

99 - 105 Customhouse Quay,
 PO Box 25-420, Wellington.
 Tel. +64 4 470 7725
 Fax. +64 4 470 7727
 Email. katherine.rich@fgc.org.nz
 www.fgc.org.nz



NEW ZEALAND FOOD & GROCERY COUNCIL

**PARLIAMENT OF AUSTRALIA
 HOUSE STANDING COMMITTEE ON ECONOMICS
 INQUIRY INTO THE FOOD STANDARDS AMENDMENT (TRUTH IN
 LABELLING – PALM OIL) BILL 2011**

**Public Consultation
 15 August 2011**

The New Zealand Food & Grocery Council (the “NZFGC”) welcomes the opportunity to comment on the Parliament of Australia House of Representatives Standing Committee on Economics Inquiry into the *Food Standards Amendment (Truth in Labelling – Palm Oil) Bill 2011* (the Bill).

The NZFGC represents the major manufacturers and suppliers of food, beverage and grocery products in New Zealand. A number of these manufacturers and suppliers are major importers and exporters in New Zealand. NZFGC member companies supply over 95 percent of the processed food and beverages to the New Zealand grocery retail industry and over 70 percent of supermarket packaged good sales.

The NZFGC notes that the House Standing Committee on Economics is examining the following aspects in relation to the Bill:

- community concerns associated with preserving forests and the habitat of the Orang-utan
- trade
- food quality
- costs to business
- rights of consumers.

Summary

The NZFGC has four key concerns:

- the obligations under international Treaties particularly between Australia and New Zealand
- the impact on trans-Tasman trade
- efficiency of production, cost to consumers and best regulatory practice
- the impact on producing countries, their communities and economies.

In all these areas, passage of the Bill under inquiry would have a negative impact. Australia’s credibility to meet treaty obligations would be seriously impugned. The gains made over the

last decade in trans-Tasman trade would begin to be eroded. Palm oil in foods, much of which has been produced sustainably on land for decades in the broad agriculture sense, could be replaced by less efficiently produced oils. The price of many foods in both Australia and New Zealand will increase at a time when many families are struggling with food bills. If the Bill is passed, poor regulatory practice will prevail. Many producers of palm oil are small landowners with family-owned plots. Many of the communities which produce palm oil are reliant on the crop for economic survival, particularly those with farms in Malaysia and Indonesia.

Detailed Comment

International Treaty Obligations

Australia is signatory to a range of agreements that have international treaty status. As a signatory, Australia has obligations under the articles of these treaties. One of these is the *Agreement between the Government of Australia and the Government of New Zealand Concerning a Joint Food Standards System* (the Food Treaty) which aims to:

- reduce unnecessary barriers to trade
- adopt a joint system for the development and promulgation of food standards
- provide for the timely development, adoption and review of food standards appropriate to both Treaty Parties, and
- facilitate the sharing of information between the Treaty Parties on matters relating to food.

The scope of the Food Treaty covers primarily food labelling and composition. An application was made to the bilateral food standards setting agency, Food Standards Australia New Zealand (FSANZ) in 2006 for palm oil to be labelled. This was rejected in 2008 for reasons that included that the application did not meet the objectives of the joint labelling system even though one of the objectives is consumer information.

Having exhausted the existing food labelling mechanisms, this Bill, if passed, would present as a breach of the Food Treaty by Australia. The Treaty obligates partners (the Australian and New Zealand Governments) to only use the mechanisms of the joint food standards setting system for standards involving food labelling. This Bill is not within the Food Treaty mechanisms.

There are broader international treaties that would also be of concern if this Bill received passage, but the concern is not the breadth of a treaty but that breaching an international treaty of any scope is a measure of a country's integrity.

As well, the Bill limits the actions of the Australia New Zealand Food Regulation Ministerial Council as provided for in the Food Treaty and the Australian *Food Standards Australia New Zealand Act 1991*. The Council's membership includes Ministers responsible for food from all State and Territory jurisdictions, the Australian Government and the New Zealand Government. The Council acts as a check in the system of standards development. Removing some of the Council's powers reduces the accountability of decision-making for the New Zealand Government as represented by the New Zealand Minister for Food Safety on the Council.

Trans-Tasman trade

Many food and related companies operating in New Zealand, trade in Australia and vice versa. Cross ownership is high and, as is noted above, the principal objective of the Food Treaty was to remove barriers to trade between the two countries. The meeting of this objective has been substantially confirmed in trade figures over time with food trade between the two countries increasing substantially over the past decade alone. Australia is New Zealand's largest market for food and New Zealand is Australia's third largest market.

