

MEMORANDUM
BETWEEN
THE MINISTRY OF HEALTH, LABOUR AND WELFARE OF JAPAN AND
THE RELEVANT AUTHORITIES OF THE UNITED STATES
CONCERNING ENFORCEMENT OF JAPAN'S
PESTICIDE MAXIMUM RESIDUE LEVELS

WHEREAS, the Ministry of Health, Labour and Welfare of Japan (MHLW) and the relevant authorities of the United States (U.S.R.A.)¹ (hereinafter referred to as "both sides") acknowledge and respect their respective laws, regulations and procedures governing food safety and trade in agricultural goods;

WHEREAS, both sides affirm the rights and obligations of their respective governments under the Agreement on the Application of Sanitary and Phytosanitary Measures of the World Trade Organization ("the SPS Agreement");

WHEREAS, U.S.R.A. is firmly committed to working with MHLW to eliminate violations of Japan's pesticide maximum residue levels (MRLs) by U.S. horticultural product (fruit, tree nuts, and vegetables) producers, exporters, and shippers, and to minimize trade disruptions taking into consideration the agricultural chemical control program in the United States;

THEREFORE, both sides have determined to take measures as follows:

- 1) In the event of a MRL violation detected by MHLW on a U.S. horticultural product and where the U.S. pesticide MRL is equal to or more stringent than Japan's MRL:
 - a) MHLW, taking into consideration U.S. regulations and their enforcement on residual agricultural chemicals, may impose measures against the specific producer, exporter or shipper whose product has violated the MRL and in no case will MHLW apply industry-wide sanctions.
 - b) U.S.R.A. will facilitate communication of information to relevant U.S. industries concerning the MRL violation in Japan.
- 2) In the event of a MRL violation detected by MHLW on a U.S. horticultural product and where the U.S. pesticide MRL is less stringent than Japan's MRL:
 - I. Conditions for Imposing and Removing Enhanced Inspection and Testing Requirements on an Individual Producer, Exporter, or Shipper
 - a) MHLW may subject the producer, exporter, or shipper of the horticultural product in question to enhanced inspection and testing requirements, in accordance with MHLW regulation, "Imported Foods Monitoring and Guidance Plan."


¹ For the purpose of this Memorandum, United States Relevant Authorities mean the U.S. Department of Agriculture, and the U.S. Environmental Protection Agency as appropriate.

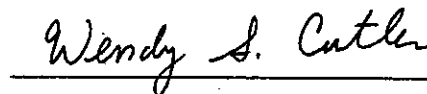
- b) To expedite removal from enhanced inspection and testing requirements after the initial violation, the violating producer, exporter, or shipper may devise a compliance plan. A compliance plan must include specific control measures.
- c) After reviewing the compliance plan, and if accepted by MHLW, then MHLW may exempt the violating producer, exporter, or shipper from enhanced inspection and testing requirements.
- d) U.S.R.A. will facilitate communication of information to relevant U.S. industries concerning the MRL violation in Japan.

II. Conditions for Imposing and Removing Industry-Wide Enhanced Inspection and Testing Requirements

- a) MHLW will gather evidence of violations from an appropriate number of samples, consistent with a risk-based approach, from multiple U.S. exporters before introducing industry-wide sanctions.
 - b) If the compliance plan provided by the producer, exporter, shipper or related trade association is considered to be adequate by MHLW, MHLW will exempt the targeted horticultural products from industry-wide inspections.
 - c) U.S.R.A. will facilitate communication of information to relevant U.S. industries concerning the MRL violation in Japan.
- 3) Both sides will consult upon request regarding the effective implementation of the cooperation under this Memorandum. Both sides also reserve the right to request consultations regarding the implementation of this Memorandum in the event that this Memorandum is not being applied in a manner that facilitates food safety and trade as equally important objectives.
- 4) The cooperation under this Memorandum will commence on the date of signature.
- 5) Primary contact points regarding this Memorandum are MHLW and the Embassy of the United States in Tokyo.

Signed at Tokyo, Japan on this 24th day of July 2009,
and at Washington, D.C., on the 28th day of July 2009. uc


The Ministry of Health, Labour
and Welfare of Japan


The Office of the United States
Trade Representative