



**Australian Government**  
**Biosecurity Australia**

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**BIOSECURITY AUSTRALIA ADVICE 2010/38**

**COMMENCEMENT OF A NON-REGULATED ANALYSIS OF EXISTING POLICY FOR  
THE IMPORTATION OF APPLES FROM NEW ZEALAND**

This Biosecurity Australia Advice is to inform stakeholders of the commencement of a non-regulated analysis of existing policy (a review) for New Zealand apples to Australia. This review has been initiated in response to the final ruling by the World Trade Organization (WTO) regarding the validity of existing measures required for the import of New Zealand apples. Biosecurity Australia will prepare a draft report that will be circulated to stakeholders for comment.

The Biosecurity Australia Policy Memorandum 2007/07, of 27 March 2007, advised stakeholders the Director of Animal and Plant Quarantine had determined a policy for the importation of apples from New Zealand subject to a range of phytosanitary measures to manage the risk of identified quarantine pests and diseases.

New Zealand considered the measures required for fire blight, European canker and apple leaf curling midge are inconsistent with Australia's international obligations under the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement). New Zealand referred the matter to the Dispute Settlement Body of the WTO on 6 December 2007 to seek a resolution of the dispute. A Panel was formed and, on 9 August 2010, ruled that Australia's phytosanitary measures for New Zealand apples were not justified.

Australia notified its intention to appeal the Panel's decision and the Appellate Body reported on 29 November 2010, reaffirming the Panel's rulings that Australia's phytosanitary measures for New Zealand apples are not justified. There are no further avenues for appeal. As a member of the WTO, Australia is obliged to implement the independent reports of the Panel and Appellate Body.

Biosecurity Australia will conduct a review of existing policy for New Zealand apples for the three pests at dispute to meet our international obligations and the requirements of the Australian *Quarantine Act 1908* and relevant sub-ordinate legislation. The review will be conducted to the standard of an import risk analysis, will take into account the WTO decision, and will be issued as a draft report for stakeholder comment.

Following the completion of the comment period, Biosecurity Australia will consider all comments and publish a final report.

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