Harmonised food labelling and composition reduces costs of doing business for all the businesses trading between our two countries. Where exceptions exist, they have met the very high threshold set by the Food Treaty. In over 15 years of operation of the Food Treaty, the exceptions remain singular. If every special interest group saw primary legislation as the means of pursuing their interests when this was not possible under the Food Treaty mandated system, there will likely be a long and unending list of amendments to food standards. The list has already started with the *Food Standards Amendment (Truth in Labelling—Genetically Modified Material) Bill 2010* and the *Food Safety (Trans Fats) Bill 2010* both currently before the Australian Senate. This will result in the trade and economic gains delivered by the Food Treaty for both countries being eroded over a short period of time.

As well, in New Zealand, parallel food imports from sources other than Australia will not have palm oil labelling. This will have the effect of undermining those trans-Tasman companies that are required to label. Australian and New Zealand consumers are well served by social media networks and provision of information by food businesses about the types of ingredients used. Those who want to avoid palm oil can use these avenues to identify the foods they might buy or not.

In relation to the *Food Standards Amendment (Truth in Labelling – Palm Oil) Bill 2011*, if passed, the costs are likely to be several tens of millions of dollars as products containing palm oil will all require label changes. Even if this cost was spread out over a number of years, in the current economic environment, the cost of food is a significant factor to the well being of a significant number of families and individuals in both countries. Any increases in the cost of food for labelling reasons should be minimised to the maximum extent possible. If passed, this Bill will increase the cost of food in both countries.

Efficiency of production and best regulatory practice

Palm oil is the world's largest traded oil. It is in heavy demand throughout the developing and developed world because it is a high-yield, Vitamin A-rich, low-cost oil.

Palm oil is significantly more efficient to produce than any other oil. Production per hectare is over 60% higher than soy bean oil production. Palm oil production was promoted in Malaysia and Indonesia first by colonial residents and subsequently as a viable commercial product for these countries. Its yield and economic returns are significant for the communities involved.

The efficiency of production can be maintained sustainably. Mandating the labelling all palm oil does not differentiate between sustainable production and production that is not sustainable. It creates the misleading impression for consumers that all palm oil is bad and to be avoided.

As with many developed countries worldwide, both New Zealand and Australia are pursuing processes that lead to better and less legislation and the cutting of red tape for business. Part of this process is to ensure the benefits of regulation outweigh costs. It is difficult to see how this Bill meets good regulatory practice principles in this area.

Impact on producing countries, their communities and economies

For the communities in Malaysia and Indonesia who are involved in palm oil production, this is central to their well being and possibly their survival. The key to the dilemma of human versus animal survival in relation to palm oil is sustainability. This led to the establishment of the Roundtable on Sustainable Palm Oil.

The Roundtable on Sustainable Palm Oil is a global multi-stakeholder initiative on sustainable palm oil that was formally established under Swiss law on 8 April 2004 with the objective of promoting the growth and use of sustainable oil palm products through credible global standards and engagement of stakeholders. The not-for-profit Association has members representing major players along the palm oil supply chain. Efforts to date have been criticised

but the momentum has taken time to build and in 2010 the volume of certified sustainable palm oil doubled from the previous year. If this pace of sustainability continues, the majority of palm oil production could be certified as sustainable within 5 years. This non-regulatory measure is and will provide the means for all those involved in or affected by the palm oil supply chain to survive and maintain their well being into the future – human and animal.

A number of businesses trading in New Zealand have made commitments to use sustainably produced palm oil. Several manufacturing companies have committed to sourcing sustainable supplies such as Nestlé (accounting for 0.7% of world palm oil production), Cadbury and Unilever. They are not alone. Woolworths issued a “Sustainable Palm Oil Policy” statement in March 2010 reporting on its commitments around sustainable palm oil made in 2007.

Conclusion

The NZFGC is concerned that the Food Standards Amendment (Truth in Labelling – Palm Oil) Bill 2011, if passed, will:

- lead to higher food costs in both Australia and New Zealand
- undermine economic gains made by the Food Treaty
- mislead consumers by creating the impression that all palm oil, regardless of how it is produced, is bad and to be avoided.
- undermine the Roundtable on Sustainable Palm Oil at a time when momentum for sustainable production of palm oil has never been greater
- create difficulties for small communities already relying on palm oil for livelihood
- ultimately raise concerns about Australia’s commitment to obligations under international treaties.