conditions.

I have considered how and to what degree my teams have regarded the concerns raised by Meadow Mushrooms. I am satisfied that to the extent to which credible scientific evidence has been provided it has been appropriately addressed and has not previously been the subject of independent review.

On that basis, and taking into account New Zealand's WTO obligations and proposed verification measures, I am of the view that the scientific evidence about which Meadow Mushrooms raised a significant concern did receive sufficient regard in the development of this standard.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Ray Smith', with a stylized, cursive-like flow.

Ray Smith
Director-General